

**UNITED  
NATIONS**

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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-05-88-T  
Date: 14 July 2010

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**IN THE TRIAL CHAMBER**

**Before:** Judge Carmel Agius, Presiding  
Judge O-Gon Kwon  
Judge Kimberley Prost  
Judge Ole Bjørn Støle, Reserve Judge

**Registrar:** Mr. John Hocking

**THE PROSECUTOR**

**v.**

**VUJADIN POPOVIĆ  
LJUBIŠA BEARA  
DRAGO NIKOLIĆ  
LJUBOMIR BOROVČANIN  
RADIVOJE MILETIĆ  
MILAN GVERO  
VINKO PANDUREVIĆ**

**PUBLIC**

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**PROSECUTION'S NOTICE OF FILING A PUBLIC REDACTED  
VERSION OF THE PROSECUTION FINAL TRIAL BRIEF**

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**The Office of the Prosecutor:**

Peter McCloskey

**Counsel for the Accused:**

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Dragan Krgović and David Josse for Milan Gvero  
Peter Haynes and Simon Davis for Vinko Pandurević

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

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VINKO PANDUREVIĆ**

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THE PROSECUTION FINAL TRIAL BRIEF**

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1. Pursuant to the Trial Chamber's 3 June 2010 "Order on Outstanding Documents Marked for Identification and on Public Redacted Versions of the Final Briefs," the Prosecution herewith files a public redacted version of its Final Trial Brief, attached at Appendix A.<sup>1</sup> The Final Trial Brief was originally filed confidentially on 30 July 2009.

Word Count: 102



Peter McCloskey  
Senior Trial Attorney

Dated this 14<sup>th</sup> day of July 2010  
At The Hague, The Netherlands

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<sup>1</sup> The public redacted version of the Prosecution Final Trial Brief also includes Chapter 14, "Sentencing," filed publicly on 4 September 2009 and admitted into evidence by the Trial Chamber on 8 September 2009.  
Case No. IT-05-88-T  
14 July 2010

**PUBLIC**

**APPENDIX A**

**UNITED  
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International Tribunal for the Prosecution  
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**FINAL TRIAL BRIEF**

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MILAN GVERO  
VINKO PANDUREVIĆ**

**PUBLIC REDACTED**

**PROSECUTION FILING OF FINAL TRIAL BRIEF  
PURSUANT TO RULE 65<sup>ter</sup> (E)**

1. Pursuant to Rule 86(B) of the Rules of Procedure and Evidence ("Rules"), the Prosecution submits this Final Trial Brief ("Brief").



Peter McCloskey  
Senior Trial Attorney

Dated this 30th day of July 2009  
The Hague, The Netherlands

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## (I) INTRODUCTION

1. On 12 May 1992, with war raging in much of Bosnia and Herzegovina (“BiH”), the Government of Republika Srpska (“RS”) promulgated the six Strategic Objectives for the Serbian People in Bosnia and Herzegovina, wherein President Radovan Karadžić stated, *inter alia*, that:

The strategic objectives or priorities of the Serbian people in Bosnia and Herzegovina are to:

1. Establish State borders separating the Serbian people from the other two ethnic communities.
3. Establish a corridor in the Drina river valley, that is, eliminate the Drina as a border separating Serbian States.<sup>1</sup>

2. The meaning behind these fateful words became clear as the Army of Republika Srpska (“VRS”) enforced a policy on the ground involving the forced removal and displacement of the Muslim population throughout much of Bosnia, and in this case in particular, the removal of the Bosnian Muslim population of Eastern Bosnia, or as it is known alternatively in Bosnia, the Birač region, the Podrinje or the Drina River Valley.

3. The express intention of the VRS to remove the Muslim civilian population from Eastern Bosnia was clearly set forth by General Ratko Mladić, Commander of the VRS Main Staff, on 19 November 1992 in Directive for Further Operations No. 4 (“Directive 4”), where he ordered the VRS Drina Corps to “inflict the heaviest possible losses on the enemy and force him to leave the Birač, Žepa and Goražde area *together with the Muslim population...*”<sup>2</sup>

4. On 24 November 1992, the VRS Drina Corps ordered the commencement of operations pursuant to Directive 4,<sup>3</sup> and a series of military operations followed from December 1992 through mid-1993 that resulted in the forcible displacement of tens of thousands of Muslims from their homes into the areas in and around Srebrenica and Žepa.

5. The pivotal intervention of General Philippe Morillon and the United Nations Security Council prevented the mass exodus of Bosnian Muslims from these areas and, with the creation of the Srebrenica and Žepa “safe areas,” provided the Muslim population with some degree of protection from the Bosnian Serb forces. However, from

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<sup>1</sup> Exh. P00025, Minutes of the 16th Session of the Assembly of the Serbian People in BiH held on 12 May 1992 in Banja Luka (ERN: 0084-7711-0084-7761 (BCS); 0091-3501-0091-3562 (Eng)); Exh. P02755, RS Decision 386 02-130/92 from Official Journal, Decision on Strategic Objectives for the Serbian People in Bosnia and Herzegovina, 26 November 1993 (ERN: 0114-6063-0114-6063 (BCS); 0114-6063-0114-6063-ET).

<sup>2</sup> Exh. P00029, Main Staff Strictly confidential no. 02/5-210, Directive for Further Operations No. 4, 19 November 1992, at ERN 0087-6282 (BCS), 0190-0428 (Eng).

<sup>3</sup> Exh. P03029, Drina Corps Command Order No. 2-126, Decision for further operations, signed by Col. Milenko Živanović, 24 November 1992.



the spring of 1993 through the spring of 1995, the Bosnian Muslim civilian populations of Srebrenica and Žepa were caught between the VRS outside the enclaves and the Bosnian Muslim forces (“ABiH”) inside the enclaves, with both sides frequently violating the ceasefire agreement and Serb and Muslim civilians suffering and dying as a result.

6. On 8 March 1995, as the ABiH attacks out of the enclave grew in intensity and the end of the war was in sight, President Karadžić took a decisive step towards resolving the situation in the eastern enclaves by issuing Directive for Further Operations No. 7 (“Directive 7”), in which he set out the objective for the VRS to make life impossible for the Muslim populations of Srebrenica and Žepa by military action and restricting resupply convoys to the enclaves.<sup>4</sup>

7. Pursuant to Directive 7, the VRS launched a major offensive operation against the Srebrenica and Žepa enclaves in July 1995 with two purposes: to separate the enclaves and thus stop the ABiH from launching attacks from the enclaves; and to force the Bosnian Muslim population into the urban areas around the towns of Srebrenica and Žepa, thereby creating a humanitarian disaster which would force the Bosnian Muslim population to leave the Srebrenica and Žepa enclaves.

8. On 9 July 1995, with the ABiH forces in Srebrenica collapsing and the United Nations forces failing to mount any serious resistance to the VRS attack, the VRS proposed expanding the operation to take over the entire Srebrenica enclave. The same day, General Zdravko Tolimir issued a communication to the Accused General Milan **GVERO** and General Radislav Krstić at the forward command post for the Srebrenica operation, in which Tolimir explained that President Karadžić had agreed to change the objective of the attack to include the take-over of Srebrenica.<sup>5</sup> Two days later, on 11 July 1995, Bosnian Serb forces took over the Srebrenica enclave. Over the next few days, they systematically destroyed a community of well over 30,000 Bosnian Muslims through forcible transfers and wide-scale murders.

9. On 12 and 13 July 1995, the Bosnian Serb authorities completed the forcible transfer of over 20,000 Bosnian Muslim refugees from the Srebrenica enclave to territory held by the ABiH. The forcible transfer of thousands of Bosnian Muslim men from the Srebrenica enclave continued throughout the next few weeks as they fled through the woods towards ABiH-held territory.

<sup>4</sup> Exh. P00005, RS Armed Forces Supreme Command Ref. no. 2/2-11, Directive for Further Operations No. 7, 8 March 1995.

<sup>5</sup> Exh. P00033, Main Staff Order 12/46-501/95, Conduct of Combat Operations around Srebrenica, 9 July 1995.

10. From 13 July through until at least 23 July 1995, the Bosnian Serb military and police forces murdered over 7,000 Bosnian Muslim men and boys who were separated from their families in Potočari or captured whilst attempting to flee from the enclave to ABiH-held territory. Murders of Bosnian Muslims trying to flee from the Srebrenica enclave to ABiH-held territory continued until approximately 1 November 1995. As of 31 January 2009, **5,358** of these murder victims have been identified in Srebrenica-related mass graves.<sup>6</sup>

11. By the end of July 1995, the Bosnian Serb forces had also successfully taken over the Žepa enclave and completed the forcible transfer of thousands of Bosnian Muslim refugees from the Žepa enclave to territory held by the ABiH. The deportation of hundreds of Bosnian Muslim men who fled from the Žepa enclave across the Drina River to Serbia continued into August 1995.

12. The forcible transfers, deportations and murders demanded a high degree of co-ordination on the part of the Bosnian Serb authorities and armed forces. The forcible transfer operation alone required a large number of vehicles and thousands of litres of scarce fuel. The VRS security organs played the central role in co-ordinating the forcible transfer and deportation of the Bosnian Muslim population from Srebrenica and Žepa and the murder of the able-bodied men from Srebrenica, and securing the necessary human and material resources to carry out these operations.

13. The VRS security organs oversaw and managed these operations under the orders of their commanding officers, including the Commander of the VRS Main Staff, General Mladić, and the Supreme Commander, President Karadžić. The Ministry of the Interior (“MUP”) supported the operations by providing additional troops and assets, as did the local Bosnian Serb civilian authorities. The crimes charged would not have been possible without the active involvement and support of the command, staff, security organs, soldiers and resources of the VRS Main Staff, Drina Corps, Bratunac Brigade, Zvornik Brigade and MUP police forces.

14. The Accused General Milan **GVERO**, General Radivoje **MILETIĆ**, General Vinko **PANDUREVIĆ**, Colonel Ljubiša **BEARA**, Lt. Colonel Vujadin **POPOVIĆ**, 2<sup>nd</sup> Lt. Drago **NIKOLIĆ** and General Ljubomir **BOROVČANIN**, together with others including President Radovan Karadžić, General Ratko Mladić, General Zdravko Tolimir, General Radislav Krstić, Colonel Vidoje Blagojević, Major Dragan Obrenović and Major

Dragan Jokić were among the most powerful individuals responsible for these crimes. VRS brigade security officers Captain Momir Nikolić and Captain Milorad Trbić also played significant roles in the commission of the crimes charged in the Indictment. Each was an integral participant in a campaign of terrorisation, expulsion and murder.

15. In a case of this magnitude, it is not possible to recite in a final brief all the relevant evidence which has been heard by the Trial Chamber. The Prosecution has therefore made a selection of the matters which are assessed to be of major importance. However, if the Trial Chamber finds that there is evidence, outside of that specifically cited, which lends support to the submissions made by the Prosecution, its omission from this brief should not be taken as an indication that it is considered less than compelling.

16. It is also not possible to assess the worth of each of the defence witnesses who testified. Some who are assessed to be of particular interest are discussed. The fact that many are not mentioned in this brief does not mean that the Prosecution accepts that they are credible or reliable. As a general observation, a great number of them were former colleagues or subordinates of the Accused who carried out their orders during the material time or who were participants in carrying them out. Many displayed selective amnesia about matters about which they must have known and still remember. In many cases, this renders their evidence of very little value and it should be approached with extreme caution. Some only relented after documents of irresistible force were shown to them.

17. Reference to evidence heard in private session, exhibits admitted under seal or information potentially revealing the identity of witnesses who testified or whose statements were admitted into evidence with protective measures will be redacted in the public version of the brief.

**(II) OVERVIEW OF THE CONFLICT, CREATION OF THE SREBRENICA AND ŽEPA ENCLAVES AND STRUCTURE OF THE RS ARMED FORCES**

18. The horrific events of July 1995 did not take place in a vacuum. To the contrary, they were the culmination of years of focused efforts by the Bosnian Serb military and civilian leadership to achieve strategic war goals by neutralizing the military threat posed by the Srebrenica and Žepa enclaves and removal of their Muslim populations. These efforts date back virtually to the formation of the VRS, and plot a deliberate course to the ultimate destruction of the Muslim population of Srebrenica and Žepa by forced expulsions and mass murder. Undertaking a review of these efforts helps place in proper context many of the key VRS decisions and documents in this case; the state of mind of the Muslim victims and their action; and ultimately, the state of mind of the Accused, many of whom were direct participants in these efforts.

**(A) OVERVIEW OF THE CONFLICT AND CREATION OF THE SREBRENICA AND ŽEPA ENCLAVES**

**(i) 1991 – April 1992: the descent into war.**

19. In the late 1980s, economic difficulties and the end of Marshal Tito's communist rule led to rising nationalism and ethnic tensions across the Federal Republic of Yugoslavia ("FRY").<sup>7</sup> As a result, the Republics of Slovenia and Croatia declared their independence from FRY in June 1991.<sup>8</sup> Macedonia followed in September 1991.<sup>9</sup>

20. During the autumn of 1991, the future of the Republic of Bosnia and Herzegovina was also the subject of much discussion. In the Assembly of Bosnia-Herzegovina, the Democratic Action Party (*Stranka Demokratske Akcije* or "SDA") and Croatian Democratic Union (*Hrvatska Demokratska Zajednica* or "HDZ") supported sovereign and internationally recognised statehood for Bosnia, while the Serbian Democratic Party (*Srpska Demokratske Stranka* or "SDS") maintained that Bosnia should remain within Yugoslavia.<sup>10</sup> On 15 October 1991, Bosnia issued a parliamentary declaration of sovereignty.<sup>11</sup> In response, the SDS deputies convened separately on 24 October 1991

<sup>7</sup> *Prosecutor v. Popović et al*, Case No. IT-05-88-T, Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts with Annex, dated 26 September 2006, Prosecution Adjudicated Fact 4. Facts which the Trial Chamber has taken judicial notice of pursuant to this Decision will hereinafter be referred to as "Prosecution Adjudicated Fact XX."

<sup>8</sup> Prosecution Adjudicated Fact 5.

<sup>9</sup> Prosecution Adjudicated Fact 6.

<sup>10</sup> Popović Adjudicated Fact 5.

<sup>11</sup> Prosecution Adjudicated Fact 7.

and established the Assembly of the Serbian People of Bosnia-Herzegovina ("Bosnian Serb Assembly").<sup>12</sup>

21. On 21 November 1991, following a plebiscite conducted on 9 and 10 November 1991, the Bosnian Serb Assembly proclaimed as part of the territory of federal Yugoslavia all those municipalities, communes and settlements where a majority of registered citizens of Serb nationality had voted in favour of remaining in Yugoslavia.<sup>13</sup> That day, the Bosnian Serb Assembly also passed a resolution expressing its full support for the JNA in defending the common state of Yugoslavia and in mobilising the Serb people in Bosnia to reinforce military units.<sup>14</sup> By December 1991, the SDS was directly involved in clothing and arming volunteers in the area of Vlasenica, in eastern Bosnia.<sup>15</sup>

22. On 9 January 1992, the Bosnian Serb Assembly unanimously proclaimed the "Republic of the Serbian People of Bosnia and Herzegovina" to be "a federal unit of the Yugoslav federal state in the territories of the Serbian autonomous areas in the region and of other Serbian ethnic entities in Bosnia and Herzegovina."<sup>16</sup> On 6 April 1992, the Republic of Bosnia and Herzegovina was recognised by the European Community and on the following day by the United States.<sup>17</sup> Almost immediately, war broke out across Bosnia between the three major ethnic groups,<sup>18</sup> including in the east Bosnian municipalities of Bratunac,<sup>19</sup> Srebrenica,<sup>20</sup> Višegrad<sup>21</sup> and Zvornik.<sup>22</sup>

23. At all times relevant to the Indictment, a state of armed conflict existed in the Republic of Bosnia and Herzegovina and the laws of war applied to that conflict.<sup>23</sup> The

<sup>12</sup> Popović Adjudicated Fact 10.

<sup>13</sup> Popović Adjudicated Facts 11 and 12.

<sup>14</sup> Popović Adjudicated Fact 14.

<sup>15</sup> Exh. P04412, intercept dated 11 December 1991.

<sup>16</sup> Popović Adjudicated Fact 15.

<sup>17</sup> Prosecution Adjudicated Fact 8.

<sup>18</sup> Prosecution Adjudicated Fact 8.

<sup>19</sup> Exh. P00686, Revised Narrative Report by Richard Butler, at ERN 0113-4304-0113-4306.

<sup>20</sup> Exh. P00686, Revised Narrative Report by Richard Butler, at ERN 0113-4305.

<sup>21</sup> **PANDUREVIĆ**, T.30675.

<sup>22</sup> Exh. P00686, Revised Narrative Report by Richard Butler, at ERN 0113-4300-0113-4302.

<sup>23</sup> Exh. P00001, Declaration of "Immediate Threat of War", Republika Srpska Order no. 01-1118/95, dated 16 June 1992; Exh. P00453, at 0086-9109, Declaration of the Representatives of the Civilian Authorities of the Enclave of Srebrenica on the realization of the agreement on the evacuation of the civilian population of the Enclave, dated 17 July 1995; Exh. P00416, Official Gazette No. 9, page 329, Item 198: Order on the Application of the Rules of War in the Army of the RS of BiH; BUTLER, T. 19601-19602 (explained that the state of war existed in July 1995 as it was declared in June 1995); 19606:2-9 (stated that the political leadership as well as military published a number of guidelines regarding the application of the law of war soon after the armed conflict started); 20723:18-20 (explained that VRS realized the importance of the application of the law of war throughout the course of the conflict); KRAJIŠNIK, T. 21582:4-7 (confirmed that the armed conflict in BiH had already existed in May 1992); BRUNBORG, T. 6778:14-15 (confirmed that the armed conflict in BiH existed in 1992 through 1995); SMITH, T. 17605:4-7 (indicated that the armed conflict existed in 1990s in BiH); ERDEMOVIĆ, T. 10931:1-4 (confirmed the existence of the armed conflict in Bosnia); TOMIĆ, T. 21032:2-3 (confirmed the existence of the armed conflict).

parties to the conflict included the Republika Srpska and the Republic of Bosnia and Herzegovina.<sup>24</sup>

(ii) **12 May 1992: Strategic Objectives of the Serbian people in BiH.**

24. At the 16<sup>th</sup> Session of the Bosnian Serb Assembly held in Banja Luka on 12 May 1992 (“16<sup>th</sup> Assembly Session”), Radovan Karadžić announced that: “The Serbian side in BiH, the Presidency, the Government, the Council for National Security which we have set up have formulated... the strategic goals for the Serbian People.”<sup>25</sup> Karadžić then outlined the six Strategic Objectives,<sup>26</sup> which were later published as follows in the Official Gazette of the Republika Srpska on 26 November 1993:

The strategic objectives or priorities of the Serbian people in Bosnia and Herzegovina are to:

1. *Establish State borders separating the Serbian people from the other two ethnic communities.*
2. Set up a corridor between Semberija and Krajina.
3. *Establish a corridor in the Drina river valley, that is, eliminate the Drina as a border separating Serbian States.*
4. Establish a border on the Una and Neretva rivers.
5. Divide the city of Sarajevo into Serbian and Bosnian Muslim parts and establish effective State authorities in both parts.
6. Ensure access to the sea for Republika Srpska.<sup>27</sup>

25. Defence witness Momčilo Krajišnik testified that the six Strategic Objectives simply reflected the position agreed on by the Bosnian Muslims, Serbs and Croats during negotiations conducted in early 1992 under the auspices of the international community;<sup>28</sup> in particular, the “Cutileiro Plan” of March 1992.<sup>29</sup> He claimed that the Strategic Objectives were not voted on<sup>30</sup> and “were not the basis for military action;”<sup>31</sup> rather, they were simply a “type of information” to acquaint the members of parliament with the Bosnian Serb’s negotiation position.<sup>32</sup>

<sup>24</sup> Prosecution Adjudicated Fact 8.

<sup>25</sup> Exh. P00025, Minutes of the 16th Session of the Assembly of the Serbian People in BiH held on 12 May 1992 in Banja Luka, at ERN 0091-3513.

<sup>26</sup> Exh. P00025 at ERN 0091-3513-0091-3515.

<sup>27</sup> Exh. P02755, RS Decision 386 02-130/92 from Official Journal 1993 (emphasis added).

<sup>28</sup> KRAJIŠNIK, T.21583.

<sup>29</sup> See T.21585-21586, where Krajišnik testified that the Strategic Objectives were “reformulated Cutileiro principles.” The “Cutileiro Plan” or the “Cutileiro Principles” were outlined in the Statement of Principles proposed by Portuguese diplomat Jose Cutileiro and agreed upon by the leaders of the SDA, SDS and HDZ parties on 18 March 1992. See Exh. P03324, Statement of Principles for New Constitutional Arrangements for Bosnia and Herzegovina, 18 March 1992, at ERN 0209-3997.

<sup>30</sup> KRAJIŠNIK, T. 21593.

<sup>31</sup> KRAJIŠNIK, T.21667. See also T.21673.

<sup>32</sup> KRAJIŠNIK, T. 21594.

26. Contrary to Krajišnik's testimony, the Strategic Objectives were in fact adopted by the Bosnian Serb Assembly on 12 May 1992<sup>33</sup> and constituted the core political and military goals of the Bosnian Serb leadership from the time of their formal announcement on 12 May 1992 throughout the period of the Indictment in this case. Strategic Objectives 1 and 3, in particular, reflected the political and military policy to remove the Bosnian Muslim population from the Drina Valley region.<sup>34</sup>

**The Strategic Objectives were military objectives.**

27. Gen. Mladić was present at the 16<sup>th</sup> Assembly Session and spoke of the need to work on both the military and political levels in order to achieve the Strategic Objectives.<sup>35</sup> The military nature of the Strategic Objectives was also demonstrated by their immediate dissemination to military leaders and army members<sup>36</sup> and their implementation on the ground.<sup>37</sup> Krajišnik was shown this evidence during his cross-examination and, in almost every instance, claimed that the Strategic Objective in question had been misinterpreted by the individual disseminating it<sup>38</sup> or that the military operation on the ground was unconnected to the Strategic Objective to which it clearly

<sup>33</sup> Exh. P02755, RS Decision 386 02-130/92 from Official Journal 1993, which states that "at its session held on 12 May 1992, the Assembly of the Serbian people in Bosnia and Herzegovina adopted the following Decision on Strategic Objectives for the Serbian people in Bosnia and Herzegovina."

<sup>34</sup> See paras. 38-44.

<sup>35</sup> Exh. P00025 at ERN 0091-3538-0091-3540.

<sup>36</sup> See, e.g., Exh. P03252 at ERN 0110-6535, 1st Partizan Brigade document No. 1-45/92, titled "Minutes of meeting with presidents of municipalities in the zone of responsibility of the Division", 14 May 1992, which describes a meeting of Serb military and political leaders in the Autonomous Region of Krajina at which the Strategic Objectives were discussed and unanimous agreement reached on their implementation. See also Exh. P03253, 1st Krajina Corps document No. 459-2, re the formation of an army of the Serbian Republic of BH, signed by Milutin Vukelić, 21 May 1992, which stated that the Serbs "must struggle for complete separation from the Muslim and Croatian people and form their own state," and ordered that all members of the army should be informed about the report.

<sup>37</sup> See, e.g., Exh. P03254, War Presidency of Bosanska Krupa order no. 130/92, signed by Gojko Kličković, 22 May 1992, ordering "the evacuation of the remaining Muslim population from the territory of the Serbian municipality of Bosanska Krupa;" and Exh. P03255, War Presidency of Bosanska Krupa document No. 184/92, proposal to carry out military preparations in the area of the Una River, signed by Gojko Kličković, 25 May 1992, including a proposal for the "cleansing of the left bank of the Una River," for reasons including the "political determination to have the border of Serbian municipality of SR Banja Luka, Serbian Republic of Bosnia and Herzegovina and Serbian state established along the river Una up to Bosanska Otoka." These documents clearly relate to the implementation of Strategic Objective 4, the establishment of a border on the Una and Neretva rivers. See also Exh. P03308, VRS Main Staff Order No. 02/5-22, titled "Directive for further actions," type-signed by Lt. Gen. Ratko Mladić, 6 June 1992, which stated that one of the goals of the operation was to "create the corridor between Semberija and Bosnian Krajina."<sup>37</sup> This directive repeated the language of Strategic Objective 2 almost verbatim.

<sup>38</sup> See e.g. Exh. P03252, which described Strategic Objective 3 as the "creation of a corridor along the Drina river valley, so that the Serbian people control both the left and the right banks of the Drina river." At T.21627, Krajišnik claimed that this did not interpret Strategic Objective 3 "in the way we envisaged for that strategic goal to be implemented." See also Exh. P03253, which Krajišnik said was based on an incorrect interpretation of the Strategic Objectives (at T. 21641).

related.<sup>39</sup> Given the significant evidence to the contrary, Krajišnik's explanations were simply not credible.

28. Moreover, on 2 September 1992, a meeting took place in Bijeljina attended by, *inter alia*, President Karadžić, Momčilo Krajišnik, the Minister of Defence, the Minister of the Interior, the Prime Minister, General Mladić, General **GVERO** and then-Colonel Novica Simić, Commander of the East Bosnia Corps.<sup>40</sup> General Simić testified that the "strategic objectives of the war were put forth"<sup>41</sup> by Krajišnik<sup>42</sup> at that meeting, describing them in unmistakable terms as the same Strategic Objectives which were outlined by President Karadžić at the 16<sup>th</sup> Assembly Session. The fact that Gen. Simić, a VRS Corps Commander, considered the Strategic Objectives to be the "strategic objectives of the war," directly belies Krajišnik's testimony that the Strategic Objectives were unconnected with the military operations on the ground.

29. General Simić explicitly confirmed that: "It's politics that sets the goals and the military that implement them."<sup>43</sup> He stated: "Strategic goals are put before the military, and the military has to implement short-term and long-term tasks...as a rule it's the politicians, or rather, the Supreme Commander, the Supreme Defence Council that sets the strategic goals and – and imposes a time-frame on what has to be done."<sup>44</sup>

30. The relationship between the Strategic Objectives and the military operations on the ground is confirmed beyond doubt by the *Analysis of the Combat Readiness and Activities of the Army of Republika Srpska in 1992*,<sup>45</sup> which identified the VRS as 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."<sup>46</sup> It also stated that:

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 the actual operations and concerted battles. This means that, objectives were set before us rather than specific tasks spelled out, although the President of the Republic, as the supreme commander

<sup>39</sup> See e.g. Exh. P03254 and Exh. P03255, which clearly relate to the implementation of Strategic Objective 4, the establishment of a border on the Una and Neretva rivers. However, at T. 21648, Krajišnik claimed that these documents were not connected with Strategic Objective 4 and that the Bosnian Serbs simply helped the Muslims leave "for their own security." See also Exh. P03308, which Krajišnik claimed (at T.21643) was "nothing to do with our political goals that had been agreed upon by -- with the other sides," despite the fact that this document repeated the language of Strategic Objective 2 almost verbatim.

<sup>40</sup> N. SIMIĆ, T.28649-28654; Exh. P03927, War Diary of Gen. Novica Simić, January 1992 to January 1993, p.35 (BCS).

<sup>41</sup> N. SIMIĆ, T.28651 (emphasis added).

<sup>42</sup> N. SIMIĆ, T.28652 and T.28654.

<sup>43</sup> N. SIMIĆ, T.28658.

<sup>44</sup> N. SIMIĆ, T.28658.

<sup>45</sup> Exh. P00414.

<sup>46</sup> Exh. P00414 at ERN 0060-7346 (English p.7).



of the Armed Forces of RS, did orally assign a number of tasks which were of general and vital significance to our struggle in protecting the Serbian people and its territories. 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.<sup>47</sup>

31. In addition to this broad description of the relationship between the Strategic Objectives and military operations, the *Analysis of the Combat Readiness and Activities of the Army of Republika Srpska in 1992* described specific military operations carried out in the Kamenica, Cerska, Glogova, Osmače and Jadar areas in furtherance of Strategic Objective 3, as discussed below (*see* para. 43).

32. General Milovanović put it perhaps the most succinctly when he was shown a copy of the Six Strategic Objectives and asked, “So would I be right in saying that this is a strategic-level document?” Milovanović answered, “No. This is a doctrine document. This has to do with the defence policy, and every item from 1 through 6 are strategic tasks for the army of Republika Srpska.”<sup>48</sup>

**Strategic Objective 1 was the separation of the Bosnian Serb people from the Muslim and Croat peoples.**

33. At the 16<sup>th</sup> Session of the Bosnian Serb Assembly held on 12 May 1992, Radovan Karadžić described Strategic Objective 1 as follows: “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 continue to stay together in the same state.”<sup>49</sup>

34. The attendees of the 16<sup>th</sup> Assembly Session clearly understood that this called for the separation of Serbs from non-Serbs, as can be seen from their comments. Milutin Vjestica, for example, expressed his satisfaction that the Muslims from Bosanska Krupa, who had already been expelled from the right bank of the Una, would not be returning because of the “happy news” that his municipality fell within the borders defined by the Strategic Objectives.<sup>50</sup> Prior to these expulsions, the Serbs had comprised just 24 percent of the population of Bosanska Krupa.<sup>51</sup> Similarly, Trifko Radić asked that the demarcation lines and goals be set out clearly in order to “know exactly who is resettling

<sup>47</sup> Exh. P00414 at ERN 0060-7476 (English p.159).

<sup>48</sup> MILOVANOVIĆ, T.12347.

<sup>49</sup> Exh. P00025 at ERN 0091-3513.

<sup>50</sup> Exh. P00025 at ERN 0091-3525.

<sup>51</sup> KRAJIŠNIK, T.21621.

where,” and warned that resettling people would “require a lot of toil and effort and explanations to the people who will have to leave their hearths.”<sup>52</sup>

35. President Karadžić reiterated this objective at the 42<sup>nd</sup> Session of the Bosnian Serb Assembly held on 18-19 July 1994, where he stated that the “primary strategic aim” was to “get rid of the enemies in our house, the Croats and the Muslims, and not to be in the same state with them anymore.”<sup>53</sup>

36. Colonel Milenko Lazić also testified that every VRS member understood that the VRS had a role to play in separating the peoples in Bosnia on an ethnic principle:

I think that the main objective of the VRS was to defend the Serb population from the attacks coming from the other side, and if there was no other solution available, *then to separate all of us on ethnic principles. And I believe that that was the understanding of every individual member of the VRS.*<sup>54</sup>

37. Krajišnik testified that President Karadžić’s statements at the 16<sup>th</sup> and 42<sup>nd</sup> Assembly sessions did not refer to the separation of peoples,<sup>55</sup> instead claiming that Strategic Objective 1 simply reflected the “Cutiliero Plan” to provide the Bosnian Serbs with their own constituent unit within BiH, separated from the other constituent units along an “ethnic principle.”<sup>56</sup> However, Krajišnik’s attempt to obfuscate the clear meaning of Karadžić’s words is completely contradicted by the statements of attendees of the 16<sup>th</sup> Assembly Session; by subsequent events on the ground; by Krajišnik’s own speech on 2 September 1992 during which then-Colonel Simić recorded in his diary that Strategic Objective 1 was “separation from the Muslims;”<sup>57</sup> and finally, by the language used in the official gazetting of the Strategic Objectives in 1993, which explicitly stated that Strategic Objective 1 was to: “Establish State Borders *separating the Serbian people from the other two ethnic communities.*”<sup>58</sup>

**Strategic Objective 3 was the removal of the Bosnian Muslim population from the Drina River valley.**

38. Krajišnik testified that Strategic Objective 3 was intended to reflect the Cutileiro Plan proposal that the constituent units within BiH could have special links with neighbouring states.<sup>59</sup> In particular, he claimed that Strategic Objective 3 was intended to

<sup>52</sup> Exh. P00025 at ERN 0091-3520.

<sup>53</sup> Exh. P03305 at ERN 0306-4273.

<sup>54</sup> LAZIĆ, T.21835 (emphasis added).

<sup>55</sup> KRAJIŠNIK, T. 21616-21617.

<sup>56</sup> KRAJIŠNIK, T. 21585-21586.

<sup>57</sup> N. SIMIĆ, T.28654; Exh. P03927, War Diary of Gen. Novica Simić, January 1992 to January 1993, p.35 (BCS).

<sup>58</sup> Exh. P02755 (emphasis added).

<sup>59</sup> KRAJIŠNIK, T. 21591.

negate the need to use passports when crossing the Drina River into Serbia<sup>60</sup> and to facilitate an exchange of territory to link up Serb-held territory and establish Muslim enclaves.<sup>61</sup> However, Krajišnik's testimony on these points is clearly contradicted by the evidence, as outlined below.

39. At the 16<sup>th</sup> Session of the Bosnian Serb Assembly held on 12 May 1992, President Karadžić stated that Strategic Objective 3 was "to establish a corridor in the Drina Valley, that is, elimination of the Drina as a border between two worlds."<sup>62</sup> Conflict had already broken out in eastern Bosnia by this date and President Karadžić noted that operations "along the Drina" had gone well in Foča, Zvornik and Višegrad. Karadžić also noted that Goražde, a municipality he admitted to being only 27 percent Serb, was still posing difficulties.<sup>63</sup> Karadžić also conceded the possibility that some Muslim enclaves may remain along the Drina,<sup>64</sup> which implicitly confirmed that the Muslim population would be removed from all other areas along the Drina River valley.

40. Two days later, on 14 May 1992, the Strategic Objectives were presented to Bosnian Serb military and political leaders in the Autonomous Region of Krajina by Milan Malidža, the president of the Mrkonjić Grad municipality.<sup>65</sup> Malidža, who was present at the 16<sup>th</sup> Assembly Session,<sup>66</sup> described Strategic Objective 3 as the "creation of a corridor along the Drina river valley, so that the Serbian people control both the left and the right banks of the Drina river."<sup>67</sup> Krajišnik testified that Malidža had simply misunderstood Strategic Objective 3,<sup>68</sup> but events on the ground, both before and after the 16<sup>th</sup> Assembly Session, show that Malidža's interpretation was exactly right as the Bosnian Serbs took control of municipalities along the Drina River including Zvornik, Višegrad, Bratunac, Rogatica, Vlasenica and, finally, Srebrenica and Žepa. At the 53<sup>rd</sup> Assembly Session of the RS National Assembly in August 1995, President Karadžić confirmed that the municipalities in eastern Bosnia were taken over due to their "strategic importance."<sup>69</sup>

<sup>60</sup> KRAJIŠNIK, T. 21590-21591 and T.21627.

<sup>61</sup> KRAJIŠNIK, T.21627.

<sup>62</sup> Exh. P00025 at ERN 0091-3514.

<sup>63</sup> Exh. P00025 at ERN 0091-3513.

<sup>64</sup> Exh. P00025 at ERN 0091-3514.

<sup>65</sup> Exh. P03252 at ERN 0110-6535.

<sup>66</sup> KRAJIŠNIK, T.21625.

<sup>67</sup> Exh. P03252 at ERN 0110-6535 (emphasis added).

<sup>68</sup> KRAJIŠNIK, T.21627.

<sup>69</sup> Exh. P03307, Minutes of the 53rd Session of the RS National Assembly, 28 August 1995, at ERN 0215-4387 (English p.69).

41. On 28 May 1992, Major Svetozar Andrić, then commander of the SV Brigade Command "Birač," issued an order to the Zvornik TO (Territorial Defence) stating that:

The moving out of the Muslim population must be organised and co-ordinated with the municipalities through which the moving is carried out. Only women and children can move out, while men fit for military service are to be placed in camps for exchange.<sup>70</sup>

42. This order, issued two weeks after the 16<sup>th</sup> Assembly Session, clearly reflects the aims of Strategic Objectives 1 and 3 and was issued in furtherance of these Objectives.

43. On 19 November 1992, Operational Directive 4 was issued by General Mladić<sup>71</sup> and specifically ordered the removal of the Bosnian Muslim population from the Birač, Žepa and Goražde areas in eastern Bosnia.<sup>72</sup> In the spring of 1993, in furtherance of Directive 4, the VRS carried out a series of military operations in eastern Bosnia that caused tens of thousands of Bosnian Muslims to flee their homes to areas around Srebrenica, Žepa and Goražde.<sup>73</sup> The *Analysis of the Combat Readiness and Activities of the Army of Republika Srpska in 1992*<sup>74</sup> confirmed that these operations were carried out in furtherance of Strategic Objective 3, despite Krajišnik's claims to the contrary.<sup>75</sup>

In the last month and a half, our operations have concentrated on the liberation of Podrinje, as thereby *the strategic objective of our war* would be realised, one that could be defined as "establishing contact with Serbia on the river Drina, or the Drina ceasing to be a frontier."<sup>76</sup>

By taking Kamenica, Cerska, Glogova, the region of Osmaće village and Jadar, the Drina Corps has considerably expanded the free territory and will shortly have achieved *the strategic task assigned to it by the Supreme Command*, while at the same time providing protection for the Serbian people.<sup>77</sup>

44. At the 53<sup>rd</sup> Assembly Session of the RS National Assembly in August 1995, following the fall of the Srebrenica and Žepa enclaves and the forcible removal of the Muslim populations thereof, President Karadžić confirmed that municipalities in eastern Bosnia had been taken over for strategic reasons:

We absolutely cannot let ourselves get any ideas about them taking our traditional territories from us. To tell the truth, there are towns that we've grabbed for ourselves, and there were only 30 percent of us. I can name as many of those as you want, but we cannot give up the towns where we made up 70 percent. 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

<sup>70</sup> Exh. P03258, Birač Brigade Command Order to the Zvornik TO Staff, signed by Maj. Svetozar Andrić, dated 28 May 1992.

<sup>71</sup> Exh. P00029, VRS Main Staff Order 02/5-210, Directive for Further Operations No. 4, 19 November 1992 (ERN: 0087-6272-0087-6287 (BCS); 0190-0424-0190-0431(Eng)).

<sup>72</sup> See paras. 50-55.

<sup>73</sup> See paras. 77-83.

<sup>74</sup> Exh. P00414, Analysis of the Combat Readiness and Activities of the Army of Republika Srpska in 1992, April 1993.

<sup>75</sup> KRAJIŠNIK, T.21668-21671.

<sup>76</sup> Exh. P00414 at ERN 0060-7477 (English p.160) (emphasis added).

<sup>77</sup> Exh. P00414 at ERN 0060-7479 (English p.162) (emphasis added).

Vlasenica, in Zvornik etc. *Due to strategic importance they had to become ours*, and no one is practically questioning it any more.<sup>78</sup>

**Defence witness Momčilo Krajišnik was not credible.**

45. Krajišnik was convicted by the ICTY of crimes against humanity<sup>79</sup> on account of being a key participant in a joint criminal enterprise “which had as its goal the expulsion of the non-Serb population.”<sup>80</sup> Krajišnik testified in his own defence and the Trial Chamber found him to be of “very low credibility.”<sup>81</sup> Krajišnik’s case was on appeal during his testimony in the instant case and the obvious self-interest behind his testimony should, of itself, mean that his evidence be treated with extreme caution.

46. Krajišnik was also less than candid with the Trial Chamber during his testimony in the instant case. Examples include his attempt to portray Exh. 1D01160 as the map agreed by the Muslims, Croats and international community as part of the Cutileiro Plan,<sup>82</sup> when in fact Exh. P03324<sup>83</sup> was the real Cutileiro Plan map;<sup>84</sup> his claim that the Strategic Objectives were discussed publicly at the 16<sup>th</sup> Assembly Session<sup>85</sup> when in fact it was held in closed session;<sup>86</sup> and most importantly, his repeated insistence that the Strategic Objectives were nothing more than political objectives, in the face of substantial contrary evidence demonstrating that they were, in fact, military objectives implemented through brute force by the RS civilian and military authorities. Given Krajišnik’s self-interest in, and lack of candour during, his testimony, his evidence should be given no weight. Moreover, his repeated and obvious untruths provide the Trial Chamber with persuasive evidence that the contrary was in fact the truth, thus supporting the Prosecution’s evidence of the RS’s and VRS’s policy of ethnic cleansing.

<sup>78</sup> Exh. P03307, Minutes of the 53rd Session of the RS National Assembly, 28 August 1995, at ERN 0215-4387 (English p.69) (emphasis added).

<sup>79</sup> KRAJIŠNIK, T. 21612.

<sup>80</sup> KRAJIŠNIK, T. 21614.

<sup>81</sup> KRAJIŠNIK, T. 21614.

<sup>82</sup> See T.21586, where Krajišnik agreed with counsel for Vujadin Popović that a map was produced by representatives of the international community led by Mr. Cutileiro. At T.21587, Krajišnik was shown Exh. 1D01160 and agreed that that was the map. At T.21636, Krajišnik again claimed that 1D01160 was the map drawn by a “representative of the Cutileiro Plan... Mr. Darwin.”

<sup>83</sup> Exh. P03324 at ERN 0209-4000.

<sup>84</sup> See KRAJIŠNIK, T.21633-21638.

<sup>85</sup> KRAJIŠNIK, T. 21584.

<sup>86</sup> KRAJIŠNIK, T. 21630-21632.

**(iii) November 1992: formation of the VRS Drina Corps.**

47. Before the war, Srebrenica was a predominantly Muslim town.<sup>87</sup> In April 1992, Serb forces assumed control of the town of Srebrenica, but several weeks later, after they had regrouped, Bosnian Muslim forces retook Srebrenica.<sup>88</sup> In the following months, the Bosnian Muslim forces based in Srebrenica raided a number of surrounding villages and hamlets which were inhabited by Bosnian Serbs, or from which Bosnian Muslims had formerly been expelled.<sup>89</sup> Bosnian Serbs reported that these actions resulted in considerable loss to Bosnian Serb life and property.<sup>90</sup>

48. During this period, this area of eastern Bosnia fell under the jurisdiction of various Bosnian Serb TO, municipal and VRS units and commands, which all attempted to stabilise and expand the area under Bosnian Serb control.<sup>91</sup> Despite these efforts, the security threat of the Bosnian Muslim forces in Srebrenica, Žepa, Goražde, Cerska and the outlying areas of Višegrad continued to grow.<sup>92</sup> By September 1992, Bosnian Muslim forces from Srebrenica had linked up with Bosnian Muslim forces from Žepa.<sup>93</sup>

49. In response, the VRS Drina Corps was formed on 1 November 1992.<sup>94</sup> Its headquarters were established in the town of Vlasenica and Col. Milenko Živanović was appointed as commander.<sup>95</sup>

**(iv) Operational Directive 4, dated 19 November 1992: Gen. Mladić ordered that the Muslim population be forced to leave the Birač, Žepa and Goražde areas.**

**Operational Directive 4, dated 19 November 1992.**

50. From its inception, the Drina Corps was faced with an extremely serious military situation as the Bosnian Muslim forces from Srebrenica began a two-stage campaign to link up with Muslim forces in Cerska, thus isolating the Serb-held towns of Bratunac and Skelani, and then capture the town of Bratunac itself.<sup>96</sup>

<sup>87</sup> See Prosecution Adjudicated Fact 12 and Popović Adjudicated Fact 19. In 1991, the population of the municipality was 37,000, of which 73 percent were Muslim and 25 percent were Serb. By July 1995, 80-85% of the Muslim population in Srebrenica was estimated to be refugees from other areas. Exh. P00493, 8 July 1995 UNMO Report. In Žepa, approximately 65% of residents were displaced from other areas. TORLAK, T.9844-9845; DŽEBO, T.9675.

<sup>88</sup> Exh. 3DP00460, The Situation in BiH Before the War and the History of Bratunac Municipality, at ERN 0084-0176; Exh. P00686, Revised Narrative Report by Richard Butler, at ERN 0113-4305.

<sup>89</sup> Popović Adjudicated Fact 21.

<sup>90</sup> Popović Adjudicated Fact 21.

<sup>91</sup> Exh. P00686 at ERN 0113-4300.

<sup>92</sup> Exh. P00686 at ERN 0113-4300.

<sup>93</sup> Prosecution Adjudicated Fact 18.

<sup>94</sup> Exh. P00686 at ERN 0113-4300. See also paras. 178-182.

<sup>95</sup> Exh. P00686 at ERN 0113-4300.

<sup>96</sup> Exh. P00686 at ERN 0113-4306.

51. In response, the RS political and military leadership devised a plan to secure this area and implement Strategic Objectives 1 and 3 to remove the Bosnian Muslim population from the Drina Valley region.<sup>97</sup> This plan formed part of Directive for Further Operations No. 4 (“Directive 4”), which was drafted by General Manojlo Milovanović,<sup>98</sup> Chief of Staff of the VRS Main Staff, and issued on 19 November 1992 by General Mladić.<sup>99</sup> This Directive, in part, ordered the Drina Corps to:

From its present positions, its main forces shall persistently defend Višegrad (the dam), Zvornik and the corridor, while the rest of its forces in the wider Podrinje region shall exhaust the enemy, inflict the heaviest possible losses on him and force him to leave the Birač, Žepa and Goražde areas *together with the Bosnian Muslim population*. First, offer the able-bodied and armed men to surrender, and if they refuse, destroy them. After that, unblock and repair the Konjević Polje – Zvornik road, make it fit for traffic, and stand by for intensive combat against infiltrated sabotage, terrorist, surprise and ambush attacks and paramilitary groups.<sup>100</sup>

52. Directive 4 draws a clear distinction between “the enemy” and the “Bosnian Muslim population.” Targeting “the enemy” was entirely lawful; however, targeting the Bosnian Muslim civilian population was not. The Drina Corps was given the task of forcing both “the enemy” *and* the “Bosnian Muslim population” to leave the Birač (which includes Cerska<sup>101</sup> and Srebrenica<sup>102</sup>), Žepa and Goražde areas; thus, Directive 4 was an illegal order.

53. Given the patent illegality of Directive 4, **PANDUREVIĆ** had little choice but to testify that:

This is something that should not feature in a military order and the activities of units can target only enemy units, *not the civilian population*.<sup>103</sup>

Well, the primary aim here is to defeat armed forces and to force them to leave the area and then the civilian population is to go with them. The first part is completely legitimate *but forcing the civilians to leave the area is not*.<sup>104</sup>

Forcing the population to leave the area where they live is not in conformity with the Geneva Conventions.<sup>105</sup>

54. Even Momčilo Krajišnik conceded that Directive 4 was an order for ethnic cleansing.<sup>106</sup>

<sup>97</sup> See paras. 38-44.

<sup>98</sup> MILOVANOVIĆ, T.12195.

<sup>99</sup> Exh. P00029, VRS Main Staff Order 02/5-210, Directive for Further Operations No. 4, 19 November 1992.

<sup>100</sup> Exh. P00029 at ERN 0087-6282 (BCS), 0190-0428 (Eng) (emphasis added).

<sup>101</sup> **PANDUREVIĆ**, T.32068.

<sup>102</sup> Milenko JEVĐEVIĆ, T.29717.

<sup>103</sup> **PANDUREVIĆ**, T.32071 (emphasis added).

<sup>104</sup> **PANDUREVIĆ**, T.32071 (emphasis added).

<sup>105</sup> **PANDUREVIĆ**, T.32072.

<sup>106</sup> **KRAJIŠNIK**, T.21656.

55. Not surprisingly, however, the author of Directive 4, General Milovanović,<sup>107</sup> was evasive and less than candid when asked about this document in his direct examination.<sup>108</sup> When pressed, he concluded that this section of Directive 4 did not refer to forcing the Muslim civilian population from the area,<sup>109</sup> despite the obvious and clear nature of the language. Since anything Milovanović said in relation to Directive 4 would have incriminated him, his testimony should be regarded with great caution on this point.<sup>110</sup>

**The Drina Corps political-military seminar on 23 November 1992.**

56. On 20 November 1992, the day after the issuance of Directive 4, General Mladić issued an order to the Drina Corps to “prepare, organise and hold a military and political seminar at the level of the Drina Corps on 23 November 1992, starting at 1000 hours, in Zvornik.”<sup>111</sup> The seminar was to be chaired by President Karadžić and attended by members of the RS government, representatives of the VRS Main Staff, the core Drina Corps Command, the Drina Corps brigade commanders and the presidents of municipalities in the Drina Corps’ zone of responsibility.<sup>112</sup>

57. Colonel Živanović was tasked with giving a “report on the situation in the Corps, combat operations being carried out and tasks for the Corps in the days ahead, as well as the possibilities if implementing the tasks received.”<sup>113</sup> The Drina Corps brigade commanders were similarly tasked with preparing a 5-10 minute report on the “situation, results, further tasks and capabilities” of their unit.<sup>114</sup>

58. On 23 November 1992, the military/political seminar was held in Zvornik and attended by, *inter alia*, President Karadžić;<sup>115</sup> Gen. Milovanović;<sup>116</sup> Gen. **GVERO**;<sup>117</sup> Colonel Živanović;<sup>118</sup> Col. Radislav Krstić, then-Commander of the 2<sup>nd</sup> Romanija

<sup>107</sup> MILOVANOVIĆ, T.12195.

<sup>108</sup> See MILOVANOVIĆ, T.12196-12198.

<sup>109</sup> MILOVANOVIĆ, T. 12198.

<sup>110</sup> Defence witness Slobodan Kosovac also testified that the objective of Directive 4 was perfectly legal, but opined that it was drafted by “someone who was illiterate.” KOSOVAC, T.29966-29967, 30454-30457. His observations were illogical and obfuscate the plain and unambiguous language of the document; thus, his evidence on this point should be disregarded by the Trial Chamber.

<sup>111</sup> Exh. P04221, VRS Main Staff Order No. 02/5-213 to prepare and organise military and political seminar on 23 November 1992 in Zvornik, type-signed Lt. Gen. Ratko Mladić, 20 November 1992. See also Exh. P04222, VRS Main Staff schedule of presentations to the Drina Corps, signed by Lt. Gen. Ratko Mladić and Maj. Gen. Manojlo Milovanović, 23 November 1992, at ERN 0425-6082.

<sup>112</sup> Exh. P04221.

<sup>113</sup> Exh. P04221.

<sup>114</sup> Exh. P04222.

<sup>115</sup> **PANDUREVIĆ**, T.32076; Exh. P04402, Extract of notebook seized by NATO forces during a search of residences of the family of Radovan Karadžić, at ERN 0500-3449; Exh. P04222 at ERN 0425-6082.

<sup>116</sup> **PANDUREVIĆ**, T.32075; Exh. P04402 at ERN 0500-3449; Exh. P04222 at ERN 0425-6082.

<sup>117</sup> Exh. P04402 at ERN 0500-3449. See also **PANDUREVIĆ**, T.32079.

<sup>118</sup> **PANDUREVIĆ**, T.32079; Exh. P04402 at ERN 0500-3449; Exh. P04222 at ERN 0425-6082.



Motorised Brigade;<sup>119</sup> Capt. Rajko Kušić, Commander of the 1<sup>st</sup> Podrinje Light Infantry Brigade (Rogatica Brigade);<sup>120</sup> Lt. Col. Svetozar Andrić, Commander of the 1<sup>st</sup> Birač Light Infantry Brigade;<sup>121</sup> and Capt. 1<sup>st</sup> Class **PANDUREVIĆ**, then-Commander of the 5<sup>th</sup> Podrinje Light Infantry Brigade (Goražde Brigade),<sup>122</sup> who spoke for around five minutes about the establishment of the Goražde Brigade and the state it was in.<sup>123</sup>

59. At the seminar, Col. Živanović spoke about “assignments” in the Žepa, Goražde, Cerska and Srebrenica areas,<sup>124</sup> the very same areas from which the Drina Corps had been tasked with removing the Muslim population pursuant to Directive 4. **PANDUREVIĆ** also recalled that: “a reference was made about securing roads and defending Podrinje. I’m absolutely sure of that.”<sup>125</sup>

60. The task of “securing roads” which **PANDUREVIĆ** recalled was specifically assigned to the Drina Corps in Directive 4 in the following terms: “unblock and repair the Konjević Polje – Zvornik Road.” Similarly, the task of “defending Podrinje” which **PANDUREVIĆ** recalled was specifically assigned to the Drina Corps in Directive 4: “defend Višegrad (the dam), Zvornik and the corridor while the rest of its forces in the wider Podrinje should exhaust the enemy...”<sup>126</sup>

61. It cannot be a coincidence that Živanović spoke about “assignments” in the Žepa, Goražde, Cerska and Srebrenica areas just four days after the issuance of Directive 4, which had assigned tasks to the Drina Corps, including the removal of the Muslim population, in those very areas. The presence of President Karadžić, Gen. Milovanović, Gen. **GVERO**, the Drina Corps command, brigade commanders and other important political and military figures at the seminar also strongly suggests that Directive 4 was discussed. Finally, as discussed in detail at paras. 62-69, the day after this meeting, Živanović issued Drina Corps Order 2-126, which expressly implemented Directive 4 and outlined in even more specific detail the order to remove the Muslim population from the Žepa, Goražde, Cerska and Srebrenica areas. Accordingly, Directive 4, and the removal of the Muslim population from these areas, must have been discussed at this seminar and **PANDUREVIĆ** and **GVERO** would have acquired specific knowledge of the policy of ethnic cleansing as set out in Directive 4.

<sup>119</sup> Exh. P04402 at ERN 0500-3449; Exh. P04222.

<sup>120</sup> Exh. P04402 at ERN 0500-3449; Exh. P04222.

<sup>121</sup> Exh. P04402 at ERN 0500-3449; Exh. P04222.

<sup>122</sup> **PANDUREVIĆ**, T.32073; Exh. P04402, ERN 0500-3449.

<sup>123</sup> **PANDUREVIĆ**, T.32081.

<sup>124</sup> Exh. P04402, ERN 0500-3449.

<sup>125</sup> **PANDUREVIĆ**, T.32081-32082.

<sup>126</sup> Exh.P00029 at ERN 0087-6282 (BCS), 0190-0428 (Eng).

**Drina Corps order 2-126, dated 24 November 1992.**

62. On 24 November 1992, the day after the military/political seminar was held in Zvornik, Živanović issued Drina Corps (*Drinskog Korpusa*, or “DK”) strictly confidential Order 2-126 pursuant to Directive 4<sup>127</sup> (“DK Order 2-126”). This Order stated:

Pursuant to Directive of the Main Staff of the Army of Republika Srpska strictly confidential number 02/5 of 19 November 1992 and an assessment of the situation, I have decided:

1. 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.*<sup>128</sup>

63. Defence witness Col. Milenko Lazić and Prosecution expert Richard Butler both confirmed that DK Order 2-126 took the language from Directive 4 -- “exhaust the enemy, inflict the heaviest possible losses on him and force him to leave the Birač, Žepa and Goražde areas *together with the Bosnian Muslim population*” -- and put it in even more explicit terms: “*force the Muslim local population to abandon the area of Cerska, Žepa, Srebrenica and Goražde.*”<sup>129</sup> Significantly, as noted above, Colonel Živanović spoke about “assignments” in those exact same areas just one day earlier at the political/military seminar in Zvornik.<sup>130</sup>

64. Despite the plain and unambiguous criminal nature of this order, Defence witnesses Slobodan Kosovac and Vinko **PANDUREVIĆ** obfuscated its meaning during their respective testimonies. According to Kosovac, the criminal language in DK Order 2-126 was “very poorly drafted”<sup>131</sup> but had no substantive effect because it was not repeated in the specific tasks assigned to the subordinate units.<sup>132</sup> Similarly, while **PANDUREVIĆ** agreed that the language in DK Order 2-126 was just as criminal as the language in Directive 4,<sup>133</sup> he claimed that “the goals and the operations in themselves are not criminal.”<sup>134</sup> He stated:

[Colonel Živanović] referred to directive 4. He invoked it. And then he wrote what he did. And he determined the goals of the operation and the goals should have arisen from the tasks that were

<sup>127</sup> Exh. P03029, Drina Corps Command Order No. 2-126, for further activities, signed by Col. Milenko Živanović, 24 November 1992.

<sup>128</sup> Exh. P03029 (emphasis added).

<sup>129</sup> LAZIĆ, T.21831 (“It is obvious that the contents of item 1, one would say, stem out of the directive”); and BUTLER, T.19681 (“This is a more detailed reflection of the intent that was articulated in strategic directive 4”). DK Order 2-126 explicitly refers to Directive 4’s strictly confidential number, 02/5, and the date of its publication, 19 November 1992.

<sup>130</sup> Exh. P04402, ERN 0500-3449.

<sup>131</sup> KOSOVAC, T.30456.

<sup>132</sup> KOSOVAC, T.30456-30458.

<sup>133</sup> **PANDUREVIĆ**, T.32090. *See also* T.32091.

<sup>134</sup> **PANDUREVIĆ**, T.32090.

given at the beginning. The first task should have been the expulsion of the population from that area but that goal is not there, hence there is no tasks. So the goal is simply not there.<sup>135</sup>

65. **PANDUREVIĆ's** and **Kosovac's** convoluted theorising about the clear and unequivocal language of DK Order 2-126 is belied by events on the ground, where thousands of Muslims were forcibly removed from their homes in eastern Bosnia.<sup>136</sup> In light of this brutal reality, **Kosovac's** attempts to explain away the criminal language in DK Order 2-126 as the result of being "poorly drafted"<sup>137</sup> and the criminal language in Directive 4 as the result of being drafted by an "illiterate person"<sup>138</sup> are particularly disingenuous.

66. DK Order 2-126 also states:

Moral and psychological preparations: Before initiating any kind of operation, inform the unit members about the important aim of that operation and underline that the outcome of minor actions and of the whole operation is of a crucial importance for the realisation of the *aim of the Serbian people, namely, the creation and establishment of a Serbian state in these areas*.<sup>139</sup>

67. During his testimony, Col. Milenko Lazić was asked whether, during his time as a member of the VRS Main Staff, he considered the creation and establishment of a Serbian state in those areas to be an objective of the VRS.<sup>140</sup> He stated:

I think so. I think that it was, that this was to say that even the minor operations should be carried out successfully in order to liberate the areas where the Serbian population lived *and in view of the situation as it was in 1992 to separate the peoples in Bosnia and Herzegovina on ethnic grounds*. In view of all of that, this could have been a logical objective.<sup>141</sup>

68. Col. Lazić was then asked, based on his experience in the Main Staff section for Operations and Training and the orders he saw, whether it was an objective of the VRS to separate the peoples of Bosnia and Herzegovina by their ethnicity.<sup>142</sup> Lazić answered:

I think that the main objective of the VRS was to defend the Serb population from the attacks coming from the other side, and if there was no other solution available, *then to separate all of us on ethnic principles. And I believe that that was the understanding of every individual member of the VRS*.<sup>143</sup>

69. The significance of this admission, from a former member of the VRS Main Staff and a subordinate of Gen. **MILETIĆ**, cannot be overstated. It confirms that the separation of peoples along ethnic lines, as first outlined in the Strategic Objectives, was

<sup>135</sup> **PANDUREVIĆ**, T.32082-32083.

<sup>136</sup> See paras. 77-83.

<sup>137</sup> **KOSOVAC**, T.30456.

<sup>138</sup> **KOSOVAC**, T.30457. See also T.30454.

<sup>139</sup> Exh. P03029 at ERN 0429-2354 (emphasis added).

<sup>140</sup> **LAZIĆ**, T.21833.

<sup>141</sup> **LAZIĆ**, T.21833-21834 (emphasis added).

<sup>142</sup> **LAZIĆ**, T.21835.

<sup>143</sup> **LAZIĆ**, T.21835 (emphasis added).

understood by “every individual member of the VRS,” which of course would include Accused **GVERO**, **MILETIĆ**, **BEARA**, **PANDUREVIĆ**, **POPOVIĆ** and **NIKOLIĆ**.

70. **PANDUREVIĆ** and **GVERO** were both aware of these efforts to separate the Serbian people from the other ethnic groups by removing the Muslim population from parts of eastern Bosnia, as evidenced by their presence at the Drina Corps seminar on 23 November 1992,<sup>144</sup> and in **GVERO**’s case, the 2 September 1992 meeting in Bijeljina as well, where Momčilo Krajišnik identified the first strategic goal of the war as “separation from the Muslims.”<sup>145</sup> Throughout early 1993, **PANDUREVIĆ** played an active role in the implementation of this policy as soldiers under his command and control targeted civilians and burned Muslim houses with his full knowledge and authority, and that of the Drina Corps Command.<sup>146</sup>

71. During this period of violent ethnic cleansing, starting from November 1992 and continuing through the first half of 1993, **MILETIĆ**, **BEARA**, **POPOVIĆ** and **NIKOLIĆ** were all members of the VRS and would have been aware of the goal to separate the Serbian people from the other ethnic groups by removing the Muslim population from parts of eastern Bosnia. **MILETIĆ** and **BEARA** would have had intimate knowledge of this policy as members of the VRS Main Staff, while **POPOVIĆ** and **NIKOLIĆ** would have been acutely aware of the policy through their respective postings at the Drina Corps and Zvornik Brigade, particularly as their respective commanders (Col. Živanović and then-Major **PANDUREVIĆ**) were both heavily involved in its implementation. Accused **BOROVČANIN** also would have had personal knowledge of the policy and efforts to expel the Muslims from this area through his role as the Bratunac police chief during this period.

**(v) December 1992 – January 1993: the increasingly complex situation in the Drina Corps area of responsibility.**

72. In early December 1992, the VRS shortened the timeframe within which the objectives outlined in Directive 4 and DK Order 2-126 were to be implemented. On 7 December 1992, General Mladić issued an “Order to amend Directive no. 4,” which stated that “all targeted objectives of the Army of Republika Srpska must be achieved (reached) by 13 December 1992 at the latest.”<sup>147</sup> The need to “liberate” Konjević Polje

<sup>144</sup> See paras. 56-61.

<sup>145</sup> See para. 28.

<sup>146</sup> See paras. 1285-1306.

<sup>147</sup> Exh. P00030, VRS Main Staff Order 02/5-210/1, Order to amend Operational Directive Four, 7 December 1992.

and Cerska by 13 December 1992 was specifically referenced.<sup>148</sup> The following day, the Drina Corps issued order number 2-198 entitled “Decision on liberation: Podude, Konjević Polje and Cerska”<sup>149</sup> (“DK Order 2-198”).<sup>150</sup> On 11 December 1992, Colonel Živanović issued a further order to the Drina Corps units to “perform energetic actions to complete all the tasks” referred to in DK Order 2-126 and DK Order 2-198.<sup>151</sup>

73. Nonetheless, the tasks assigned to the Drina Corps under Directive 4 were not implemented straight away. As **PANDUREVIĆ** testified:

Directive 4 never took off the ground that easily. It was drafted on the 19th of November and it was only sometime towards the end of January and the beginning of February that something more concrete was done pursuant to that directive.<sup>152</sup>

74. The cause of this delay was the increasingly complex military situation in eastern Bosnia throughout December 1992 and January 1993. On 14 December 1992, Bosnian Muslim forces attacked the Serb-held villages of Bjelovac and Sikirić.<sup>153</sup> Serb sources reported 57 Serbs killed, including many civilians.<sup>154</sup> On 7 January 1993, Bosnian Muslim forces attacked the 3<sup>rd</sup> Battalion of the Bratunac Brigade in the village of Kravica, during which 46 Serbs were reported killed.<sup>155</sup>

75. By late January 1993, the Bosnian Muslims forces had successfully isolated the Bratunac area from the rest of the Drina Corps area of responsibility<sup>156</sup> and Bratunac itself was thought to be “on the verge of falling.”<sup>157</sup> January 1993 also saw the Srebrenica enclave reach its peak size as it expanded to include the Bosnian Muslim-held enclave of Cerska and covered some 900 km<sup>2</sup> of territory.<sup>158</sup> However, the enclave “was never

<sup>148</sup> Exh. P00030.

<sup>149</sup> Exh. P04279, Drina Corps document No. 2-198, decision on liberation, type-signed by Col. Milenko Živanović, 8 December 1992.

<sup>150</sup> **PANDUREVIĆ** agreed that both of these documents were based on the original intentions of Pres. Karadžić and Gen. Mladić as set forth in Directive 4. **PANDUREVIĆ**, T.32086.

<sup>151</sup> Exh. P04225, Drina Corps Order No. 2-212, measures to be undertaken for defence from military intervention of foreign countries, signed by Col. Milenko Živanović, 11 December 1992.

<sup>152</sup> **PANDUREVIĆ**, T.32084.

<sup>153</sup> Popović Adjudicated Fact 40.

<sup>154</sup> Exh. 3DP00274, War History of the Bratunac Light Infantry Brigade, at ERN 0086-9623: “With the fall of Bjelovac and Sikirić we lost 57 precious human lives, among which were many of our vulnerable Serbian civilians.”

<sup>155</sup> Exh. 3DP00274 at ERN 0086-9623. “With the fall of Glogova, the forces of the 3rd Battalion of our Brigade in the area of Kravica had been placed in a very difficult position as they found themselves within a horseshoe formation, so that on 7 January 1993, /Serbian Orthodox/ Christmas Day, they were attacked by the enemy. Again the odds were stacked heavily against us: we lost 46 human lives and 36 were wounded. The whole territory of the large local commune of Kravica was set ablaze and fell into the hands of the enemy.”

<sup>156</sup> Exh. P00686, Revised Narrative Report by Richard Butler, at ERN 0113-4307.

<sup>157</sup> Exh. 3DP00274, at ERN 0086-9624.

<sup>158</sup> Prosecution Adjudicated Fact 20.

linked to the main area of ABiH-held territory and remained a vulnerable island amid Serb-controlled territory.”<sup>159</sup>

76. The events at Kravica galvanised the Bosnian Serb military resolve. In late January 1993, the VRS sent one battalion from the 6<sup>th</sup> Krajina Brigade of the Krajina Corps and sections of the *Panteri* Special Brigade from the East Bosnia Corps to participate in the defence of Bratunac.<sup>160</sup> Units of the Yugoslav Army were also introduced on the Bosnian side of the Drina River to assist in the defence of Bratunac and stop a flood of refugees into Serbia.<sup>161</sup>

**(vi) February – March 1993: VRS military operations in the Kamenica, Cerska and Konjević Polje areas pursuant to Directive 4 and DK Order 2-126.**

77. On 1 February 1993, the Drina Corps issued order 01/5-75 entitled “Combat Order for the liberation of Kamenica, Cerska and Konjević Polje.”<sup>162</sup> This order marked the resumption of VRS military operations to complete the tasks specified in DK Order 2-126, which was issued pursuant to Directive 4 and included as Item 1 the criminal order to “*force the Muslim local population to abandon the area of Cerska, Žepa, Srebrenica and Goražde.*”<sup>163</sup> This campaign started with an attack at Kamenica, where a corridor was opened to facilitate the removal of the Muslim civilian population. The rest of the campaign was characterised by shelling and firing at Muslim civilians, burning Muslim villages, and the destruction and later removal of the Konjević Polje mosque.

78. First, as described in detail at paras. 1285-1288, Vinko **PANDUREVIĆ** opened a corridor near Kamenica in early February 1993 to remove the Muslim civilian population from that area. During his testimony, **PANDUREVIĆ** claimed that opening this corridor was a humanitarian gesture on his part; however, Drina Corps documents clearly show that the corridor was opened under the express authority of the Drina Corps Commander Col. Živanović and with the full knowledge of the VRS Main Staff. Given that the Main Staff and the Drina Corps issued Directive 4 and DK Order 2-126, respectively, both of which ordered the removal of the Muslim population from this area, **PANDUREVIĆ**’s

<sup>159</sup> Prosecution Adjudicated Fact 20.

<sup>160</sup> Exh. 3DP00274 at ERN 0086-9624.

<sup>161</sup> Exh. P00686, Revised Narrative Report by Richard Butler, at ERN 0113-4307.

<sup>162</sup> Exh. P04226, Drina Corps Order No. 01/5-75, combat order for the liberation of Kamenica, Cerska and Konjevic Polje, type-signed by Col. Milenko Živanović, 1 February 1993.

<sup>163</sup> Exh. P03029, Drina Corps Command Order No. 2-126, for further activities, signed by Col. Milenko Živanović, 24 November 1992 (“1. 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.”); LAZIĆ, T.21831 (“It is obvious that the contents of item 1, one would say, stem out of the directive”); and BUTLER, T.19681 (“This is a more detailed reflection of the intent that was articulated in strategic directive 4”).

actions in opening the corridor at Kamenica facilitated the Muslim population's removal as part of the VRS's goal to remove the Muslim population from this area.

79. Second, as described at paras. 1289-1297, the VRS engaged in operations during late January, February and March 1993 through the Kamenica, Cerska and Konjević Polje areas which were marked by indiscriminate targeting of Muslim civilians. The operations in these areas were all conducted pursuant to Directive 4.<sup>164</sup> One of the most notorious shelling incidents during this period occurred at Konjević Polje on 12 March 1993, where Muslim civilians and UNPROFOR troops were fired on by Serb artillery despite the UN commander explicitly requesting that **PANDUREVIĆ** stop the shelling. More than two hours after this request was made, a shell landed in the middle of the crowd, killing 10 Muslim civilians.<sup>165</sup> During his testimony, **PANDUREVIĆ** denied any responsibility for this incident;<sup>166</sup> however, the UN report of the shelling specifically referred to **PANDUREVIĆ** by name and a separate Drina Corps report expressly stated that the Zvornik Brigade attacked Konjević Polje with artillery support;<sup>167</sup> thus, **PANDUREVIĆ**'s testimony on this point appeared to be nothing more than an attempt to minimise his knowledge of, and involvement in, the VRS's policy of indiscriminately targeting Muslim civilians as part of the coordinated effort to remove the entire Muslim population from these areas.

80. Third, as described at paras. 1298-1304, an intercepted conversation from 8 February 1993 at 10:45 hours between Col. Živanović ("Ž") and 2<sup>nd</sup> Lt. Gaborović ("G") from the Drina Corps 5<sup>th</sup> Communications Battalion<sup>168</sup> shows Drina Corps Commander Živanović inciting his units to burn as many Muslim houses as possible:

- G. The valley below Mandići, down towards Rogosija, they used that space between and killed a man and wounded his wife and then they took his cattle. The police should check that. I spoke to Captain Jevđević and there is a possibility that they continued towards Kladanj, that they are retreating so they use the cattle for demining and food.
- Ž. Catch up with them and fuck their mothers now.
- G. Understood.
- Ž. Hold tightly the positions ... *Are the Turks houses burning?*
- G. *They are burning, they are burning.*
- Ž. *Way to go, as many as possible.*<sup>169</sup>

<sup>164</sup> See paras. 1307-1309.

<sup>165</sup> Exh. P04252 at ERN: R009-4273.

<sup>166</sup> **PANDUREVIĆ**, T.32125-32126.

<sup>167</sup> Exh. P04252 at ERN: R009-4273; Exh. 5D01323, Drina Corps Command, no. 370/1, Realization of the planned tasks from directives nos. 4 and 5, 15 September 1993, signed by Maj. Gen. Milenko Živanović.

<sup>168</sup> **PANDUREVIĆ**, T.32103.

<sup>169</sup> Exh. P04238, Intercept dated 8 February 1993 at 10:45 hours (emphasis added).

81. This intercept shows that Živanović was inciting and ordering his troops to burn as many Muslim houses as possible. Given that Živanović was a senior VRS officer and the author of DK Order 2-126, the policy of burning Muslim houses can only have been part of the VRS's strategy for forcing the Muslim population out of this area.

82. At least two other Drina Corps officers, Lt. Col. Svetozar Andrić and **PANDUREVIĆ**, knew of, and participated in, this tactic of burning villages. Andrić openly reported to the Drina Corps how his units burned the village of Gobelji;<sup>170</sup> **PANDUREVIĆ** reported that his units burned facilities in Glodi;<sup>171</sup> and at one point, **PANDUREVIĆ** proposed to the Drina Corps Command that houses should not be burned in the Konjević Polje area so that returning Serbs could inhabit them.<sup>172</sup> A plain reading of this report indicates that up to that point, **PANDUREVIĆ**'s units had been burning villages after the Muslim population had fled.

83. Fourth, as described at paras. 1305-1306, the Konjević Polje mosque was destroyed a few days after VRS units under **PANDUREVIĆ**'s command entered that area in March 1993. While the identity of the individuals who destroyed the mosque is unknown, the evidence has clearly shown that in February 1994, the Zvornik Brigade was tasked by the Drina Corps with removing the remains of the destroyed mosque to "the closest site for disposal of waste material."<sup>173</sup> This contemptuous language speaks for itself and constitutes compelling evidence of the VRS's intent to permanently remove the Muslim population from this area.

**(vii) March - April 1993: creation of the Srebrenica, Žepa and Goražde safe areas.**

84. The VRS offensive through the areas of Kamenica, Cerska and Konjević Polje in February and March 1993 resulted in thousands of Bosnian Muslims fleeing towards the Srebrenica enclave,<sup>174</sup> which by this time had been reduced in size to 150 square kilometres.<sup>175</sup> The UN Special Rapporteur estimated that approximately 25,000-30,000

<sup>170</sup> Exh. P04243, Birac Brigade Regular Combat Report No. 14-397/93, type-signed by Lt. Col. Svetozar Andrić, 2 March 1993.

<sup>171</sup> Exh. P04245, Zvornik Brigade Regular Combat Report No. 148-4, type-signed by Vinko **PANDUREVIĆ**, 4 March 1993.

<sup>172</sup> Exh. P04247, Zvornik Brigade Supplement to Regular Combat Report No. 168-1, type-signed by Vinko **PANDUREVIĆ**, 10 March 1993.

<sup>173</sup> Exh. P04288, Drina Corps Order No. 02/5-106, removal of remains of destroyed mosque in Konjević Polje, type-signed by Col. Milutin Skočajić, 24 February 1994.

<sup>174</sup> Exh. P00486, UN Economic and Social Counsel Report No. E/CN.4/1994/3, by Tadeusz Mazowiecki, Special Rapporteur, 5 May 1993 at ERN R109-9784, paras. 18, 24, 31. [REDACTED]; TRIŠIĆ, T.27127.

<sup>175</sup> Prosecution Adjudicated Fact 21.



people arrived in Srebrenica from these areas.<sup>176</sup> Bosnian Muslim residents of the outlying areas of the enclave also began to converge on the town of Srebrenica, swelling its population to between 50,000 and 60,000 people.<sup>177</sup>

85. The conditions in Srebrenica in March and April 1993 can only be described as a humanitarian disaster. The advancing Bosnian Serb forces destroyed the town's water supply and there was almost no running water.<sup>178</sup> The Muslim population relied on makeshift generators for electricity, and food, medicine and other essentials were extremely scarce.<sup>179</sup> By 12 March 1993, when French General Philippe Morillon, commander of the UN Protection Force ("UNPROFOR") arrived in Srebrenica, the town was overcrowded and "siege conditions prevailed."<sup>180</sup> On 19 March 1993, a UN aid convoy reached Srebrenica for the first time since December 1992.<sup>181</sup> Before he left the town, General Morillon told the panicked residents of Srebrenica that the town was under the protection of the United Nations and that he would never abandon them.<sup>182</sup>

86. In March and April 1993, approximately 8,000-9,000 Muslims were evacuated from Srebrenica under the auspices of the UN High Commissioner for Refugees,<sup>183</sup> despite opposition from the Bosnian Muslim government in Sarajevo that this would contribute to the "ethnic cleansing" of the territory.<sup>184</sup> The Trial Chamber has seen footage of these evacuations and the horrendous conditions under which they were carried out.<sup>185</sup> The temperature was freezing,<sup>186</sup> the trucks were overcrowded,<sup>187</sup> and a number of people were crushed in the rush to get on the trucks, particularly with the convoy that left Srebrenica on 2 April 1993.<sup>188</sup> Evacuation of the wounded by helicopter was also attempted, but had to be suspended when Serb forces shelled the landing strip in

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<sup>176</sup> Exh. P00486, para. 31.

<sup>177</sup> Prosecution Adjudicated Fact 22.

<sup>178</sup> Prosecution Adjudicated Fact 23.

<sup>179</sup> Prosecution Adjudicated Fact 23; [REDACTED] (PW-106), T.3930-3931.

<sup>180</sup> Prosecution Adjudicated Fact 24; [REDACTED] PW-106, T.3930-3933. *See also* Exh. P00486, para. 36.

<sup>181</sup> Exh. P00486, para. 36.

<sup>182</sup> Prosecution Adjudicated Fact 24.

<sup>183</sup> Prosecution Adjudicated Fact 26.

<sup>184</sup> Prosecution Adjudicated Fact 26; SMITH, T.17638.

<sup>185</sup> Exh. P03841, BBC video containing 12 clips of material primarily relevant to Jose Maria Mendiluce, Philippe Morillon and the situation in Srebrenica. Clips range from 11 June 1992 - 12 May 1993.

<sup>186</sup> Exh. P03841.

<sup>187</sup> SIMIĆ, T.21378, 27321-27322; Exh. P03841.

<sup>188</sup> Exh. P00486, para. 37; *see also* [REDACTED] PW-106, T.3934, 3940-3941; [REDACTED] (PW-155), T.6825-6826, 6861-6863 (people left Srebrenica in 1993 because it was not safe; there was no water, power, food or accommodation; and the town was overcrowded, creating a humanitarian disaster).

Srebrenica, killing several of those intended for evacuation and wounding two UNPROFOR personnel.<sup>189</sup>

87. On 12 April 1993, some 56 people were killed and 106 wounded in Srebrenica by Bosnian Serb shelling.<sup>190</sup> Four days later, the UN Security Council passed Resolution 819, declaring that “all parties and others treat Srebrenica and its surroundings as a ‘safe area’ that should be free from armed attack or any other hostile act”<sup>191</sup> and calling for “the immediate cessation of armed attacks by Bosnian Serb paramilitary units against Srebrenica and their immediate withdrawal from the areas surrounding Srebrenica.”<sup>192</sup> At the same time, the UN Security Council passed Resolution 824 which created the protected enclaves of Žepa and Goražde.<sup>193</sup>

88. Resolution 819, which created the Srebrenica “safe area,” specifically condemned the actions of the Bosnian Serbs which had led to this juncture:

[The Security Council] condemns and rejects the deliberate actions of the Bosnian Serb party to force the evacuation of the civilian population from Srebrenica and its surrounding areas ... as part of its abhorrent campaign of ethnic cleansing.<sup>194</sup>

89. Vinko **PANDUREVIĆ** played an active military role in this “abhorrent campaign of ethnic cleansing” in 1993. Milan **GVERO** had specific knowledge of the ethnic cleansing campaign through his meetings with President Karadžić and other senior RS and VRS leaders. Radivoje **MILETIĆ**, Ljubiša **BEARA**, Vujadin **POPOVIĆ** and Drago **NIKOLIĆ** were VRS members during this period, while Ljubomir **BOROVČANIN** was a member of the MUP stationed in Bratunac. Each of these individuals knew at the time of the appalling conditions which the RS and VRS policies had inflicted on the Bosnian Muslims in Srebrenica. Nonetheless, in the full knowledge that their policy of ethnic cleansing in 1992-1993 had created such widespread suffering, and in the full knowledge that these policies were condemned by the international community, the Bosnian Serbs deliberately sought to recreate this humanitarian disaster in 1995 in an attempt to finally remove the Muslim population from this area.

(viii) **April 1993: deployment of UNPROFOR in the Srebrenica enclave.**

90. When the “safe area” of Srebrenica was established, the UN Security Council called on the Secretary General to “take immediate steps to increase the presence of the

<sup>189</sup> Exh. P00486, para. 37.

<sup>190</sup> Exh. P00486, para. 38; [REDACTED] (PW-106), T.3934-3937.

<sup>191</sup> Prosecution Adjudicated Fact 29.

<sup>192</sup> Prosecution Adjudicated Fact 30.

<sup>193</sup> Prosecution Adjudicated Fact 29.

<sup>194</sup> Prosecution Adjudicated Fact 27.

United Nations Protection Forces in Srebrenica and its surroundings.”<sup>195</sup> UNPROFOR commanders negotiated a cease-fire agreement signed by General Sefer Halilović of the ABiH and General Mladić of the VRS, which called for the enclave to be disarmed under the supervision of UNPROFOR troops;<sup>196</sup> however, there was discord about the precise boundaries of the territory subject to the agreement, specifically, whether the agreement covered only the urban area of Srebrenica.<sup>197</sup>

91. The first UNPROFOR troops entered Srebrenica on 18 April 1993.<sup>198</sup> Fresh troops were rotated approximately every six months after that date.<sup>199</sup> The peacekeepers were lightly armed and at any one time numbered no more than 600 men (a much smaller force than had been requested originally).<sup>200</sup> The UNPROFOR troops established a small command centre (the “Bravo Company” compound) in Srebrenica town and a larger main compound about five kilometres north of Srebrenica town in Potočari (the “Charlie Company” compound).<sup>201</sup> They also manned 13 observation posts (“OPs”) marking the perimeter of the enclave.<sup>202</sup> Most of the time, groups of Bosnian Serb and Bosnian Muslim soldiers also maintained shadow positions near these outposts.<sup>203</sup>

92. In Žepa, approximately 80 Ukrainian peacekeepers were deployed in nine checkpoints set up at access routes around the enclave, and were based in the primary school in the town.<sup>204</sup>

**(ix) May 1993: Main Staff operation to liberate Žepa and Goražde.**

93. Despite UN peacekeepers entering the Srebrenica enclave, the Main Staff kept its attention focused on the Podrinje, commencing combat operations against Žepa and Goražde in Operation *Spring-93*.<sup>205</sup> Coordinated by the Main Staff, the objective of Operation Spring was “to crush and destroy Muslim armed formations in the broader area of Žepa and Goražde and to enable the Muslim civilian population to move out (transfer) to other territories (central part of the former BiH) or to recognize the rule of Republika

<sup>195</sup> Prosecution Adjudicated Fact 33.

<sup>196</sup> Prosecution Adjudicated Fact 34.

<sup>197</sup> Prosecution Adjudicated Fact 34.

<sup>198</sup> Prosecution Adjudicated Fact 36.

<sup>199</sup> Prosecution Adjudicated Fact 37.

<sup>200</sup> Prosecution Adjudicated Fact 38.

<sup>201</sup> Prosecution Adjudicated Fact 39.

<sup>202</sup> Prosecution Adjudicated Fact 40.

<sup>203</sup> Prosecution Adjudicated Fact 41.

<sup>204</sup> TORLAK, T.9718; Exh. P01500, Map entitled “Deployment of our Enemy and UNPROFOR Forces in the Srebrenica and Žepa Enclaves.”

<sup>205</sup> Exh. P02742, Main Staff Strictly confidential no.: 02/2-402, Combat order for the Liberation of Žepa and Goražde, 1 May 1993, drafted by Col. Radivoje MILETIĆ and signed by Maj. Gen. Manoljo Milovanović.

Srpska and in that manner create conditions for the return of the Serbian population to the left and right bank of the Drina river.”<sup>206</sup> Operation Spring lasted for approximately one month, until Žepa, too, was proclaimed a “safe area.”<sup>207</sup>

**(x) June 1993 to January 1995: Srebrenica and Žepa remain a focus of the VRS.**

94. With UNPROFOR installed in Srebrenica and Žepa, a period of relative stability followed in which there were no significant military activities, although the VRS continually resorted to shelling and sniping civilians inside the enclaves.<sup>208</sup>

95. On 1 July 1994 at the Drina Corps Command in Vlasenica, Gen. Mladić was briefed by Drina Corps Command organs and brigade commanders regarding combat readiness in the Corps’ units and commands.<sup>209</sup> This briefing was held in connection with the regular six-month combat readiness analysis conducted throughout the VRS.<sup>210</sup> Pursuant to this briefing, the Commander of the Bratunac Brigade at the time, Lt. Col. Slavko Ognjenović, issued a Report for the Brigade on 4 July, in which he noted Mladić’s Vlasenica briefing and stated:

We have won the war in Podrinje, but we have not beaten the Muslims completely, which is what we must do in the next period. We must attain our final goal – an entirely Serbian Podrinje. The enclaves of Srebrenica, Žepa and Goražde must be defeated militarily. We must continue to arm, train, discipline and prepare the RS Army for the execution of this crucial task – the expulsion of Muslims from the Srebrenica enclave. There will be no retreat when it comes to the Srebrenica enclave. We must advance. The enemy’s life has to be made unbearable and their temporary stay in the enclave impossible so that they leave the enclave *en masse* as soon as possible, realising that they cannot survive here.<sup>211</sup>

96. Also pursuant to the Vlasenica briefing, Gen. Mladić issued an Order to the Commands of the Drina Corps, Herzegovina Corps and Sarajevo-Romanija Corps, regarding the Srebrenica, Žepa and Goražde enclaves.<sup>212</sup> In addition to ordering that the “communication and departure of Muslims from the enclaves” (Srebrenica, Žepa and Goražde) is to be prevented at any cost” (by, *inter alia*, clearing and mining perimeters

<sup>206</sup> Exh. P02742, p.6, para.2 (English).

<sup>207</sup> MASAL, T.29140-29143.

<sup>208</sup> Prosecution Adjudicated Fact 51; Exh. P03244, 17 June 2000 Statement before the Tuzla Cantonal Court and OTP Witness Statement of Hana Mehmedović, admitted pursuant to Rule 92bis, at ERN 0100-3573 (English); Exh. P03234, 19 June 2000 Statement before the Tuzla Cantonal Court and OTP Witness Statement of Mejra Mešanović, admitted pursuant to Rule 92bis, at ERN 0100-3611; [REDACTED] PW-118, T.3476; M. NIKOLIĆ, T.32965-32966, 32968, 33062-33066; TORLAK, T.9834.

<sup>209</sup> Exh. P02667, Drina Corps Command, Strictly confidential no.: 01/5-373, Order defining tasks from the briefing and urging their completion, signed by Maj. Gen. Milenko Živanović, 24 July 1994.

<sup>210</sup> See, e.g., Exh. P00230 (same as Exh. 4D00316), Bratunac Brigade Analysis of combat readiness in the first half of 1995, signed by Col. Vidoje Blagojević, 4 July 1995.

<sup>211</sup> Exh. P03177, Report for the Brigade members, 4 July 1994, signed by Lt. Col. Slavko Ognjenović, pp.2-3 (English).

<sup>212</sup> Exh. P02749, Main Staff Strictly confidential no.: 03/4-1325, signed by Lt. Gen. Ratko Mladić, 22 July 1994.

around the enclaves and erecting stone walls to make it impossible for the Muslims to leave the enclaves), Mladić ordered that the Main Staff had approval authority over: equipment and cargo entering the enclaves; contacts with UNPROFOR and humanitarian organisations; movements of UNPROFOR personnel; and opening of infantry or other fire on UNPROFOR.<sup>213</sup> Mladić further ordered that the Drina Corps reduce the geographic size of the enclaves to the urban area in the case of Srebrenica, and to the urban area plus a three-kilometre area in the case of Žepa and Goražde.<sup>214</sup> In the case of Srebrenica, this would predictably have the same practical effect on the civilian population as it did in 1993 when Srebrenica's civilian population was forced into its urban area; *i.e.*, a humanitarian disaster.<sup>215</sup>

97. Another component of the Order, which would soon prove deadly for the civilian populations of the enclaves, was that "Corps and brigade commands shall pay special attention to the training of snipers and to securing mufflers for sniper-rifles, so that each sniper-rifle would have a muffler."<sup>216</sup> Mladić's entire order was passed on virtually verbatim by the Drina Corps to its subordinate units, including the Zvornik Brigade and the Bratunac Brigade.<sup>217</sup>

**(xi) Violations of the "safe area" agreement by the ABiH forces in, and the Bosnian Serb forces deployed around, the Srebrenica enclave.**

98. Despite the agreement between General Halilović and General Mladić and the efforts of UNPROFOR, the enclaves were never fully demilitarised. Immediately after signing the "safe area" agreement, General Halilović ordered members of the ABiH in Srebrenica to pull all armed personnel and military equipment out of the demilitarized zone.<sup>218</sup> He also ordered that no serviceable weapons or ammunition be handed over to UNPROFOR.<sup>219</sup> Accordingly, only old and dysfunctional weapons were handed over and anything that was still in working order was retained.<sup>220</sup> Reconnaissance and sabotage activities were regularly carried out by the ABiH forces against the VRS forces in the area.<sup>221</sup> In addition, Bosnian Muslim helicopters flew in violation of the no-fly zone and delivered arms; the ABiH opened fire towards Bosnian Serb lines and moved through the

<sup>213</sup> Exh. P02749, Order items 3, 6, 7, 8, 9 and 14, pp.1-4 (English).

<sup>214</sup> Exh. P02749, Order item 13, p.4 (English).

<sup>215</sup> BUTLER, T.19706-19707.

<sup>216</sup> Exh. P02749, Order item 10, p.3 (English).

<sup>217</sup> Exh. P02667, Drina Corps Command, Strictly confidential no.: 01/5-373, Order defining tasks from the briefing and urging their completion, 24 July 1994, signed by Maj. Gen. Milenko Živanović.

<sup>218</sup> Prosecution Adjudicated Fact 49.

<sup>219</sup> Prosecution Adjudicated Fact 49.

<sup>220</sup> Prosecution Adjudicated Fact 49.

<sup>221</sup> Prosecution Adjudicated Fact 49; BUTLER, T. 19774-19775.

“safe area;” the ABiH was continually arming itself; and at least some humanitarian aid coming into the enclave was appropriated by the ABiH.<sup>222</sup>

99. The Bosnian Muslims, however, were not the only party to violate the “safe area” agreement.<sup>223</sup> The Bosnian Serb forces, which numbered between 1,000 and 2,000 soldiers from three Drina Corps brigades deployed around the enclave,<sup>224</sup> deliberately targeted Bosnian Muslim civilians in the enclave.<sup>225</sup> The Bosnian Serbs also deliberately tried to limit access to the enclave by international convoys.<sup>226</sup>

100. Nonetheless, despite these violations of the “safe area” agreement by both sides to the conflict, a two-year period of relative stability followed the establishment of the Srebrenica enclave, although the prevailing conditions for the inhabitants of Srebrenica were far from ideal.<sup>227</sup>

#### **(B) OVERVIEW & STRUCTURE OF THE VRS MAIN STAFF**

101. On 11 May 1992, twelve JNA officers, including four generals (Mladić, Milovanović, **GVERO** and Đorđe Đukić) met at Crna Rijeka and were informed by Mladić that the following day the Assembly would establish the VRS and that the twelve officers had been appointed its Main Staff.<sup>228</sup> Mladić would be the Main Staff’s Commander; Milovanović its Chief of Staff; **GVERO** its Assistant Commander for Moral Guidance; Đukić its Assistant Commander for Logistics; and then-Colonel Zdravko Tolimir its Assistant Commander for Intelligence and Security.<sup>229</sup> Other Main Staff officers included: Col. Mićo Grubor, Chief of Organisation, Mobilisation and Personnel Affairs, who was replaced in 1994 by Gen. Petar Skrbić; then-Col. Stevo Tomić, Chief of Finances and Budget; and Gen. Jovo Marić, Chief of Air Force and Air Defence.<sup>230</sup>

102. Following the decision to form the VRS on 12 May 1992, Radovan Karadžić became the Supreme Commander of the armed forces, which consisted of the VRS, the police and the civilian defence.<sup>231</sup> The Supreme Command consisted of Karadžić and

<sup>222</sup> Prosecution Adjudicated Fact 50; BOERING, T.1910; VAN DUIJN, T.2395; BUTLER, T. 19774-19775; TORLAK, T.9722, 9783; DŽEBO, T.9603, 9606-9607, 9661.

<sup>223</sup> Prosecution Adjudicated Fact 47.

<sup>224</sup> Prosecution Adjudicated Fact 44.

<sup>225</sup> See paras. 251-260.

<sup>226</sup> Prosecution Adjudicated Fact 48.

<sup>227</sup> Prosecution Adjudicated Fact 51.

<sup>228</sup> MILOVANOVIĆ, T.12152; Exh. P02739, Information about Post Assignments, 12 May 1992; BUTLER, T.19671-19672.

<sup>229</sup> MILOVANOVIĆ, T. 12152-12153.

<sup>230</sup> MILOVANOVIĆ, T.12153-12154.

<sup>231</sup> MILOVANOVIĆ, T.12177.

various civilian political authorities, including the Defence and Interior Ministers, but no members of the VRS; however, Mladić, Milovanović or other generals attended sessions of the Supreme Command.<sup>232</sup> As Commander of the VRS Main Staff, Mladić was directly subordinated to Karadžić.<sup>233</sup>

103. Very quickly, the Main Staff “evolved into the supreme command of the Army of Republika Srpska at the strategic level and made itself capable of controlling and commanding the armed struggle and the war as a whole.”<sup>234</sup> Specifically, the Main Staff “developed into an institution discharging the tasks of the Supreme Command Staff, while at the same time controlling and commanding the Army and units of Republika Srpska. In this highest-ranking Command of the Army of Republika Srpska, other duties are discharged as well which affect the control and command of combat operations, and the solving of operational and tactical problems, such as preparedness and training, the morale situation, legal issues, the informing of the public, religious issues, mobilisation and personnel affairs, intelligence and security, rear, diplomatic and protocol duties, and co-operation with governmental bodies, the Serbian Orthodox Church and the SDS.”<sup>235</sup>

104. As the highest command echelon in the VRS, the Main Staff was where the military activities of the army were to be harmonised with the political and diplomatic efforts undertaken by the other branches of the RS government and with the war aims of the RS political authorities.<sup>236</sup> The Main Staff was also the level at which the army would inform the government of its materiel replenishment requirements; for example, for weapons and ammunition.<sup>237</sup>

105. Each Main Staff Administration’s Chief was also an Assistant Commander of that Administration’s particular professional speciality; *e.g.*, Morale, Logistics or Intelligence and Security. While the Main Staff Assistant Commanders did not have executive

<sup>232</sup> MILOVANOVIĆ, T.12177-12178.

<sup>233</sup> MILOVANOVIĆ, T.12178.

<sup>234</sup> Exh. P00414, Analysis of the Combat Readiness and Activities of the Army of Republika Srpska in 1992, April 1993, p.12 (English).

<sup>235</sup> Exh. P00414, p.154 (English).

<sup>236</sup> BUTLER, T.19687-19688; Exh. P02764, Richard J. Butler, VRS Main Staff Command Responsibility Report, 9 June 2006, para.2.3; SMITH, T.17572. Although there were attempts by the political leadership to exert control over the VRS command, VRS officers were duty-bound immediately to report orders from President Karadžić to their superior officer, and did so. MILOVANOVIĆ, T.12179; N. SIMIĆ, T.28664; P03179, Main Staff Strictly confidential no. 17/4-12, Report on the state of morale in the Army of Republika Srpska, signed by Maj. Gen. Milan GVERO, 8 February 1993, p.11 (English) (“The Main Staff of the VRS was constructively involved in the negotiations in Geneva”).

<sup>237</sup> MILJANOVIĆ, T.28909; SMITH, T.17572.

command authority to issue combat orders without such authority being specifically delegated to them, they could and did issue orders down their professional lines.<sup>238</sup>

(xii) **Discipline within the VRS.**

106. The VRS, like its Muslim and Croat counterparts in Bosnia, inherited and adapted most, if not all, the rules of the former JNA to the needs of the VRS because those were the rules according to which they had been trained.<sup>239</sup> The VRS took over from the JNA practically all rules of conduct and adopted provisions of the combat rules from the JNA.<sup>240</sup>

107. This included training in the Geneva Conventions and laws of war, which were studied by all VRS members, from officers to foot soldiers.<sup>241</sup>

108. The VRS had highly educated and well-trained colonels, lieutenant colonels, and candidates for brigade commanders, most whom had graduated from schools of warfare or tactical schools.<sup>242</sup> These former JNA officers were placed in higher commands and distributed down the chain of command.<sup>243</sup> Regular training was conducted throughout the VRS on a number of topics.<sup>244</sup>

109. Thus, by 1995 the VRS was a professional and disciplined army, where the chain of command was respected and decisions were taken by superior commands, transmitted down the chain of command and faithfully executed with proper reporting back.

**The chain of command was respected.**

110. The principle of subordination was respected in the VRS.<sup>245</sup> For example, brigades could not send reports directly to the Main Staff.<sup>246</sup> Conversely, superior commands could not bypass intermediate command levels to issue orders directly to subordinate units, without the intermediate command being informed.<sup>247</sup>

<sup>238</sup> MILOVANOVIĆ, T.12304-12305, 12242-12243; MILJANOVIĆ, T.28900-28901.

<sup>239</sup> MILOVANOVIĆ, T.12162, 12345.

<sup>240</sup> MILOVANOVIĆ, T.12162.

<sup>241</sup> N. SIMIĆ, T.28551, 28680-28681; MASAL, T.29089-29090; SKRBIĆ, T.15571-15572 (Gen. **GVERO** was responsible for distributing material regarding treatment of prisoners of war, the laws of war and international conventions).

<sup>242</sup> MILOVANOVIĆ, T.12324.

<sup>243</sup> BUTLER, T.20766.

<sup>244</sup> See, e.g., Exh. 5D01394, Drina Corps Command, Analysis of Combat Readiness of the Drina Corps for Each Element of Combat Readiness for 1994, signed by Maj. Gen. Milenko Živanović, January 1995, p.10 (English); Exh. P00230 (same as Exh. 4D00316), Bratunac Brigade Report 433-1, analysis of combat readiness in the first half of 1995, signed by Col. Vidoje Blagojević, 4 July 1995, pp.7-8 (English).

<sup>245</sup> N. SIMIĆ, T.28491, 28496.

<sup>246</sup> N. SIMIĆ, T.28496.

<sup>247</sup> MILOVANOVIĆ, T.12328-12329.



**Orders were followed and reported back on.**

111. Following orders was part of the regular procedure in the VRS, as was reporting back on the execution of the order by the subordinate command to the superior command that issued the order.<sup>248</sup> The execution of an order and reporting back were to be performed without question and without delay.<sup>249</sup> The reporting from subordinate commands enabled the superior commands to verify that its orders were being carried out, since the superior command had a responsibility under JNA and VRS doctrine to ensure accurate compliance with its orders.<sup>250</sup>

112. Relating how he saw the VRS work, Gen. Smith observed that “In my experience if an order was given from the top, you saw it happening at the bottom. If an event happened at the bottom, you could be confident that it was being reported up to the top. The two ends of the machine understood each other and communicated.”<sup>251</sup> Other UNPROFOR officers who had regular contacts with the VRS at various levels also observed the discipline which resulted from this VRS practice.<sup>252</sup>

**Responsibility was assumed for documents and reports.**

113. Discipline within the VRS was also achieved by requiring officers to take responsibility for documents and reports which went out in their name. Before an officer signed his name to a report, he was expected to have read it, familiarised himself with its contents and determined it to be valid and in good order; by signing the document, the officer confirmed his approval of it and thereby assumed responsibility for it.<sup>253</sup>

114. As the document was passed from subordinate to superior up the chain of command, responsibility for its contents lay both with the subordinate signatory as well as with the superior reviewing it, if the superior approved it and signed it as well. For example, the chief of a branch would take responsibility for information in documents

<sup>248</sup> MILOVANOVIĆ, T.12352; SKRBIĆ, T.15484; MILJANOVIĆ, T.28981.

<sup>249</sup> MILOVANOVIĆ, T.12352, 12257.

<sup>250</sup> BUTLER, T.19620-19621, 19746.

<sup>251</sup> SMITH, T.17578.

<sup>252</sup> FRANKEN, T.2439 (“It was clearly that officers gave orders and they were done as you usually see in an army”); DIBB, T.16293 (“in my mind, the VRS were very professional officers, I’m absolutely certain if someone had said you can’t do that, it wouldn’t have been done”); JOSEPH, T.14274 (VRS was disciplined); Exh. P02178, *Krstić* testimony of Johannes RUTTEN, 5 April 2000, admitted pursuant to Rule 92ter, p.88 (English) (“The things that I saw were that the ones that were in command only have to say things once, and everyone understood what he meant or what the senior commander meant. So you could easily tell then who was in control. So it was well-structured.”).

<sup>253</sup> N. SIMIĆ, T.28492 (“With our signature we assume responsibility for the accuracy of that report, and it is passed on.”) and T.28516 (“Anyone who signs a document familiarises himself with it, examines the validity of the document. When he determines that the document is in good order, he approves it. I don’t know how someone could sign something that is not in good order. In that case, he wouldn’t approve it.”).

coming out of his branch under his name as it went up the chain of command to his superior, and in turn, the branch chief's superior was duty-bound to control the branch chief's work.<sup>254</sup>

**(xiii) Main Staff control over subordinate units.**

115. The Main Staff was responsible for the implementation of the war's strategic goals throughout the entire theatre of war. Indeed, according to Gen. Novica Simić, who would command the re-named VRS General Staff after Gen. Mladić, "ŠtČhe entire Republika Srpska is the zone of responsibility of the Main Staff."<sup>255</sup> Consistent with the good order and discipline it achieved within the VRS by 1995, the VRS Main Staff had in place several means of ensuring that it received timely and accurate information from all fronts in the war theatre upon which it could base its decision-making, and that its goals and intentions were being implemented by its subordinate commands.

**Reporting.**

116. Regular and interim combat reports were vital to the VRS for the subordinate commands to keep the superior commands informed about the situation on the ground and what actions were being taken. A lot of emphasis was placed on timely and accurate reporting, since it was critical in order for the commander to be able to correct his decision with respect to the original decision, in keeping with the development of the situation on the ground.<sup>256</sup> In addition, the reports from subordinate commands enabled the superior commands to verify that their orders were being carried out, since the superior commands had a responsibility under JNA and VRS doctrine, to ensure accurate compliance with their orders.<sup>257</sup>

117. Combat reporting was carried out at all levels, from the lowest along the line of subordination, from brigades to the corps, from the corps to the Main Staff, and from the Main Staff to the Supreme Commander, Pres. Karadžić.<sup>258</sup> Interim reports were sent from

<sup>254</sup> OBRADOVIĆ, T.28317; BUTLER, T.19715-19716 ("A superior is expected to know what orders are being issued in his name. What should normally happen as a part of the process, that even if this is signed for him by a subordinate officer, at some point in time he is expected to review it because he's responsible for it. If he signed it, personally, it reflects the fact that he would have read it, personally.").

<sup>255</sup> N. SIMIĆ, T.28561.

<sup>256</sup> LAZIĆ, T.21788 ("Every military staffer was obliged to report truthfully and timely, and this also applied to commands. This is one of the basic criteria in commanding, to present facts faithfully and to inform the superior command about this in a timely manner"); OBRADOVIĆ, T.28273; N. SIMIĆ, T.28493.

<sup>257</sup> BUTLER, T.19746; TRIVIĆ, T.12043-12044.

<sup>258</sup> OBRADOVIĆ, T.28232.

subordinate commands as needed.<sup>259</sup> In addition, along professional lines, there was also daily reporting.<sup>260</sup>

118. Battalion commanders sent in their regular combat reports to the brigades in the mid-afternoon, around 15:00 hours; the brigade commanders would study those reports and sent their own reports up to the corps commander; and the corps commanders and their staff organs then studied the brigade reports in the corps Ops Centres, then drafted and submitted their corps reports to the Main Staff by approximately 20:00 hours.<sup>261</sup> Either Gen. Milovanović or Gen. **MILETIĆ**, if Gen. Milovanović were absent, would then read the corps reports.<sup>262</sup> Since the corps reports reflected the situation as of approximately 15:00 hours, the Corps commanders would speak with Gen. Mladić each day, sometimes on conference calls with more than one corps commander, reporting in by direct telephone connections beginning at approximately 20:00 hours with any changes to the combat report.<sup>263</sup> Any important information which was conveyed from the corps commanders to Mladić would be passed on to **MILETIĆ**.<sup>264</sup>

119. **MILETIĆ** would then study all of the reports and separate information that was important for each sector; for example, what was important for General **GVERO**, or what was important for the logistics.<sup>265</sup> In addition to the regular combat reports, **MILETIĆ**'s operations officers had individual exchanges with the corps to learn about the developments in the respective corps.<sup>266</sup>

### **Inspections.**

120. Both announced and unannounced, the Main Staff sent *ad hoc* teams to the subordinate units in order to establish the level of their combat readiness and the situation on the front lines in general.<sup>267</sup> The team from the superior command could influence the situation in the lower units on the spot, and this could involve issuing orders, which would be passed through the lower unit commander, to remove deficiencies.<sup>268</sup> This type

<sup>259</sup> MILOVANOVIĆ, T.12299.

<sup>260</sup> MILJANOVIĆ, T.28979.

<sup>261</sup> N.SIMIĆ, T.28491-28492.

<sup>262</sup> MILOVANOVIĆ, T.12187-12189.

<sup>263</sup> N. SIMIĆ, T.28493-28495; OBRADOVIĆ, T.28275; BUTLER, T. 20638.

<sup>264</sup> OBRADOVIĆ, T.28322.

<sup>265</sup> N. SIMIĆ, T.28493-28495; MILOVANOVIĆ, T.12187-12189.

<sup>266</sup> OBRADOVIĆ, T.28240.

<sup>267</sup> MILOVANOVIĆ, T.12327-12328, 12333-12334.

<sup>268</sup> MILOVANOVIĆ, T.12328, 12350; Exh. P00414, "Analysis of the Combat Readiness and Activities of the Army of Republika Srpska in 1992," April 1993, p.9 (English) ("The involvement of different Main Staff bodies in the brigades and other units yielded particularly good results because in that way directives, commands and orders reached those who were to execute them in the fastest possible way, and the planned concerted action was relatively quickly performed.").

of control was likewise maintained by the corps over their subordinate units through regular inspections, which also controlled and verified the daily combat reports.<sup>269</sup>

121. If a particular situation or difficulties arose during the course of an operation, the Main Staff also deployed its senior officers to the field in order to assess the situation and address the problems.<sup>270</sup> For example, in May 1995, Gen. Mladić ordered three Main Staff inspections teams to the field to “ensure a more efficient execution of tasks” pursuant to Directive 7/1, and placed Gen. **GVERO** in charge of one of the teams.<sup>271</sup>

**Deployment of Main Staff officers to forward positions and IKMs.**

122. The Main Staff was small and understaffed, requiring its officers to perform more than one job at a time.<sup>272</sup> This necessitated close cooperation among Mladić’s Assistant Commanders, Chief of Staff and core staff such as General **MILETIĆ**. Indeed, oftentimes if the UNPROFOR Command in Sarajevo wished to contact the Main Staff, any one of Mladić’s Assistant Commanders or Mladić himself might take the call.<sup>273</sup>

123. Similarly, when Generals Mladić and Milovanović were absent from the Main Staff, the Main Staff Assistant Commanders reported to most senior general who happened to be present in the Main Staff at that time, “So, if it was General Đukić or General **GVERO**, they reported to him. And of course, **MILETIĆ**, as a figure who united and coordinated the work of the Main Staff, was always present. However, in view of the military chain of command and hierarchy, reports were received by one of the assistant commanders who happened to be there at the time.”<sup>274</sup>

<sup>269</sup> N. SIMIĆ, T.28492-28493; Exh. 5D01394, “Analysis of Combat Readiness of the Drina Corps for Each Element of Combat Readiness for 1994,” signed by Maj. Gen. Milenko Živanović, January 1995, p.3 (English) (“In the execution of assignments, we carried out checks on how they were executed and put into practice the tenet that ‘an assignment that has not been checked has not been implemented.’ By planned tours/of the troops/, the Drina Corps Command is completely on top of the situation and the state of the units, and provides the required assistance to the subordinate commands.”); MILOVANOVIĆ, T. 12327.

<sup>270</sup> MASAL, T.29091-29092 (Main Staff Colonels Pandić and Đurđević were sent to assess ongoing operations in the Drina Corps in order that Operation Spreča 95 should be carried out as planned); Exh. 5D00982, Drina Corps Command, Strictly confidential no. 04/110-40, Analysis of a Month-Long Conduct of Operation Spreča-95, signed by Maj. Gen. Milenko Živanović;

<sup>271</sup> Exh. 5D00714, Main Staff Strictly confidential no. 03/4-888, Order, Inspection of commands and units, providing help in the realisation of tasks pursuant to plans Spreča-95 and Plamen-95, type-signed by Col. Gen. Ratko Mladić, 12 May 1995 (ordering the creation of the three inspection teams to ensure the realisation of the Spreča-95 and Plamen-95 operations; create the conditions for wide-ranging offensive actions; to overcome present hitches; and to review the situation in the Bratunac Brigade).

<sup>272</sup> MILOVANOVIĆ, T.12158; MASAL, T.29053-29054.

<sup>273</sup> NICOLAI, T.18449 (“ŠiĆit depended on the coincidence of who happened to be present at that point. If General Milovanović was not present, I would speak with one of the aforementioned other generals”).

<sup>274</sup> MILOVANOVIĆ, T. 12305.

124. When Gen. Mladić left the Main Staff command post, he put somebody in charge, usually one of his Assistant Commanders.<sup>275</sup> If neither the Chief of Staff nor any of the assistant commanders were present, Mladić would appoint **MILETIĆ** to stand in for him in the command post, which means his powers were related to the organisational work in the command post.<sup>276</sup>

125. Gen. Mladić's Assistant Commanders were also frequently absent from the Main Staff command post to represent the Main Staff in important operations and to monitor the combat situation at the main effort, resolve conflicts, provide guidance if the situation changed, influence the events there and ensure that his intentions were being properly implemented; sending Mladić's most senior officers forward this way reflected a common practice at the Main Staff, which it inherited from the JNA, but which was also attributable to the Main Staff's small size.<sup>277</sup>

126. Some examples of these longer-term forward deployments discussed during the trial include Gen. **MILETIĆ** coordinating corps activities on the ground from an IKM in Rogatica during Operation *Spring-93*;<sup>278</sup> Generals Milovanović and Masal being sent to Zvornik, along with a rotation of Main Staff officers, in March 1995 to oversee Operation *Spreča* pursuant to Directive 7/1;<sup>279</sup> and Generals Milovanović, Obradović and Masal being sent to the Krajina on several occasions between 1994 through 1995.<sup>280</sup>

127. General Tolimir summarised before the RS Assembly how this preference for sending Gen. Mladić's Assistant Commander forward worked in practice:

We are the smallest general staff in the world among all general staffs either in peace or war and all the officers of the general staff are at the front. General **MILETIĆ** is currently in the general staff and it was always so. General Milošević will not be left alone as he never was in the past.

<sup>275</sup> OBRADOVIĆ, T.28223, 28283, 28368-28369, 28440; Exh. P01327b, 24 July 1995 intercept, 19:54 hours (Gen. Mladić tells Gen. Tolimir, "You are completely taking over from me in the command there").

<sup>276</sup> OBRADOVIĆ, T.28455.

<sup>277</sup> BUTLER, T.19695-19704, 19795, 20637 ("One of the reasons why the Main Staff and even the corps headquarters undertook a practice of sending one of their officers down to these locations is to ensure that, people at the higher headquarters would have not only a mechanism for getting additional information, but also, a person on the ground to make some of the decisions that could be made on the ground"), 20693, 20694-20695; Exh. P00414, "Analysis of the Combat Readiness and Activities of the Army of Republika Srpska in 1992," April 1993, p.156 (English) ("The presence of the commander of the Main Staff, or a representative of the Main Staff, in the units carrying out the mission of the liberation of Podrinje, is a specific way of giving weight to and steering combat operations towards a single goal."); SMITH, T.17577-17580.

<sup>278</sup> Exh. P02742, Main Staff Strictly confidential no.: 02/2-402, Combat order for the Liberation of Žepa and Goražde, 1 May 1993, drafted by Col. Radivoje **MILETIĆ** and signed by Maj. Gen. Manoljo Milovanović; MASAL, T.29140-29143.

<sup>279</sup> During Operation *Spreča* 95, Gen. Milovanović and then Gen. Masal coordinated the operation from a Main Staff IKM in Zvornik, with assistance from Gen. Jovo Marić and other Main Staff officers who would spend a day or two at the IKM and follow developments and influence the course of operations. MASAL, T.29058, 29063-29064, T.29092-29094; N. SIMIĆ, T.28523, 28527-28529, 28530.

<sup>280</sup> MASAL, T.29052-29053.

We were always sending someone from the general staff and we are still doing it. There is a forward command post that is stronger than his command is, and it is located in that part of the Sarajevo front. There are two forward command posts of the general staff in his zone. We have been keeping general Milovanović as the most experienced commanding officer as well as General Marić at Grahovo-Glamoč front and in line with a part of the Main Staff and the operations for four to five months. We make expert analyses, we prepare directives and based on those directives we all go in the field and work in accordance with the assignments we receive.<sup>281</sup>

128. These senior officers were entrusted to undertake these critical tasks because they were trusted and experienced officers, and by virtue of the fact of being general officers, they were expected to possess the necessary skills regardless of their area of professional expertise. General Milovanović put it thus:

Every general, by virtue of the fact that he was promoted into general, loses his branch designation. By virtue of being promoted into general, every general is practically promoted into a general military commander. He can command any type of unit, infantry, artillery and so on. and he goes on to say that by virtue of being a general, they had the skills and knowledge to conduct military operations, that is, to lead troops in combat.<sup>282</sup>

129. Likewise, from his personal contacts with Main Staff officers such as Gen. **GVERO** or Tolimir, Gen. Smith observed that he could deal with each as “a commander, albeit an assistant one,” who was “dealing with the matter in hand in the round;” that Smith could “deal with the whole subject matter” with each and that he “could address those issues to him whatever they were;” and that when they were put forward, they covered “the full range of responsibilities for the matter for which he was put forward to handle.”<sup>283</sup>

130. The particular authorities and competencies reserved to the Main Staff general officers was also understood by officers as disparate as [REDACTED] Cornelis Nicolai. [REDACTED].<sup>284 285 286</sup>

131. General Nicolai similarly knew that when he contacted the Main Staff, he needed to speak with a general; indeed, there was little point to “speaking with officers below the level of the general, because no decisions were taken there . . . the only useful answers would be from somebody at the general’s level. Apparently they were authorized to take decisions, and beneath that level at best the question would be accepted and passed on and you would have to wait for an answer.”<sup>287</sup> For Nicolai, this held true during the *Krivaja-95* operation, when he and other UNPROFOR officers tried to reach the Main

<sup>281</sup> Exh. P02953, Minutes of the RS National Assembly’s 52nd Session, held on 6 August 1995 (ERN: 0215-4171-0215-4296); SMITH, T.17807-17812.

<sup>282</sup> MILOVANOVIĆ, T. T. 12250-12251.

<sup>283</sup> SMITH, T.17583-17584.

<sup>284</sup> [REDACTED].

<sup>285</sup> [REDACTED].

<sup>286</sup> [REDACTED].

<sup>287</sup> NICOLAI, T.18448.

Staff and dealt with Tolimir and **GVERO** interchangeably, as it was important to him simply to be dealing with a general “with whom I could do business,” since that was how the Main Staff operated in his experience.<sup>288</sup>

### **Communications.**

132. The Main Staff also ensured that it maintained constant communications with subordinate units when Gen. Mladić or his senior generals were in the field or forward; this was accomplished via setting up forward command posts; utilising the resources of subordinate commands; or mobile communications units.<sup>289</sup>

133. For example, when Gen. Milovanović was in the Krajina, there was a protected communications link between the Main Staff IKM and the Crna Rijeka command post; while there, Milovanović spoke with Mladić every evening and also had contact with **MILETIĆ** during this time from the Main Staff IKM.<sup>290</sup>

### **(xiv) Daily operation of the Main Staff's inner Command Staff.**

134. General Milovanović described these meetings of the “collegium” in some detail:

Every morning at 7.00, there is a meeting of the Main Staff. Usually it is the inner circle which means General Mladić with all his assistants and regularly these morning meetings were attended by the chief of the operations administration, the chief of the intelligence administration, and the security administration, in addition to the assistant commanders. And it would usually be the commander, General Mladić, who would call the meeting to order and he would give the floor to General **MILETIĆ** standing in for the Chief of Staff, and then we - - either me or him would inform all the present about the problems in the theatre of war and we would draw each sector's chief to what they had to pay attention. For example, if a soldier deserted from a corps or if the corps doesn't have ammunition, we direct chiefs of sectors' attention to such things. We did not read complete reports, because this would have taken a whole day. The Main Staff would have done nothing but read reports. After the meeting, chiefs of sectors would study the details that their attention had been drawn to and that they provide proposals to the commander. Usually, it would happen immediately, during the first meeting. If there was a lot of such thing, then there would be a need for us to meet either once or even twice in the course of the same day. This was a system that was in place and based on this system, **MILETIĆ** obtained this particular information. It did happen that the commander was not in the staff, the Chief of Staff was not in the staff, and then the most senior general would chair this meeting, but ***MILETIĆ** again was the one who explained the situation, who provided an insight into the situation based on the reports.*<sup>291</sup>

<sup>288</sup> NICOLAI, T.18550-18551.

<sup>289</sup> OBRADOVIĆ, T.28251-28253; N. SIMIĆ, T.28532 (“when he is in the zone of some corps, every officer from the Main Staff has at his disposal the entire communications system of that corps, toward the Main Staff and through the Main Staff, with all other units as well. He was able to establish communication by radio, radio relay, teleprinter, military phone lines, protected or secure lines, and even civilian phone lines.”); MILJANOVIĆ, T.29007 (“Wherever I was, I was able to send any document I wanted to.”); MASAL, T.29139-29140.

<sup>290</sup> MASAL, T.29067-29068; OBRADOVIĆ, T.28239, 28253.

<sup>291</sup> MILOVANOVIĆ, T.12187-12189 (emphasis added); SLADOJEVIĆ, T.14402; Exh. P00414, Analysis of the Combat Readiness and Activities of the Army of Republika Srpska in 1992, April 1993, p.8 (English) (“Decisions on the engagement of the forces of the Army of Republika Srpska were taken at meetings of bodies of the Main Staff headed as a rule by the Commander, with the presence and active participation of the Chief of the Main Staff, the assistant commanding officers, the Heads of Departments, the Heads of the Combat Arms, and a number of operations officers. The principal decision-making method was the so-

135. General Obradović also explained these morning briefings at the Main Staff, adding that if Gen. Mladić chaired the meeting, then the assistants were present there, as well as the chiefs of the independent administrations, and that **MILETIĆ** took minutes of these meetings. If it was a meeting of the staff, then the staff officers were present there.<sup>292</sup>

**(xv) The role of the Main Staff in implementing the Strategic War Goals: Combat Readiness Analyses and Directives.**

136. As the strategic-level of command within the VRS, it was the Main Staff that translated the political strategic goals of the war into military tasks. As a means to implementing these strategic goals, the Main Staff undertook annual combat readiness analyses and drafted directives.

**Annual Combat Readiness Analysis.**

137. An annual combat readiness analysis was conducted by the brigades, which forwarded their reports to the corps, which then conducted their own analyses which were sent to the Main Staff, which then held a larger conference at which different elements of the combat analysis were presented and discussed.<sup>293</sup> The members of the Supreme Command, the political organs, the Main Staff, corps, air force and anti-aircraft defence and commanders of military schools take part in these analyses.<sup>294</sup> In addition to the annual combat readiness analyses, six-month analyses were also conducted.<sup>295</sup>

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called full method. This shows that the situation on the battlefields was regularly monitored and thoroughly analysed, making it unnecessary to apply the fast-track or some other known method.”); BUTLER, T.19690-19691.

<sup>292</sup> OBRADOVIĆ, T.28247-28248.

<sup>293</sup> N. SIMIĆ, T.28491, 28497-28502; OBRADOVIĆ, T.28469; BUTLER, T.19685-19686; Exh. 5D01206, Main Staff Strictly confidential number: 02/2-181 23, Order on the preparation, organisation and carrying out briefing on the combat readiness of the VRS in 1995, type-signed by Col. Gen. Ratko Mladić, 23 January 1995; Exh. 5D00967, Schedule, Briefing on Combat Readiness in 1994, 29 and 30 January 1995, signed by Col. Radivoje **MILETIĆ**, accepted by Col. Gen. Ratko Mladić.

<sup>294</sup> OBRADOVIĆ, T.28467.

<sup>295</sup> Exh. 5D01394, Drina Corps Combat Readiness Analysis for 1994, signed by Maj. Gen. Milenko Živanović, 28 January 1995 (“The corps command is to find solutions for the full sealing-off of the enclaves of Srebrenica and Žepa, and the commands of the brigades shall plan the improvement of their tactical positions and realise them if there should be an interruption of the cease-fire. At the level of the Main Staff and the Supreme Command, take care of the following: 1) Solutions will be found for the elimination of enclaves. We see two ways of going about this, either by militarily defeating enemy forces in the enclaves or by political and diplomatic means.”); Exh. P00230 (same as Exh. 4D00316), Bratunac Brigade Analysis of Combat Readiness for the first half of 1995, signed by Col. Vidoje Blagojević, 4 July 1995; TRIŠIĆ, T.27043-27045; Exh. P03971, “Analysis of combat readiness for the period from the outbreak of the war until 31 December 1992,” First Podrinje Light Infantry Brigade, signed by Rajko Kušić, 25 February 1993.



138. The analysis of combat readiness for the year 1994 was conducted on 28 and 29 of January 1995.<sup>296</sup> In preparation of the combat analysis, **MILETIĆ**'s operations administration created the agenda, which envisaged a time-frame for Gen. Mladić's introductory address; and after that, the corps commanders, the commander of the air force and anti-aircraft defence, and the commander of the military schools centre, as well as the organs of the command of the Main Staff, including Gen. **GVERO** and Gen. Tolimir, who put forward the most important elements of the combat readiness of their respective units and their conclusions.<sup>297</sup>

### **Directives.**

139. Throughout the war, the main documents used to regulate the utilisation of forces at the Main Staff level were directives, with which the VRS forces were assigned specific missions, for a specific zone and a specific time period, typically divided into stages with specific durations and set objectives.<sup>298</sup>

140. General Milovanović provided insight into the nature and drafting process of directives:

These directives are documents issued by the Supreme Command. They are political documents, war policy documents, rather than anything else. They are recommendations or requests by the Supreme Command to the armed forces. And they are documents that define the axes of activities of the armed forces in a long run and they usually apply to the armed forces as the biggest part of the armed - - or of the army or of the military. The directives were drafted in the following way: The Supreme Command, through the Supreme Commander, talks to the team that is going to be in charge of the directive and gives the team guidelines, either in the written form, featuring some tasks or prospects for the army activities, or this can be orally conveyed to the commander or to the person who will be the directive team leader. That person jots down the guidelines and then drafts the directive as a document. Since our Supreme Command was not technically or in any other way equipped to deal with military issues, they did not have the necessary personnel which the Ministry of Defence had, and they were supposed to do that, this job was handed down to the Main Staff. And the authors of all these directives, maybe with one or two exceptions, the authors of all these directives were members of the Main Staff. When an author using his knowledge and capabilities drafts a directive, he sends it back to the Supreme Command as a draft. The Supreme Command then analyses it, takes out what is not necessary, adds what they deem necessary, and with certain remarks and notes, they return it to the author. The author then enters all the corrections, as ordered, comes up with a final version. That is again returned to the Supreme Commander for his signature.<sup>299</sup>

141. The method most often used to draft directives was the "full" or "complete" method, in which the various command organs proposed to Gen. Mladić elements of the directive pertaining to their scope of work or sector; if approved by Mladić, these draft elements were given to Gen. **MILETIĆ**'s Operations and Training Administration, which

<sup>296</sup> Exh. 5D00967, Schedule, Briefing on Combat Readiness in 1994, 29 and 30 January 1995, signed by Col. Radivoje **MILETIĆ**, accepted by Col. Gen. Ratko Mladić.

<sup>297</sup> OBRADOVIĆ, T.28470; Exh. 5D00967, at pp.1-2 (English).

<sup>298</sup> Exh. P00414, "Analysis of the Combat Readiness and Activities of the Army of Republika Srpska in 1992," April 1993, p.8 (English).

<sup>299</sup> MILOVANOVIĆ, T.12192-12194.

as the professional body merged and harmonized them and drafted the complete document and finalised the draft.<sup>300</sup>

142. According to procedure, Gen. Milovanović or Gen. **MILETIĆ**, in Milovanović's absence, would show the proposal of the directive to Mladić, before sending it to Pres. Karadžić; if Karadžić made changes, it would go back to the Main Staff for final typing, and at that point **MILETIĆ** would certainly see any changes which Karadžić made.<sup>301</sup> If the assistant commanders played a role in the drafting, then they would see the document before it was signed off on by the president.<sup>302</sup>

143. The final Directives were sent by the Main Staff to the Corps, whose commands would meet, familiarise themselves with the Directive and their assigned tasks, then issue their own orders based on the Directives to their brigades, which in turn issued orders to their battalions.<sup>303</sup> Thus, the corps commanders implemented the strategic goals through their operative activities, and the brigade commanders did the same at the tactical level.<sup>304</sup> In this way the Main Staff implemented the strategic political war goals into military action on the ground.<sup>305</sup>

(xvi) **The Administration for Operations and Training.**

144. In July 1995, the Administration for Operation and Training was headed by Accused Maj. Gen. Radivoje **MILETIĆ**, and was comprised of three departments: the operations department, whose chief was then-Col. Ljubo Obradović; the training department, whose chief was Krsto Đerić; and the Operations Centre.<sup>306</sup> There was also a cartographer, Lt. Dragan Micanović, who reported directly to Obradović, who in turn, like Đerić, reported directly to **MILETIĆ**.<sup>307</sup> Thus, **MILETIĆ**'s administration included three officers and himself.<sup>308</sup> The Administration for Operations and Training was positioned by establishment within the staff sector of the Main Staff; the staff sector was

<sup>300</sup> OBRADOVIĆ, T.28472-28475, 28304-28305; N. SIMIĆ, T.28511-28512; MASAL, T.29072. This group method of work was the typical and preferred method of drafting combat orders and documents, not just directives. LAZIĆ, T.21758-21763.

<sup>301</sup> OBRADOVIĆ, T.28320-28321.

<sup>302</sup> OBRADOVIĆ, T.28322.

<sup>303</sup> N. SIMIĆ, T.28498; M. MITROVIĆ, T.25140.

<sup>304</sup> N. SIMIĆ, T.28500; M. MITROVIĆ, T.25133-25140.

<sup>305</sup> N. SIMIĆ, T.28657-28658 ("that's the normal procedure, for politics to determine the goals. I have to say right away, it's politics that starts a war, wages a war and ends a war. The military and armed forces are only a means by which this is implemented. In wartime, it's implemented through the military. In peacetime, goals are implemented through political means. Strategic goals are put before the military, and the military has to implement short-term and long-term tasks . . . in general, I can answer your question as follows: It's politics that sets the goals and the military that implements them."); SMITH, T.17591-17594.

<sup>306</sup> OBRADOVIĆ, T.28210-28211; SKRBIĆ, T.15502.

<sup>307</sup> OBRADOVIĆ, T.28211-28212.

<sup>308</sup> OBRADOVIĆ, T.28211.

headed by the Chief of Staff, Lt. Gen. Manojlo Milovanović, and was responsible, *inter alia*, for analysing, planning and operations, which meant that the sector prepared proposals for the Commander of the Main Staff, Gen. Mladić, on how to use the VRS as a whole and how to use its units, *i.e.*, corps, in various locations and at various times.<sup>309</sup>

145. The system of the work of the staff was by way of collegiums, *i.e.*, everyday meetings, and typically the assistants prepared proposals pertaining to their respective areas and the Chief of Staff prepared proposals for the combat use of the units.<sup>310</sup> These proposals were drafted in **MILETIĆ**'s Administration for Operations and Training.

146. General **MILETIĆ** was also in charge of the Operations Centre, which occupied the largest room in the above-ground command post at Crna Rijeka, and was where **MILETIĆ** spent most of his time working.<sup>311</sup> In the Operations Centre were the operative representatives of all sectors and administrations appointed by the assistant commanders; this group of ten to twelve officers was there at any time and was referred to as the "duty team," which was capable of dealing with the current situations on the front line in the absence of some or all of Generals Mladić, Milovanović, or **MILETIĆ**, or any of Mladić's assistants were absent.<sup>312</sup> The Operations Centre was also used for staff meetings which the assistant commanders attended because it was the biggest room in the building.<sup>313</sup> Gen. Milovanović's extension at the Main Staff was 155, which was connected to his bedroom and the Operations Centre; thus, it became a public phone in the Main Staff.<sup>314</sup> The designation prefix identifying documents generated by the Operations and Training Administration was "03/4," so a document bearing this designation can be identified as having been drafted in the Operations and Training Administration.<sup>315</sup>

147. The main duties and responsibilities of Gen. **MILETIĆ** and his Operations and Training Administration were to follow the developments across the war theatre; to translate the intentions of Gen. Mladić into operative documents and orders; and to provide insight, analysis, recommendations and proposals to Gen. Mladić or Gen. Milovanović, as described below. Whatever Mladić decided, Gen. **MILETIĆ** translated into documents, orders, notices, briefs, depending on what the commander wanted; if

<sup>309</sup> MILOVANOVIĆ, T.12155-12156.

<sup>310</sup> MILOVANOVIĆ, T.12155-12156.

<sup>311</sup> MILOVANOVIĆ, T.12210, 12272; OBRADOVIĆ, T.28305; Exh. P02828, Diagram of Main Staff Headquarters, Room 3.

<sup>312</sup> MILOVANOVIĆ, T.12210-12211, 12272.

<sup>313</sup> MILOVANOVIĆ, T.12272.

<sup>314</sup> MILOVANOVIĆ, T.12215, 12273-12274; OBRADOVIĆ, T.28306.

<sup>315</sup> OBRADOVIĆ, T.28215; SKRBIĆ, T.15525; TRKULJA, T.15183; MILOVANOVIĆ, T.12269, 12371.

Mladić conceived a military operation in any part of the theatre of war, he would notify **MILETIĆ** and give him guidelines reflecting his wishes, and **MILETIĆ** then translated that into documents.<sup>316</sup> **MILETIĆ** translated MLADIĆ's words into paper.<sup>317</sup>

148. Because **MILETIĆ** was responsible for following the developments across the whole war front,<sup>318</sup> his Operations and Training Administration obtained information from a variety of sources, including regular combat reports from the corps command; informal communications with the corps during the day; information from the Main Staff intelligence administration; and the regular combat reports from the corps command. The operations organ coordinates work on the planning, the work of the other organs and draws up the combat documents.<sup>319</sup>

149. Colonel Milenko Lazić put the tasks of the operations organ simply:

The word is self explanatory. It's operations. Operational monitoring of the situation on the front line, collecting reports from the subordinate units and the analysis of these reports, as well as drafting proposals for measures to be taken in order to improve the situation on the front line. In other words, the use of armed forces in order to carry out the tasks that were assigned to the subordinate units.<sup>320</sup>

150. These duties required **MILETIĆ** to be present in or near the Operations Centre in order to remain fully abreast of any developments and respond to orders from Gen. Mladić and requests and proposals from units; it was therefore rare for **MILETIĆ** to leave the Main Staff command post.<sup>321</sup>

151. Consequently, Gen. **MILETIĆ** was also uniquely positioned to advise Gen. Mladić about developments in the war theatre and to provide Mladić with solutions, advice and proposals.<sup>322</sup> Indeed, it was **MILETIĆ**'s job to provide insight, analysis, recommendations and proposals to Mladić or Milovanović.<sup>323</sup>

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<sup>316</sup> MILOVANOVIĆ, T.12159-12160; OBRADOVIĆ, T.28279.

<sup>317</sup> MILOVANOVIĆ, T.12159-12160; TRKULJA, T.15127-15128 (When commands or directives were issued, **MILETIĆ** would receive instructions from Mladić; **MILETIĆ** would then compose a draft in his office; and Milovanović would then review **MILETIĆ**'s draft to ensure it was done in the spirit of Mladić's instructions. This was generally the rule according to the instructions for the work of Main Staffs.).

<sup>318</sup> OBRADOVIĆ, T. 28242-28243, 28269.

<sup>319</sup> OBRADOVIĆ, T.28240, 28285, 28295.

<sup>320</sup> LAZIĆ, T.21752.

<sup>321</sup> MILOVANOVIĆ, T.12160; N. SIMIĆ, T.28515, 28564 ("the occasions were rare when General **MILETIĆ** left the Main Staff, because all the information went to him and he drafted reports. So everybody else could go places, and he was always on duty. So when no one else was there, he could always be found there"), 28605.

<sup>322</sup> MILOVANOVIĆ, T.12160-12161.

<sup>323</sup> OBRADOVIĆ, T.28323-28324.

(xvii) Sector for Moral Guidance, Religious and Legal Affairs.

152. Accused Lt. Gen. Milan **GVERO** was Chief of the Main Staff Sector for Moral Guidance, Religious and Legal Affairs and Assistant Commander for the Administration for Moral Guidance, Religious and Legal Affairs (“the Morale Sector”).<sup>324</sup> In his position as Assistant Commander for the Morale sector, **GVERO** was the head of the department responsible for the monitoring, analysis, planning and organisation of morale, political work, psychological and propaganda-related activities, legal affairs, self-protection, and co-operation with the appropriate bodies and organisations of socio-political communities and organisations.<sup>325</sup>

153. In July 1995, **GVERO**’s Morale sector had authority over: 1) moral guidance, tradition and cultural activities, which included combat morale; 2) information and psychological propaganda activities (“*Informisanje i PPD*” or IPPD); 3) cooperation with government authorities and other social entities, as well as with UNPROFOR and international organisations; 4) legal affairs; and 5) religious affairs.<sup>326</sup>

154. Throughout the VRS, the morale organ was the professional branch that monitored the state of morale and made proposals to the commander based upon its professional assessments, as **GVERO** made proposals to Gen. Mladić.<sup>327</sup> **GVERO**’s manifold duties took him to the front lines, often where the fighting was difficult and combat morale was at risk or slipping.<sup>328</sup> Consequently, **GVERO** was responsible for keeping abreast of developments across the war theatre and providing solutions and guidance when combat morale threatened the success of an operation.<sup>329</sup>

155. **GVERO**’s organ was also responsible for developing and proposing moral and psychological plans in support of specific combat operations. For example, in Operation *Sadejstvo-95*, a strategic operation conducted pursuant to Directive 7/1, **GVERO**’s plan included the following tasks: informing soldiers, *inter alia*, about the characteristics of the military and political situation; monitoring the combat situation for loss of combat

<sup>324</sup> MILOVANOVIĆ, T.12242.

<sup>325</sup> Exh.P00413, JNA 4<sup>th</sup> Corps., Instructions on How the 4<sup>th</sup> Corps Command Is To Operate When Carrying Out Priority Assignments in Peacetime and Wartime, Doc.No.01/15-62, 29 August 1991, p.21 (English).

<sup>326</sup> Exh. P02512, Main Staff Strictly confidential number 07/21-88, The Responsibilities of the Organ for Moral Guidance, Religious and Legal Affairs, 10 February 1995, type-signed by Lt. Gen. Ratko Mladić, pp.2, 6 (English).

<sup>327</sup> N. SIMIĆ, T.28593.

<sup>328</sup> SKRBIĆ, T.15594; Exh. 5D01415 Main Staff Strictly confidential no. 07/21-353, Report to Units in the Zone of Operations, type-signed by Lt. Gen. Milan **GVERO**, 31 July 1995 (instructing units to strengthen combat readiness).

<sup>329</sup> N. SIMIĆ, T.28705 (regarding morale-related problem with Operation *Spreča-95*, **GVERO** would of course be kept apprised of the situation, since **GVERO** “was the one who would follow and assess morale in the ranks of the entire army. So naturally he was informed of this.”).

morale, lack of discipline and panic; controlling the work of the Main Staff Centre for Information and Political Propaganda Activities; organizing press conferences and supervised visit by journalists to combat operations zone; banning domestic and foreign journalists access to zone of operations and troop movement routes; and preparation and distribution of communiqués, denials and protests.<sup>330</sup>

156. Within the corps, the assistant commander for moral guidance, religious and legal affairs was directly subordinated to the corps commander and always attended senior staff meetings and reported on issues pertaining to combat morale.<sup>331</sup> The morale assistant was a member of the core command, which is commensurate with the importance attributed to the state of combat morale, which is second only to the system of command and control in assessing a unit's combat readiness, followed by education and training and logistics.<sup>332</sup> Consequently, while some members of the VRS may have personally taken a dim view of the work of the morale sector,<sup>333</sup> the commander who diminished the role of his assistant for morale or who failed to listen to the suggestions of his assistant commander for morale did himself a disservice and did so at his own peril.<sup>334</sup>

157. General **GVERO**'s "main job and his main problem was to build up the morale of the troops of Republika Srpska, and that is a much broader job than just making speeches."<sup>335</sup> Indeed, rather than "sitting behind a desk" as has been misleadingly suggested, **GVERO**'s job required him to tour and inspect the units frequently; propose to Gen. Mladić measures for boosting combat morale and to prevent or stanch declining morale.

### **Combat Morale.**

158. Moral guidance entailed the "fortification and strengthening of combat morale," which included: a) monitoring combat morale and factors which affect it both positively and negatively; b) assessing combat morale; c) proposing measures to be taken in units and on higher levels of command and control for preserving and strengthening combat morale; d) directly participating in psychological morale preparations of units prior to the execution of combat and other important tasks; e) participating in the combat decision-

<sup>330</sup> Exh. P04208, Plan of Moral and Psychological Support for the Operation, type-signed, Lt. Gen. Milan **GVERO**, approved by Col. Gen. Ratko Mladić.

<sup>331</sup> SKRBIC, T.15577-15578.

<sup>332</sup> N. SIMIĆ, T.28591, 28698; Exh. P02512, p.8 (English).

<sup>333</sup> SAVČIĆ, T.15340.

<sup>334</sup> N. SIMIĆ, T.28595, 28597, 28699.

<sup>335</sup> MILOVANOVIĆ, T.12246.

making process and proposing moral guidance and psychological security measures to the unit commander; and f) compiling regular and interim combat morale reports.<sup>336</sup>

159. Regular morale reports were submitted by the Corps to the Main Staff for Mladić and **GVERO**'s review; in addition, daily combat reports included a section reporting on the daily state of combat morale within the unit.<sup>337</sup> The Main Staff Morale organ would make an assessment of positive and negative morale elements across the whole army and propose to Mladić how to improve morale.<sup>338</sup> The Main Staff Morale organ would then issue morale reports to the corps for distribution down the chain of command.<sup>339</sup> **GVERO** would also monitor specific morale-related problems and contact corps commanders directly in connection with morale issues.<sup>340</sup> For example, during Operation *Spreča-95*, **GVERO** monitored the progress of the operation after an assistant commander for morale, religious and legal affairs was ordered to be present in the forward command post.<sup>341</sup>

### **Information and Psychological and Propaganda Activities**

160. Information and Psychological and Propaganda Activities included controlling the Main Staff Information Centre and the corps information centres;<sup>342</sup> carrying out psychological and propaganda activities against the enemy forces and population; and taking measures to resist the same directed by the enemy towards the Serb fighting forces.<sup>343</sup>

161. The Main Staff Information Centre was subordinated to **GVERO**'s Morale sector and headed by Lt. Col. Milovan Milutinović.<sup>344</sup> The Information Centre published *Srpska Vojska*, and the corps had their own publications.<sup>345</sup>

<sup>336</sup> Exh. P02512, pp.2-3 (English) (the Morale Assistant "is at the same time a member of the unit's core command and the personnel board, and as such participates in the making and drafting decisions in all the areas of the unit's life and work").

<sup>337</sup> N. SIMIĆ, T.28687.

<sup>338</sup> N. SIMIĆ, T.28688.

<sup>339</sup> SKRBIĆ, T.15488; Exh. P03179, Main Staff Strictly confidential no. 17/4-12, Report on the state of morale in the Army of Republika Srpska, signed by Maj. Gen. Milan **GVERO**, 8 February 1993 (English); N. SIMIĆ, T.28582.

<sup>340</sup> N. SIMIĆ, T.28691.

<sup>341</sup> Exh. 5DP02891, Main Staff Order establishing Main Staff forward command posts, Strictly confidential no. 03/4-782, type-signed by Col. Gen. Ratko Mladić, dated 28 April 1995, p.2, para.7 (English) (consolidating *Spreča-95* forces and creating conditions for *Sadejstvo-95*, and ordering Corps Assistant Commander for Morale to be placed in Main Staff IKM to raise lowered morale); MASAL, T.29092-29094 (this was a serious situation); tN. SIMIĆ, T.28523, 28527-28529, 28530.

<sup>342</sup> MILOVANOVIĆ, T.12269-12270.

<sup>343</sup> SKRBIĆ, T.15576.

<sup>344</sup> TRKULJA, T.15140-15141; Exh. P03178, Main Staff Formation, pp.11-12 (BCS) (showing that Milutinović was Chief of Department for Information and Psychological Propaganda Activities from 15 August 1994 until 16 August 1995 and that the Department fell under the Sector for Morale, Religious and

162. An example of psychological and propaganda activities **GVERO**'s organ directed against the enemy population was the loudspeaker used in Žepa to broadcast messages from Gen. Mladić calling on the Žepa population to leave the enclave.<sup>346</sup>

163. Particularly because of its remit of developing and psychological and propaganda activities and thwarting those of the other side, the **GVERO**'s Morale Sector had to work closely with the intelligence and security organs.<sup>347</sup>

164. **GVERO** was also responsible for contacts with media and using it to project a positive image of the VRS and its goals in the international and local opinion.<sup>348</sup>

### **Religious Affairs**

165. Following the collapse of the socialist system, religion became a new and important aspect of morale.<sup>349</sup> Given the ethnic and religious nature of the war<sup>350</sup> and the preceived religious fanatacism of the enemy,<sup>351</sup> **GVERO** was responsible for developing and maintaining cooperation with the Serbian Orthodox Church and promoting Orthodox traditions and holidays within the VRS.<sup>352</sup> This close cooperation can be seen in videos in evidence in this case, such as the presence of Bishop Kačavenda at Zvonko Bajagić's

Legal Affairs); Exh. 6D00284, Statement by Lt. Gen. Milan **GVERO**, issued by the Main Staff Information Service, "Arbitrariness, Prohibition and Censorship," 22 August 1995 (displaying stamp indicating that the Information Service fell under the Morale organ).

<sup>345</sup> Exh. P03179, Main Staff Strictly confidential no. 17/4-12, Report on the state of morale in the Army of Republika Srpska, signed by Maj. Gen. Milan **GVERO**, 8 February 1993, p.11 (English); N. SIMIĆ, T.28582.

<sup>346</sup> JOSEPH, T.14162. Esma Palić also testified that a few days following the fall of Srebrenica, she heard a louspeaker repeatedly broadcasting the message, "The people of Žepa, this is Ratko Mladić speaking to you. You cannot stay in Žepa. Take white flags and move to Brezova Ravan where buses are awaiting you to take you to the territory cotnrolled by Aljia Izetbegović. Don't listen to crazy Avdo. You are his hostages. He will take you to your deaths." PALIĆ, T.6912. See also Exh. P02588, Main Staff Strictly confidential no.: 07/23-44 from Zdravko Tolimir to the 1<sup>st</sup> Krajina Corps Security Department, 15 July 1995 (ordering the transportation of a 5,000 watt loudspeaker van from the 1<sup>st</sup> Krajina Corps Press Centre to Rogatica, to be arranged with the Chief of the Main Staff Centre for Information and Propaganda Activities, Milovan Milutinović).

<sup>347</sup> Exh. P02512, Main Staff Strictly confidential number 07/21-88, The Responsibilities of the Organ for Moral Guidance, Religious and Legal Affairs, 10 February 1995, type-signed by Lt. Gen. Ratko Mladić, p.5 (English) (As part of propaganda activities, "work closely with intelligence and security and other organs in the /uni/ command for the exchange of information and mutual coordination of measures, activities and actions"); Exh. P00414, Analysis of Combat Readiness and Activities of the Army of Republika Srpska in 1993, April 1993, p.89, para.11 (English) ("In the period just ended most intelligence and security organs of the VRS co-operated to the maximum with the organs for morale, religious and legal affairs and the POD/expansion unknown/, and took part in psychological propaganda materials on the struggle of the Serbian people and in distributing the same.").

<sup>348</sup> SKRBIĆ, T.15591-15593, 15626-15627.

<sup>349</sup> N. SIMIĆ, T.28592.

<sup>350</sup> Exh. P00414, Analysis of the Combat Readiness and Activities of the Army of Republika Srpska in 1992, April 1993, pp. 46, 148, 154 (English) (defining the war as a "civil, ethnic and religious war").

<sup>351</sup> Exh. P03180, *Srpska Vojska* article, "Silk Cord for Alija," by Maj. Gen. Milan **GVERO**, 15 July 1993, p.1 (English) ("It was a question of fighting or assent by the survivors to the (now) vengeful, sinister, Asiatic, Turkish oppression and constant threats/that they would be killed/by Ustasha knives and in Ustasha pits.").

<sup>352</sup> N. SIMIĆ, T.28697; MILOVANOVIĆ, T.12246.



houme during Gen. Živanović's speech there on 12 July 1995; and the priest blessing the Scorpions Unit before its deployment to Trnovo in July 1995.<sup>353</sup>

### Legal Affairs

166. Gen. **GVERO**'s Morale Sector also retained Legal Affairs under its ambit. **GVERO** was responsible for establishing the military courts and promulgating the Guidelines for Determining Criteria for Criminal Prosecutions.<sup>354</sup> Even after 1993, when the Ministry of Defence took over the military court system, **GVERO** still monitored the work of the military courts, as the number and nature of discipline violations and criminal complaints are indicators of a unit's combat morale. General Milovanović testified that what **GVERO** did concerning military courts:

was to monitor the work of military courts in contact with an appropriate section in the Ministry of Defence. But legal affairs also cover more than that. They cover all those shortcomings and deficiencies in the work of the army that are not subject to prosecution, such as violations of discipline, disciplinary infractions, and that is one of the indicators of the state of morale in a unit. If, for instance, one brigade has 50 disciplinary infractions in the course of a month while another unit has ten, that means that the morale of the unit with ten infractions is better than the morale of the unit which has 50. So **GVERO** and his sector focus on the unit which has the most problems.<sup>355</sup>

167. Thus, another reason for close cooperation between the morale organs and the security and intelligence organs was that instances violations of discipline such as desertion, abandoning positions or discarding weapons were security threats which also impact the status of combat morale; thus, the security situation affected the morale situation and vice versa.<sup>356</sup> Indeed, Generals **GVERO** and Tolimir cooperated very closely.<sup>357</sup>

168. As a negative tool of maintaining combat morale, **GVERO** also urged the activation of military courts to protect the authority of the command system and discipline, and to punish rumour-mongers and prevent desertions.<sup>358</sup>

<sup>353</sup> Exh. P04535, Video containing footage of a speech by Gen. Živanović at a lunch hosted by Zvonko Bajagić on 12 July 1995, at 00:24:04 – 00:24:20, with accompanying English and BCS transcripts, p.7 (Živanović honors the bishop and describes the Serbian flag flying on the Serbian church in Srebrenica); (English); Exh. P03249, Scorpions Video, at 00:00:00 – 00:09:43; [REDACTED].

<sup>354</sup> Exh. P00028, Military Prosecutor's Office, VRS Main Staff, Guidelines for Determining the Criteria for Criminal Punishment, October 1992; MILOVANOVIĆ, T.12246-12247 ("I remember very clearly one evening General **GVERO** received an explicit assignment from General Mladić to establish military courts, and they were established"); BUTLER, T.19606-19608.

<sup>355</sup> MILOVANOVIĆ, T.12246-12247; SKRBIĆ, T.15588 (breaches of discipline, misdemeanors and crimes were an indicator of the state of morale in the army).

<sup>356</sup> M.MITROVIĆ, T.25144-25146.

<sup>357</sup> M.MITROVIĆ, T.25147.

<sup>358</sup> Exh. P04208, Plan of Moral and Psychological Support for the Operation, (*Sadejstvo-95*), type-signed, Lt. Gen. Milan **GVERO**, approved by Col. Gen. Ratko Mladić, p.6 (English) ("Solving legal problems, especially initiating legal and disciplinary proceedings against those responsible for negative phenomena");

(xviii) Sector for Intelligence and Security Affairs.

169. The head of the Intelligence and Security Administration was Maj. Gen. Zdravko Tolimir, whose nickname was “Tošo.”<sup>359</sup> As Assistant Commander for Intelligence and Security, Tolimir supervised both the Security Administration and the Intelligence Administration. Directly subordinated to Tolimir were the Chief of Intelligence, Petar Salapura, and the Chief of Security, Accused Col. Ljubiša **BEARA**. Officers under the supervision of **BEARA** included Lt. Col. Dragomir Keserović, Chief of Section for Military Police Affairs, and Maj. Dragomir Pećanac. Officers under the supervision of Col. Salapura included Col. Radislav Janković. As the superior of these officers, Tolimir could directly issue orders and commands to them, and could also pass on orders from his own superiors, Pres. Karadžić and Gen. Mladić. In turn, these officers would advise Tolimir on relevant issues, make proposals to Tolimir, carry out and supervise the implementation of Tolimir’s orders, and keep him informed about the activities related to the performance of their duties.

170. **BEARA**, as Chief of the Security Administration, supervised the work of the Drina Corps security organ (led by **POPOVIĆ**), which in turn supervised the security organs of the Zvornik and Bratunac Brigades (led by Drago **NIKOLIĆ** and Momir Nikolić, respectively), which in turn supervised the security organs of their battalions. Through this professional supervision, the Main Staff Administration for Intelligence and Security Affairs led and governed much of the work of lower-level security organs.

171. Tolimir, **BEARA** and the Main Staff Security Administration were accommodated in a newly-built house at the Crna Rijeka command post.<sup>360</sup>

172. The designation prefix identifying documents generated by the Main Staff Intelligence and Security Administration was “12/45.”<sup>361</sup>

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Exh. P03184, Main Staff Confidential no. 07/21-416, Report on the characteristics of the combat situation in the western part of RS, type-signed by Lt. Gen. Milan **GVERO**, 21 September 1995, p.6 (English) (“Immediately activate special military courts at brigade level in order to protect the authority of the command system and discipline, and to prevent personnel from leaving units and other negative occurrences”); Exh. 5D01415 Main Staff Strictly confidential no. 07/21-353, Report to Units in the Zone of Operations, type-signed by Lt. Gen. Milan **GVERO**, 31 July 1995 (directing units to “urgently establish extraordinary courts martial” and “organise trials for all cases of destructive behaviour and the weakening of combat readiness”), p.2 (English); Exh. P03182, Main Staff Confidential no. 07/21/-367, The current situation on the front in the RS and forthcoming tasks of the VRS, information, type-signed Lt. Gen. Milan **GVERO**, 4 August 1995 (“All such members of the army and civilians, who play a part in passing on and spreading rumours, shall be identified and prosecuted, and a special unit will be made up of these people, to be used in the most complex combat situations”), p.4 (English); BUTLER, T.20679, 20982-20983.

<sup>359</sup> OBRADOVIĆ, T.28326.

<sup>360</sup> MILOVANOVIĆ, T.12212.

<sup>361</sup> OBRADOVIĆ, T.28292.

**The Security Administration.**

173. The Security Administration of the Main Staff was a professional body of the Command of the Main Staff. The duties of the Security Administration and its members were: 1) to discover, document, monitor and prevent any intelligence work by foreign intelligence services or any other bodies involved in intelligence against the VRS as a whole and its institutions, against its documents, plans, armies and equipment, which only a professional body could do because they were the only ones that were trained to do that; 2) to discover, prevent and document any enemy activities against the VRS; 3) to draft plans of counter-intelligence protection of the units, organs and institutions of the VRS. In addition to these duties, the Security Administration also had Department of Military Police, whose role was to professionally lead the units of military police, which included drafting plans and programmes, combat training and equipping the military police units with special equipment which was necessary to carry out military police tasks.<sup>362</sup>

*Military Police Units*

174. The Security Administration also controlled the VRS military police units. The relationship between the security organ and the military police was the same as the relationship of any chief of any branch such as the chiefs of engineers, artillery or communications, in that they were professionals who gave suggestions to the commander on the use of respective units; the same relationship existed between the security organ and the military police.<sup>363</sup> Specifically, the role of the chief of security was to advise the commander on the use and the combat readiness of the military police.<sup>364</sup> The security chief did not have direct command authority over the military; rather, he could propose to the commander how to use the military police, and if the commander agreed to that then the security chief would convey the commander's orders and give instructions to the commander of the military police battalion or company as to what to do. Thus, the security chief had the controlling role when it came to the military police.<sup>365</sup>

*Prisoners of War*

175. While prisoners of war were interviewed and interrogated by the intelligence and security organs, the military police had responsibility for guarding and escorting prisoners of war on the brigade level, and the organ in charge was the security organ.<sup>366</sup>

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<sup>362</sup> SAVČIĆ, T.15240-15241, 15270-15272.

<sup>363</sup> SAVČIĆ, T.15272; LAZIĆ, T.21742; M.MITROVIĆ, T.25052.

<sup>364</sup> MILOVANOVIĆ, T.12394.

<sup>365</sup> MILOVANOVIĆ, T.12394-12395.

<sup>366</sup> MILOVANOVIĆ, T.12366-12367; M.MITROVIĆ, T.25055; TRIŠIĆ, T.27137.

**The Intelligence Administration.**

176. The Intelligence Administration was primarily responsible for monitoring the enemy and collecting information on its movements and intentions and communicating that information to the command. Under instructions from General Mladić, intelligence and security organs at all levels were to spend approximately 80% of their time in intelligence/counter intelligence work, and the remaining 20% in criminal/legal and military police tasks.<sup>367</sup>

177. As noted above, the Intelligence organs played a role in interrogating prisoners of war. Indeed, for the VRS, intelligence data obtained by interrogating prisoners of war and defectors constituted the main element in information about the enemy. Intelligence data and assessments were sent to the Main Staff where they were professionally processed and sent to all commands for double-checking and use, so in this way the flow of intelligence information was directed from the subordinate units to the Corps Command to the Main Staff and vice versa.<sup>368</sup>

**(xix) Overview & structure of the Drina Corps.**

178. The Drina Corps, one of six Corps units making up the VRS, was formed on 1 November 1992<sup>369</sup> in response to the growing security threat posed along the western regions of the Drina River by Muslim strongholds in Cerska, Srebrenica, Žepa, Goradže and the outlying areas of Višegrad.<sup>370</sup> Its headquarters were established in the town of Vlasenica, 28.5 km northwest of Srebrenica.<sup>371</sup>

179. The Drina Corps was organised by combining and enlarging existing units from the already existing East Bosnia Corps and Sarajevo-Romanjia Corps.<sup>372</sup> The Corps Command and its eight subordinate brigades, the officers of which were made up primarily of former JNA personnel,<sup>373</sup> adopted structures and procedures directly from former JNA operating methodologies.<sup>374</sup> By 1995, the Drina Corps and its component

<sup>367</sup> See Exh. P02741, VRS Main Staff order 18/20-414/94, 24 October 1994 (ERN: DA01-0961-DA01-0963 (BCS); 0308-9290-0308-9292 (Eng)).

<sup>368</sup> Exh. 5D01394, "Analysis of Combat Readiness of the Drina Corps for Each Element of Combat Readiness for 1994," signed by Gen. Maj. Milenko Živanović, January 1995, p.18 (English).

<sup>369</sup> Prosecution Adjudicated Fact 75; Exh. P00686, Butler Revised Narrative, dated 1 November 2002, at para. 1.0 (ERN: 0113-4300).

<sup>370</sup> Exh. P00686 at para. 1.0 (ERN: 0113-4300).

<sup>371</sup> Prosecution Adjudicated Fact 77; Exh. P00686 at para. 1.0 (ERN: 0113-4300).

<sup>372</sup> Exh. P00686 at para. 1.0 (ERN: 0113-4300).

<sup>373</sup> Exh. 7DP00026, VRS Main Staff Directive 02/5-10 requesting proposals for the organisational and establishment structure of the army corps, signed Manojlo Milovanović, dated 26 May 1992; Exh. P00403, 1st Krajina Corps report concerning proposals for the structure of the Corps, dated 27 & 28 May 1992.

<sup>374</sup> Exh. P00686 at para. 1.1 (ERN:0113-4300); see also Exh. P00684, Richard Butler, VRS Corps Command Responsibility Report (Revised), 31 October 2002, sections 1 and 2.

units were an efficient and experienced military organisation, responsible for all combat operations within their area of responsibility.<sup>375</sup>

180. In July 1995, the Drina Corps was composed of the following subordinate Brigades: 1<sup>st</sup> Zvornik Infantry Brigade (“Zvornik Brigade”); 1st Bratunac Light Infantry Brigade (“Bratunac Brigade”); 1st Vlasenica Light Infantry Brigade (“Vlasenica Brigade”); 2nd Romanija Motorized Brigade (“2nd Romanija Brigade”) 1st Birać Infantry Brigade (“Birać Brigade”); 1st Milići Light Infantry Brigade (“Milići Brigade”); 1st Podrinje Light Infantry Brigade (“1st Podrinje Brigade”); 5th Podrinje Light Infantry Brigade (“5th Podrinje Brigade”) and the 1st Skelani Separate Infantry Battalion (“Skelani Battalion”).<sup>376</sup> These Brigades had combat capabilities and were supported by the 5th Mixed Artillery Regiment, the 5th Engineers Battalion, the 5th Communications Battalion and the 5th Military Police Battalion.<sup>377</sup> The 5<sup>th</sup> Military Police Battalion was directly subordinate to the Drina Corps Commander.<sup>378</sup>

181. On 13 July 1995, Gen. Radislav Krstić assumed command of the VRS Drina Corps from General Živanović.<sup>379</sup> Prior to this appointment, Krstić was the Corps Chief of Staff, a position to which he was appointed in August 1994. Col. Svetozar Andrić was appointed to replace Krstić as Chief of Staff.<sup>380</sup> In addition to the Chief of Staff, the Drina Corps had three Assistant Commanders who were responsible for managing the activities of the specialised branches of the Drina Corps: Vujadin **POPOVIĆ**, Assistant Commander for Security;<sup>381</sup> Colonel Slobodan Cerović, Assistant Commander for Moral, Legal and Religious Affairs<sup>382</sup> and Colonel Lazar Aćamović, Assistant Commander for Rear Services (Logistics).<sup>383</sup>

182. In July 1995, in addition to the above-listed organic formations of the Drina Corps, four temporary command relationships pertaining to the VRS Drina Corps existed. These included temporary command relationships with units normally assigned to the Main Staff: *i.e.*, the 65th Motorized Protection Regiment<sup>384</sup> and the 10th Sabotage

<sup>375</sup> Exh. 7DP00412, General Staff of the Armed Forces of SFRY, Rules of Land Forces Corps (Provisional), dated 11 April 1990, para.5.

<sup>376</sup> Prosecution Adjudicated Fact 83; Exh. P00686 at para. 2.6 (ERN:0113-4312-0113-4313).

<sup>377</sup> Prosecution Adjudicated Fact 83.

<sup>378</sup> Exh. P00686 at para. 2.6 (ERN: 0113-4313); BUTLER, T.19649:13-22.

<sup>379</sup> Prosecution Adjudicated Fact 80; Exh. P00118, Drina Corps Order 05/2-293 regarding handover of duties, signed by Jović, dated 13 July 1995. Exh. P00686 at para. 2.1 (ERN: 0113-4311).

<sup>380</sup> Exh. P00018, RS Presidential Decree 01-1369/95, dated 14 July 1995; Exh. P00686 at para. 2.3 (ERN: 0113-4311).

<sup>381</sup> Exh. P00686 at para. 2.4 (ERN 0113-4312).

<sup>382</sup> Prosecution Adjudicated Fact 80; Exh. P00686 at para. 2.4 (ERN: 0113-4312).

<sup>383</sup> Prosecution Adjudicated Fact 80; Exh. P00686 at para. 2.4 (ERN: 0113-4312).

<sup>384</sup> Exh. P00686 at para. 2.12 (ERN: 0113-4318).

Detachment;<sup>385</sup> as well as the MUP forces<sup>386</sup> and a temporary formation under the command of another Corps. Each of these operated as a part of, and subordinate to, the VRS Drina Corps at various times in July 1995.<sup>387</sup>

(xx) **Overview & structure of the Zvornik Brigade.**

183. The Zvornik Brigade was a subordinate unit of the VRS Drina Corps<sup>388</sup> and operated within its zone of responsibility as the principal unit for pursuing organised and integrated offensive and combat operations.<sup>389</sup> The Brigade operated in accordance with long-established regulations adopted from the JNA.<sup>390</sup>

184. In July 1995, there were a total of 5,010 soldiers and officers in the Zvornik Brigade.<sup>391</sup> Its area of responsibility stretched from the Drina River west to the VRS/ABiH confrontation line (approximately 12 km), and from the Drinjača River in the south to Pilica in the north (more than 30 km), and included the area outside Zvornik where the Bosnian Muslim column engaged VRS forces after the fall of Srebrenica.<sup>392</sup>

185. **PANDUREVIĆ** was the commander of the Zvornik Brigade from December 1992 through November 1996.<sup>393</sup> As the Brigade Commander, Vinko **PANDUREVIĆ** had the exclusive right to command all units within the Zvornik Brigade.<sup>394</sup> These units included each of the seven infantry Battalions; the Security Organ; the Military Police Company; the Mixed Artillery Division; a light artillery division of Anti-Aircraft Defence; the Rear Battalion (Logistics); the Signals Company; the Engineering Company; and the manoeuvre battalion known as the Podrinje Detachment or the Drina Wolves.<sup>395</sup> [REDACTED].<sup>396</sup>

186. [REDACTED].<sup>397 398</sup>

<sup>385</sup> Prosecution Adjudicated Fact 85; Exh. P00686 at para. 2.13 (ERN: 0113-4319).

<sup>386</sup> Exh. P00686 at para. 2.14-2.19 (ERN: 0113-4319 - 0113-4320).

<sup>387</sup> Exh. P00686 at para. 2.11 (ERN: 0113-4318).

<sup>388</sup> Prosecution Adjudicated Fact 83.

<sup>389</sup> Exh. P00694, ch.5, Combat Conditions.

<sup>390</sup> Exh. P00684, Revised "VRS Brigade Command Responsibility" report, by Richard Butler, 31 October 2002, paras. 1.6-1.9; Exh. P00694; [REDACTED].

<sup>391</sup> Exh. 7DP00382, Zvornik Brigade Report 05/283-03, 20 July 1995.

<sup>392</sup> Exh. P01463, Map: *Krivaja-95*.

<sup>393</sup> Exh. P00686 at para. 2.8; Exh. 7DP00372, PVL for Vinko **PANDUREVIĆ**.

<sup>394</sup> See Exh. P00684 at paras. 2.0-2.18; [REDACTED].

<sup>395</sup> DRAGUTINOVIĆ, T.12564-12569; [REDACTED]. See also Exh. 7DP00382, Zvornik Brigade Report 05/283-03, 20 July 1995.

<sup>396</sup> [REDACTED].

<sup>397</sup> [REDACTED].

<sup>398</sup> [REDACTED].

187. Key members of the Zvornik Brigade who knew of and contributed to the murder operation in July 1995 included Lt. Col. Vinko **PANDUREVIĆ**, Commander; Maj. Dragan Obrenović, Chief of Staff and Deputy Commander; 2<sup>nd</sup> Lt. Drago **NIKOLIĆ**, Assistant Commander for Security; Capt. 1<sup>st</sup> Class Sreten Milošević, Assistant Commander for Logistics; Maj. Dragan Jokić, Chief of Engineering; Lt. Miomir Jasikovac, Commander of the Military Police Company; Administrator for Security, Capt. Milorad Trbić; Srećko Aćimović, Commander of the 2<sup>nd</sup> Battalion; Lazar Ristić, Deputy Commander of the 4<sup>th</sup> Battalion; and Ostoja Stanisić, Commander of the 6<sup>th</sup> Battalion.<sup>399</sup>

**Overview of the Zvornik Brigade Military Police Company.**

188. In July 1995, the Zvornik Brigade Military Police Company was stationed at the Standard barracks in Karaka<sup>400</sup> and had 89 rostered members.<sup>401</sup> [REDACTED].<sup>402</sup>

189. The commander of the MP Company was Lt. Miomir Jasikovac and his deputy was Aco Kostić.<sup>403</sup> [REDACTED].<sup>404</sup> As discussed in further detail at paras. 2591-2597, part of the role of the Assistant Commander for Security, **NIKOLIĆ**, was to make proposals to **PANDUREVIĆ**, on the most effective use of the military police and recommend what their tasks should be.<sup>405</sup> Once the commander issued an order, **NIKOLIĆ** would provide direction and instructions to Lt. Jasikovac on how best to implement the commander's order.<sup>406</sup> [REDACTED]<sup>407</sup>

190. Each morning, like the rest of the Zvornik Brigade's units, the MP Company would line up and raise the flag; if there were no combat activities expected, the orders

<sup>399</sup> See Exh. P00686 at para. 2.8 for an overview of the background of these officers.

<sup>400</sup> [REDACTED]; [REDACTED]; M.BIRČAKOVIĆ, T.11011.

<sup>401</sup> Exh. P00354, Zvornik Brigade Military Police Unit Attendance Roster for July 1995.

<sup>402</sup> [REDACTED].

<sup>403</sup> [REDACTED]; [REDACTED]; M.BIRČAKOVIĆ, T.11012; D.IVANOVIĆ, T.14538; KOSTIĆ, T.25988.

<sup>404</sup> [REDACTED].

<sup>405</sup> Exh. P00694 at para. 122; Exh. P00707 at para. 12; BUTLER, T.19637.

<sup>406</sup> BUTLER, T.19638. See also [REDACTED] PW-165, T.10012:17-20 ("The military police commander received orders from his security officer, the security officer received orders from the main commander, and that way up and down the chain.").

<sup>407</sup> [REDACTED].

for the day were read out.<sup>408</sup> [REDACTED]<sup>409 410 411 412 413 414</sup> Significantly, the military police were also responsible for securing and escorting prisoners of war.<sup>415</sup>

**(xxi) Temporary units in the Drina Corps zone.**

191. In addition to the above-listed organic formations, it was not uncommon for the VRS to create temporary units or formations. Within the context of the former JNA, and by extension the VRS, there was an inherent flexibility to tailor command and control of specific units between organisations in order to effectively achieve the optimum military force required to deal with a situation in a given geographical area. This tailoring was accomplished through the practice of “resubordinating” units on a temporary basis. In most cases, this involved either the creation of “tactical” or “battle” groups, consisting of multiple formations under unified command, or simply the temporary resubordination of a formation from one headquarters to another.<sup>416</sup>

192. Under these circumstances, the overall commander controlled the activities of these units, at least for the duration of the time and in the circumstances under which control was granted. Under these temporary groupings, command and control relationships were defined on a “case-by-case” basis.<sup>417</sup>

193. For the period of July 1995, four temporary command relationships pertaining to the VRS Drina Corps existed. These included temporary command relationships with units normally assigned to the Main Staff, *i.e.*, the 65<sup>th</sup> Motorized Protection Regiment<sup>418</sup>

<sup>408</sup> KOSTIĆ, T.25983, 25987. [REDACTED].

<sup>409</sup> [REDACTED].

<sup>410</sup> [REDACTED].

<sup>411</sup> [REDACTED].

<sup>412</sup> [REDACTED].

<sup>413</sup> [REDACTED].

<sup>414</sup> [REDACTED].

<sup>415</sup> Exh. P00707, Service Regulations of the SFRY Armed Forces Military Police, 1985. See paras. 25(h): “the military police...take part in providing security for prisoners of war in camps for prisoners of war;” and para. 57: “The military police may also, upon a special order, escort prisoners of war.” See also Exh. P00684, Butler Brigade Command Responsibility Report at para. 3.19.

<sup>416</sup> Exh. P00686, Butler Srebrenica Narrative at p.24, para.2.9.

<sup>417</sup> Exh. P00410, Federal Secretariat for National Defence, *Regulations Regarding the Responsibility of Corps Command of the Ground Forces during Peacetime*, 1990, art.6 (ERN: 0114-7056-0114-7095 (BCS); 0090-9994-0091-0027 (Eng)).

<sup>418</sup> The 65<sup>th</sup> Protection Regiment was an elite unit subordinated directly to Gen. Mladić that provided security to the Main Staff and consisted of a Military Police Battalion; a motorised combat battalion and a sabotage unit linked to the 10<sup>th</sup> Sabotage Detachment. SAVČIĆ, T.15229, 15232-15240, 15242; MILOVANOVIĆ, T.12164-12165. Part of its forces typically remained at the Main Staff while the rest was deployed to the front lines. MILOVANOVIĆ, T.12164-12165. See also Exh. P00686, Butler Srebrenica Narrative at pp.24-25, para.2.12 (“The 65<sup>th</sup> Protection Regiment was one of the better-equipped and manned large formations of the VRS during the war. This unit, commanded by Lt. Col. Milomir Savčić, was a direct holdover from the former JNA structure (being assigned directly to the Military District headquarters).”)



and the 10<sup>th</sup> Sabotage Detachment;<sup>419</sup> as well as the MUP police forces<sup>420</sup> and a temporary formation under the command of another Corps.<sup>421</sup> Each of these operated as a part of, and subordinate to, the VRS Drina Corps at various times in July 1995.

(xxii) **Overview & Structure of the RS Police in the Drina Corps Zone.**

**The RS MUP Special Police Brigade.**

194. The RS Special Police Brigade was a MUP combat unit that was engaged throughout the war in various parts of the RS.<sup>422</sup> The Brigade was headquartered in Janja, a village close to Bijeljina.<sup>423</sup> In July 1995, the Commander of the Brigade was Goran Sarić, who reported to the Interior Minister, or to his Deputy, Tomo Kovac.<sup>424</sup> The Deputy Commander of the Brigade was Accused **BOROVČANIN**.<sup>425</sup> The Assistant Commander for Operations and Training was Duško Jević.<sup>426</sup> [REDACTED].<sup>427</sup> Within the Special Police Brigade, orders flowed from Sarić through **BOROVČANIN**, then to the Detachment commanders.<sup>428</sup> Though used during the war for combat tasks, the Special Police Brigade also performed public law and order control, security and anti-terrorist tasks.<sup>429</sup>

195. The Brigade had nine detachments which were based in Trebinje, Foca, Jahorina, Šekovići, Janja, Doboj, Banja Luka and Prijedor, and which were deployed on combat

<sup>419</sup> The 10<sup>th</sup> Sabotage Detachment was a small but elite unit that was used to collect information and intelligence on the enemy and infiltrated behind enemy lines. MILOVANOVIĆ, T.12165-12166. It was directly subordinated to the Main Staff Chief of Intelligence, Petar Salapura, whose immediate superior was Main Staff Chief of Intelligence and Security, Gen. Zdravko Tolimir. MILOVANOVIĆ, T.12166; OBRADOVIĆ, T.28356. See also Exh. P00686, Butler Srebrenica Narrative at p.25, para.2.13 (“In July 1995, the unit was commanded by Lt. Milorad Pelemiš. On 10-12 July 1995, both platoons of the 10th Sabotage Detachment participated with VRS Drina Corps units in the actual capture of Srebrenica. Later, elements of one platoon of the unit were present and participated in the executions of Bosnian Muslim men at the Branjevo Farm.”).

<sup>420</sup> Exh. P00094, MUP Cabinet of the Minister, Order No: 64/95, 10 July 1995, type-signed by Tomo Kovač (ERN: 0216-3049-0216-3050 (BCS); 0306-3289-0306-3289 (Eng). This order designated Ljubomir **BOROVČANIN** as the “Commander of the MUP units” which were sent to the Srebrenica sector, consisting of the “2<sup>nd</sup> Special police detachment from Šekovići, the 1<sup>st</sup> company of the PJP of the Zvornik SJB, a mixed company of joint RSK, Serbian and RS MUP forces and a company from the training camp at Jahorina.” Regarding 10<sup>th</sup> Sabotage Detachment and police units, Gen. Novica Simić testified that “when they come into my zone, they are resubordinated to me; that is, my command, bearing in mind that the police have their own commander,” and that the 10<sup>th</sup> Sabotage Detachment was sent to him by the Main Staff. N.SIMIĆ, T.28544-28546.

<sup>421</sup> See Exh. P02754, VRS Main Staff strictly confidential order 03/4-1654, 15 July 1995 (ERN: 0340-1472-0340-1472); Exh. P02838, 1<sup>st</sup> Krajina Corps Order No. 264-1/95, 16 July 1995 (ERN: 0084-5119-0084-5120).

<sup>422</sup> [REDACTED] PW-160, T.8571; PEPIĆ, T.13543; ČELIĆ, T.13462.

<sup>423</sup> [REDACTED]; STOJČINOVIĆ, T.27573.

<sup>424</sup> [REDACTED] PW-160, T.8572; ĐURIĆ, T.10797; STOJČINOVIĆ, T.27573.

<sup>425</sup> ĐURIĆ, T.10797; ČELIĆ, T.13459; STOJČINOVIĆ, T.27573.

<sup>426</sup> [REDACTED]; STOJČINOVIĆ, T.27574.

<sup>427</sup> [REDACTED].

<sup>428</sup> ČELIĆ, T.13463.

<sup>429</sup> ĐURIĆ, T.10791; STOJČINOVIĆ, T.27589-27590, 27593.

assignments throughout the RS during the war.<sup>430</sup> Although the Special Police Brigade Detachments sometimes fell within the geographic the sphere of a Public Security Centre, in terms of chain of command, the Chief of the Public Security Centre could not exercise command over the Special Police Brigade Detachment.<sup>431</sup>

196. The Special Police Brigade also operated a training centre in Jahorina and had a unit of police dogs.<sup>432</sup> In order to become a member of the Special Police Brigade, a candidate had to meet special education, training, mental and physical fitness criteria set by the MUP.<sup>433</sup> This included a policemen course.<sup>434</sup>

197. Some of the Detachments, such as the Second Šekovići Detachment, were armed with tanks, Praga anti-aircraft vehicles, BOV three-barrelled vehicles and mortar platoons.<sup>435</sup> The Brigade's soldiers wore one-piece green camouflage overalls and were armed with automatic rifles, heavy machine guns, sidearms, rocket launchers, grenades and bulletproof vests.<sup>436</sup> The uniforms bore a Special Police Brigade patch worn on the sleeve, consisting of the words "Special Brigade" and "Police," in addition to the flag and coat of arms featuring a two headed eagle.<sup>437</sup>

**The Second Šekovići Detachment of the Special Police Brigade.**

198. The Second Šekovići Detachment was based in the Lovnica Hotel in Šekovići.<sup>438</sup> Its commander was Miloš Štupar, who was replaced in June 1995 by his deputy, Rade Čuturić, whose nickname was "Oficir."<sup>439</sup> Štupar's direct superior was the commander of the Special Police Brigade, Goran Sarić, and his Deputy, **BOROVČANIN**.<sup>440</sup> The Second Šekovići Detachment was divided into three platoons of between 20 to 40 men each, numbered First, Second and Third.<sup>441</sup> The leader of the First Platoon was Marko Aleksić and the leader of the Third Platoon was Milenko Trifunović, whose nickname was "Čop."<sup>442</sup> The Third Platoon was billeted in Skelani and was known as the Third

<sup>430</sup> [REDACTED]; ĐURIĆ, T.10797-10798, 10906.

<sup>431</sup> JANKOVIĆ, T.27349.

<sup>432</sup> [REDACTED] PW-160, T.8570.

<sup>433</sup> ĐURIĆ, T.10846-10847.

<sup>434</sup> ĐURIĆ, T.10847.

<sup>435</sup> [REDACTED], PW-160, T.8578; PEPIĆ, T.13542; ČELIĆ, T.13461.

<sup>436</sup> PEPIĆ, T.13541-13542; [REDACTED], PW-160, T.8577-8578; [REDACTED], PW-100, T.14812; ČELIĆ, T.13461-13462.

<sup>437</sup> ČELIĆ, T.13462; [REDACTED] PW-100, T.14811; PEPIĆ, T.13541-13542; [REDACTED] PW-160, T.8578-8579; ĐURIĆ, T.10838.

<sup>438</sup> PEPIĆ, T.13538; ČELIĆ, T.13458.

<sup>439</sup> PEPIĆ, T.13539; ČELIĆ, T.13458-13459.

<sup>440</sup> ČELIĆ, T.13459; PEPIĆ, T.13539-13540.

<sup>441</sup> PEPIĆ, T.13541; ČELIĆ, T.13459-13460, 13494.

<sup>442</sup> PEPIĆ, T.13541; ČELIĆ, T.13459-13460.

Skelani Platoon, or simply as the Skelani Platoon.<sup>443</sup> In July 1995, the Second Platoon received its orders directly from Čturić because its leader was out of action and not replaced.<sup>444</sup>

199. In addition to two T-55 tanks, a Praga and a BOV, the Second Šekovići Detachment had a bus, a 110 and a 150 truck, and one or two passenger vehicles.<sup>445</sup> In early July 1995 the Detachment was deployed around Srednje, at the Sarajevo front.<sup>446</sup>

### **The Jahorina Training Centre.**

200. The Brigade's Training Centre, based at the Jahorina Hotel in Mount Jahorina, provided specialised training to policemen and military training to regular recruits performing their military service in MUP units.<sup>447</sup> The training and courses were conducted by several Special Police Brigade instructors and two MUP inspectors under the overall command of Duško Jević, the Special Police Brigade's Assistant Commander for Operations and Training.<sup>448</sup> Jević managed the Training Centre on behalf of the Special Police Brigade.<sup>449</sup> [REDACTED].<sup>450</sup> Đurić's nickname was "Mane."<sup>451</sup>

201. In June 1995, the RS MUP undertook an effort to seize and forcibly repatriate Bosnian Serb men who were evading military service in Serbia.<sup>452</sup> Several hundred were arrested in Serbia and brought back to the RS, where over 200 were transported to the Special Police Brigade Training Centre in Jahorina and underwent basic military and police training.<sup>453</sup>

202. At the Jahorina Training Centre, the newly-repatriated men were formed into two companies, each consisting of approximately 100 men.<sup>454</sup> The First Company was commanded by Mane Đurić; the Second Company was commanded by Nedo Ikonić.<sup>455</sup>

<sup>443</sup> PEPIC, T.13541; ČELIĆ, T.13460, 13482.

<sup>444</sup> PEPIC, T.13540-13541; ČELIĆ, T.13460-13461.

<sup>445</sup> PEPIC, T.13542; ČELIĆ, T.13461.

<sup>446</sup> PEPIC, T.13543-13544.

<sup>447</sup> ĐURIĆ, T.10793; [REDACTED] PW-160, T.8649; [REDACTED]; STOJČINOVIĆ, T.27580, 27597, 27613-27615; Exh. 4D00400, Dispatch from Duško Jević to the Commander of the Special Police Brigade regarding training course at Jahorina Hotel, 1 April 1995; Exh. 4D00624, Special Police Brigade - Jahorina, Specialist Training Program, Course for Policemen, 10 April 1995; Exh. 4D00095; Exh. 4D00094.

<sup>448</sup> [REDACTED]; ĐURIĆ, T.10843-10844; [REDACTED] PW-100, T.14789; STOJČINOVIĆ, T.27582, 27631-27633; Exh. 4D00251, Dispatch from Duško Jević referring to Special Police Brigade and MUP instructors, 6 April 1995.

<sup>449</sup> [REDACTED].

<sup>450</sup> [REDACTED].

<sup>451</sup> [REDACTED]; ĐURIĆ, T.10796-10797. Mendeljev "Mane" Đurić should not be confused with Mane Đurić, Deputy Chief of the Zvornik Public Security Centre ("CJB").

<sup>452</sup> Exh. 5D01341; Exh. 4D00511; Exh. 4D00119; STOJČINOVIĆ, T.27603.

<sup>453</sup> [REDACTED]; [REDACTED] PW-160, T.8650-8651; ĐURIĆ, T.10795-10796, 10842-10843; STOJČINOVIĆ, T.27600, 27606; Exh. 4D00352; Exh. 4D00353.

<sup>454</sup> [REDACTED] PW-160, T.8572; STOJČINOVIĆ, T.27608.

<sup>455</sup> [REDACTED] PW-160, T.8573; ĐURIĆ, T.10796.

The two companies were further divided into four platoons, which in turn were divided into smaller sections.<sup>456</sup> The platoon leaders were regular Special Police Brigade members.<sup>457</sup> The training was overseen by the platoon leaders and company commanders.<sup>458</sup> The repatriated men were kept separate from the regular Special Police Brigade members who were based in other facilities in the area, and were not permitted to leave the premises.<sup>459</sup> Their training was shorter than that of the policemen-trainees or the military recruits at the Training Centre, but because all them had previously undergone compulsory military service, they did not differ much from any other members of the VRS and was adequate for preparing them for combat assignments.<sup>460</sup> Some of them proved valuable and accepted offers to remain in police units after the Srebrenica assignment, and others served in the VRS.<sup>461</sup>

203. Unlike regular Special Police Brigade members who wore overalls, the Jahorina Training Centre soldiers wore two-piece green camouflage uniforms without insignia and were issued automatic rifles towards the end of their training, but not sidearms.<sup>462</sup> Đurić also testified that the Training Centre soldiers' light brown belts also identified them as such.<sup>463</sup> The Training Centre soldiers were recognizable to each other by their uniforms.<sup>464</sup> They were also issued with blue bulletproof vests made in Israel.<sup>465</sup> Unlike the regular Brigade soldiers, the Training Centre soldiers did not have tanks or armoured vehicles.<sup>466</sup>

### **PJP Units.**

204. The RS MUP also utilized regular police officers to perform military duties. Within each of the MUP Public Security Centres (CJBs), ordinary policemen from the municipal police stations (SJBs) included within a CJB's territory were organized into companies.<sup>467</sup> For example, the Zvornik CJB had six PJP companies; the First PJP Company of the Zvornik CJB ("the First Zvornik PJP Company") was comprised of mostly younger policemen from the Zvornik, Milići, Vlasencia, Šekovići, Bratunac and

<sup>456</sup> [REDACTED] PW-100, T.14791.

<sup>457</sup> [REDACTED] PW-100, T.14797.

<sup>458</sup> [REDACTED] PW-100, T.14797.

<sup>459</sup> [REDACTED] PW-100, T.14798; STOJČINOVIĆ, T.27602-27603.

<sup>460</sup> STOJČINOVIĆ, T.27606.

<sup>461</sup> STOJČINOVIĆ, T.27612.

<sup>462</sup> [REDACTED] PW-160, T.8576-8578; ĐURIĆ, T.10847; [REDACTED] PW-100, T.14790.

<sup>463</sup> ĐURIĆ, T.10847, 10882-10883.

<sup>464</sup> [REDACTED] PW-100, T.14816.

<sup>465</sup> [REDACTED] PW-160, T.8578, 8654 (identifying vest as a Jahorina Training Centre vest, not UN vest); ĐURIĆ, T.10847-10848; [REDACTED] PW-100, T.14790, 14841-14842 (identifying vest as a Jahorina Training Centre vest).

<sup>466</sup> [REDACTED] PW-160, T.8578.

<sup>467</sup> STANOJEVIĆ, T.12866-12867; [REDACTED] PW-107, T.4080-4084; JANKOVIĆ, T.27347.

Skelani municipal police stations.<sup>468</sup> The First Zvornik PJP Company Commander was Radomir Pantić, then chief of the Milići police station, and the overall commander of the six Zvornik PJP Companies was Danilo Zoljić.<sup>469</sup> The Deputy Commander of the First Zvornik PJP Company was Radoslav Stuparević.<sup>470</sup> The First Zvornik PJP Company was divided into three platoons.<sup>471</sup>

205. The PJP companies subordinated to the Bijeljina CJB were drawn from SJBs in Bijeljina, Janja, Ugljevik, Šamac, Lopare and Pelagicevo.<sup>472</sup> PJP members would be sent into the field to perform combat assignments, much as the Special Police Brigade units were, in cooperation with the VRS.<sup>473</sup> When not in the field executing PJP tasks, PJP members performed regular police tasks in their municipalities.<sup>474</sup>

206. PJP members wore green camouflage uniforms with patches on their left sleeve with “police” written on the insignia and indicating their unit.<sup>475</sup> They were issued weapons, bullet-proof vests, ammunition and hand grenades.<sup>476</sup> The Company Commander, his deputy and the platoon commander carried Motorolas.<sup>477</sup>

**Resubordination and coordination between MUP and VRS units in the field.**

207. When the Special Police Brigade was ordered through its command to go to a particular area to fulfil an assignment, the order would state that the Brigade unit would be resubordinated to the VRS and that the Brigade forces would be performing specific tasks with the VRS.<sup>478</sup> Once in the field, the Brigade forces would cooperate with the VRS members into whose area of responsibility the Brigade forces had been deployed, and the local VRS forces would support the Brigade forces logistically, with ammunition and food, for example.<sup>479</sup> Although the Brigade forces would be subordinated to the VRS

<sup>468</sup> STANOJEVIĆ, T.12867, 12903-12904; ZARIĆ, T.26910; FILIPOVIĆ, T.26982.

<sup>469</sup> STANOJEVIĆ, T.12867; ZARIĆ, T.26908, 26910.

<sup>470</sup> ZARIĆ, T.26908.

<sup>471</sup> ZARIĆ, T.26908; Exh. 5D00578, List of First Zvornik PJP Company members.

<sup>472</sup> [REDACTED]; Exh. 4D00062; JANKOVIĆ, T.27361.

<sup>473</sup> STANOJEVIĆ, T.12867-12868; [REDACTED].

<sup>474</sup> STANOJEVIĆ, T.12868.

<sup>475</sup> STANOJEVIĆ, T.12869; ZARIĆ, T.26910, 26940; FILIPOVIĆ, T.26982-26983, 27010-27011; JANKOVIĆ, T.27350.

<sup>476</sup> STANOJEVIĆ, T.12869.

<sup>477</sup> FILIPOVIĆ, T.26983; JANKOVIĆ, T.27351.

<sup>478</sup> Exh. 4DP00725, Law on the Implementation of the Law on Ministries During an Imminent Threat of War or a State of War, 29 November 1994, p.12, para.14 (English); ĐURIĆ, T.10907; SAVČIĆ, T.15288.

<sup>479</sup> ĐURIĆ, T.10907; [REDACTED] PW-160, T.8694-8695; FILIPOVIĆ, T.26984; Exh. 4D00087, Drina Corps Request for food provisions for MUP monitoring the Srebrenica and Bratunac areas, sent to the Main Staff Rear Command Post, 15 July 1995, type-signed by Col. Ljubo Šobot; BUTLER, T.19667-19670.

unit in whose area of responsibility the Brigade forces were operating, the Brigade forces would retain their chain of command and could not be split up.<sup>480</sup>

208. General Novica Simić encapsulated how resubordination of MUP units worked in practice, stating, “when they come into my zone, they are resubordinated to me; that is, my command, bearing in mind that the police have their own commander. But he coordinates his activities with me . . . the Main Staff does not command police units; the Minister of the Interior does. This unit came under the approval of the Minister of the Interior to help my units at Majeвица. They cooperate with us in the direction that I determine, but when they come and when they return, as well as their line of command, is not within my purview. It is up to me only to incorporate them into combat activities, and I - it is up to me to supply them with food, ammunition, and band aid, et cetera.”<sup>481</sup>

209. Like the Special Police Brigade, PJP units were subordinated to the VRS unit in whose area of responsibility the PJP units were operating, and relied upon the VRS unit to which the PJP was resubordinated for logistical support.<sup>482</sup> PJP and Special Police Brigade units often went into the field together, and the commander of such joint combat groups would be from the Special Police Brigade.<sup>483</sup> However, the Special Police Brigade and PJP units retained their internal chains of command and could not issue orders to each other.<sup>484</sup>

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<sup>480</sup> Exh. P0008, Order from Pres. Karadžić to VRS Main Staff regarding deployment of MUP forces, 22 April 1995.

<sup>481</sup> N. SIMIĆ, T.28544-28545.

<sup>482</sup> STANOJEVIĆ, T.12873; JANKOVIĆ, T.27351.

<sup>483</sup> STANOJEVIĆ, T.12904.

<sup>484</sup> JANKOVIĆ, T.27349.

**(III) THE JOINT CRIMINAL ENTERPRISES TO FORCIBLY TRANSFER OR DEPORT THE MUSLIM POPULATIONS OF SREBRENICA AND ŽEPA AND MURDER THE ABLE-BODIED MEN OF SREBRENICA**

**(C) LEGAL ELEMENTS**

210. As outlined below in detail at paragraphs 1200-1210, the elements of a Joint Criminal Enterprise (“JCE”) are:

- a) A plurality of persons;<sup>485</sup>
- b) The existence of a common design, plan or purpose which amounts to or involves the commission of a crime provided for in the Statute;<sup>486</sup>
- c) Each Accused must participate in the common design, plan or purpose involving the perpetration of a crime;<sup>487</sup> and
- d) The Accused must share the intent to effect the common design, plan or purpose (**JCE I**)<sup>488</sup> or it must have been “natural and foreseeable” that such a crime might be perpetrated by some member of the group and the Accused knew of and willingly took that risk (**JCE III**).<sup>489</sup>

211. As demonstrated below, each of the two JCE’s charged in the Indictment had a plurality of persons, a common criminal purpose, the participation of each Accused in those common purposes and the requisite intent on the part of each Accused. The participation and intent of each Accused is discussed in further detail in the Accused-specific liability sections of this Brief.

**(D) THE JOINT CRIMINAL ENTERPRISE TO FORCIBLY TRANSFER OR DEPORT THE BOSNIAN MUSLIM POPULATION OF SREBRENICA AND ŽEPA**

**(xxiii) Goals of the RS and the VRS regarding the Srebrenica and Žepa enclaves.**

212. As outlined above at paras. 38-44, from at least May 1992, one of the strategic goals of the RS and VRS leadership was to remove the Muslim population of eastern Bosnia. In November 1992, this goal was explicitly restated in Operational Directive 4 and Drina Corps Order 2-126 and in early 1993, elements of the VRS including Zvornik Brigade units led by Vinko **PANDUREVIĆ** removed the Muslim civilian population from large areas of eastern Bosnia including Kamenica, Cerska and Konjević Polje and,

<sup>485</sup> *Stakić* AJ para. 64; *Tadić* AJ, para. 227.

<sup>486</sup> *Stakić* AJ, para. 64. *See also* *Brdanin* AJ, para. 418; *Kvočka* AJ, paras 115-119.

<sup>487</sup> *Stakić* AJ para. 64; *Tadić* AJ, para. 227.

<sup>488</sup> *Brdanin* AJ, para. 365; *Kvočka* AJ, paras 82-83; *Stakić* AJ para. 65; *Tadić* AJ, para. 196; *Vasiljević* AJ, para. 97.

<sup>489</sup> *Krstić* TJ, para. 613; *Kvočka* AJ, para. 86, *Stakić* AJ, para. 65.

but for the timely intervention of UN General Phillipe Morillon, very nearly succeeded in removing the Muslim population from the entire Podrinje region.

213. On 8 March 1995, RS Pres. Radovan Karadžić issued Directive for Further Operations No. 7 (“Directive 7”).<sup>490</sup> In this Directive, Karadžić directed the VRS (specifically the Drina Corps) to:

[C]omplete the physical separation of the Srebrenica and Žepa enclaves as soon as possible, preventing even communication between individuals between 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 or Žepa.<sup>491</sup>

214. This Directive was a clear order to deprive the Muslim population of Srebrenica and Žepa of the necessities for survival and to create a humanitarian disaster that would force the Bosnian Muslim population to leave Srebrenica and Žepa in order to survive.

**(xxiv) Limiting UNPROFOR’s logistics supply and restricting aid to the Bosnian Muslims in order to create conditions for the elimination of the enclaves.**

215. In order to create these intolerable conditions that would force the Bosnia Muslim population from the eastern enclaves, Directive 7 also contained specific instructions that directed the VRS as follows:

The relevant State and military organs responsible for work with UNPROFOR and humanitarian organisations shall, through the planned and unobtrusively restrictive issuing of permits, reduce and limit the logistics support of UNPROFOR to the enclaves and the supply of material resources to the Bosnian Muslim population, making them dependent on our good will while at the same time avoiding condemnation by the international community and international public opinion.<sup>492</sup>

216. Thus, in addition to the shelling and sniping of the Bosnian Muslim population from outside the enclave, the VRS also made life unbearable for the Bosnian Muslim population and operationally untenable for DutchBat forces by deliberately restricting humanitarian aid and DutchBat resupply convoys pursuant to Directive 7. From March 1995 through July 1995, the VRS deliberately restricted the delivery of supplies, materials and men to the UNPROFOR units in the Srebrenica and Žepa enclaves, which severely eroded UNPROFOR’s ability to function effectively.<sup>493</sup> During this period, the VRS also deliberately 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 the Bosnian Muslims and remove them.

<sup>490</sup> Exh. P00005, RS Armed Forces Supreme Command Ref. no. 2/2-11, Directive for Further Operations No. 7, 8 March 1995 (ERN: 0082-3159-0082-3182 (BCS); 0081-7121-0081-7135 (Eng)).

<sup>491</sup> Exh. P00005, p.10 (English).

<sup>492</sup> Exh. P00005, p.14 (English).

<sup>493</sup> BOERING, T.1891-1906; VAN DUIJN, T.2260-2263; FRANKEN, T.2445-2452; KOSTER, T.3033-3035; RUTTEN T.4807-4808; NICOLAI, T.18452-18459. *See also* Exh. P02956, UNPROFOR Sector Sarajevo Weekly Situation Report of Civil Affairs Officer David Harland, 3 June 1995 (ERN: 0327-9228-0327-9232).



217. Main Staff officers worked cooperatively in implementing the VRS restrictions on resupply convoys; as the documents and testimony clear show, Generals Mladić, **GVERO**, **MILETIĆ**, Tolimir and other Main Staff officers jointly participated in the effort to restrict supplies to UNPROFOR and aid to the Bosnian Muslim population of the Srebrenica and Žepa enclaves, as will be described *infra*.

**The convoy approval process.**

218. When DutchBat needed to schedule a resupply convoy, it would submit a form listing its resupply requirements up its chain of command to UNPROFOR's Sector Northeast in Tuzla, which would forward it to the UNPROFOR logistics base in Zagreb. The resupply request would then be faxed to the UNMO office in Pale, which would then fax the request to the Main Staff in the Crna Rijeka command post.<sup>494</sup>

219. At the Main Staff, a Main Staff officer, typically Colonel Miloš Đurđić, would take the faxed request and submit a proposal to Gen. Mladić or Gen. Milovanović for their decision as to whether the requested resupply convoys should be approved.<sup>495</sup> Gen. Mladić or Gen. Milovanović would review the fax and indicate their approval or denial, or send it on to one of the Main Staff Assistant Commanders such as Gen. **GVERO** or Tolimir, for further action; once the final decision was made, the corresponding notifications and directions to the subordinate units were drafted by Col. Đurđić or Pandić and approved and signed by Gen. **MILETIĆ**.<sup>496</sup>

220. A June 1995 UNPROFOR convoy approval request is illustrative. According to the fax header on the request, Gen. Nicolai faxed a convoy request to the Main Staff on or about 20 June 1995.<sup>497</sup> Gen. Ljubomir Obradović, who served as Main Staff Chief of Operations under Gen. **MILETIĆ**, identified Gen. Mladić's initials and his notation, "Yes," on the request, as well as Gen. Tolimir's initials and an instruction from Col. Đurđić to Capt. Novacković to urgently notify the checkpoints about the convoy.<sup>498</sup> Obradović testified that Mladić's notations signify "his approval to whoever is processing

<sup>494</sup> FRANKEN, T.2442-2444; KOSTER, T.3033-3034; NICOLAI, T.18451-18453, 18456; KRALJ, T.29258-29260; OBRADOVIĆ, T.28263-28264. Some UNPROFOR officers were under the impression that the VRS was in fact headquartered in Pale. NICOLAI, T.18450-18451; KOSTER, T.3034, 3100; BOERING, T.2031.

<sup>495</sup> OBRADOVIĆ, T.28409-28410; 28464-28645; KRALJ, T.29258-29259.

<sup>496</sup> OBRADOVIĆ, T.28263-28264; 28417-28418; 28464-28465.

<sup>497</sup> Exh. 5D00884, UNPROFOR Convoy approval request to VRS Main Staff, June 1995, signed by Maj. Gen. C.H. Nicolai.

<sup>498</sup> Exh. 5D00884 and Exh. 5DIC00235 (marked version by Obradović, circling initials and notation); OBRADOVIĆ, T.28256-28258, 28402-28408.

this document, and that is Colonel Đurđić, indicating that this is approved and that he can start drafting the document.”<sup>499</sup>

221. Obradović further testified that as head of the Operations and Training Administration, **MILETIĆ** was involved in this process.<sup>500</sup> Specifically, the official Main Staff notification to the Drina Corps and Sarajevo-Romanija Corps informing the corps of which convoys have been approved and which have been denied in response to Nicolai’s request, was approved and signed off on by **MILETIĆ**, and includes the instruction:

The movement of the convoys under items 5 and 6 above, which has been approved conditionally, should be specially controlled by teams at checkpoints and liaison officers of the Drina Corps Command. Before they enter the territory of Republika Srpska on their return from Zagreb, check the cargo in the six lorries. It has been agreed that the six lorries should bring humanitarian aid to Sarajevo /?to the/ Muslims. If the lorries come to Zvornik without the said cargo, do not let them go to Sarajevo or Srebrenica. In other words, when the convoy arrives in Zvornik, check it, establish what it is carrying and inform the commander, after which instructions regarding continuation of their journey will be given. Inform about this only the men who deal with such issues and use the details for internal purposes only, do not reveal them to third persons.<sup>501</sup>

222. Thus, **MILETIĆ** translated the orders he received by Mladić regarding the request into very specific and detailed orders which could be understood and followed by the subordinate units that would come into actual contact with the convoys at the checkpoints.<sup>502</sup>

223. Similar faxed UNPROFOR convoy requests reveal notations showing the active participation of Mladić and his Main Staff Assistant Commanders and officers, including Gen. **GVERO** and Gen. Tolimir, in the convoy approval process, both before and after Directive 7 was issued. For example, on a 5 January 1995 UNPROFOR request for a helicopter mission, Gen. Mladić wrote, “**GVERO** and Tošo!”<sup>503</sup> Slavko Kralj, another Main Staff officer, identified Tolimir’s initials and “Yes” in Tolimir’s handwriting next to them.<sup>504</sup> Above Mladić’s notation “**GVERO** and Tošo!” is written, “No – They should go to Kiseljak, and from there be car;” however, Kralj did not recognize these initials or handwriting.

<sup>499</sup> OBRADOVIĆ, T.28257.

<sup>500</sup> OBRADOVIĆ, T.28405, 28421.

<sup>501</sup> Exh. P02554, Main Staff number 06/18-260, notification of convoy approvals/denials to Drina Corps Command, type-signed by Col. Radivoje **MILETIĆ**, Standing in for the Chief of Staff, 1 July 1995.

<sup>502</sup> OBRADOVIĆ, T.28416-28417.

<sup>503</sup> Exh. P04036, Main Staff Strictly confidential no. 06/17-13, notification of convoy approval/denial, type-signed by Maj. Gen. Manojlo Milovanović, 6 January 1995 (as noted above, Tolimir’s nickname is Tošo). KRALJ, T.29331-29332.

<sup>504</sup> KRALJ, T.29332.

224. Once the Main Staff made the final determination concerning the convoy request, it then sent a response to UNPROFOR detailing whether the requests had been approved or declined, and sent a corresponding report to the relevant corps describing those convoys which were allowed to pass and those which were to be blocked.<sup>505</sup> The UNPROFOR responses, and the reports to the Corps, were typically sent under the signature block of General **MILETIĆ**, Standing in for the Chief of Staff. While the State Committee became the body that issued permits for the movement of convoys and employees of the UN and humanitarian organisations, the VRS continued to control the convoys and make the ultimate decisions about what was permitted to be transported on the convoy; and how many vehicles were permitted in the convoy.

225. In fact, Colonel Đurđić represented the Main Staff as a member of the RS State Committee for Cooperation with United Nations and International Humanitarian Organisations (“State Committee”), which was headed by Deputy RS President Nikola Koljević.<sup>506</sup> The State Committee was created shortly after Directive 7 was issued.<sup>507</sup> Also involved in the approval process was a sub-body of the State Committee, the Coordinating Body for Humanitarian Aid, which was headed by Dragan Kekić.<sup>508</sup> The role of the Coordinating Body was to provide “appropriate approvals and proposals to the Main Staff to consider convoys of humanitarian organisations in the part dealing with the transport of such supplies which might be used by the other side’s military purposes.”<sup>509</sup> Thus, the formation of the State Committee did nothing to alter the ultimate power always held by the VRS to approve or deny any convoy it saw fit to restrict. Indeed, while the new State Committee may have been the initial approving authority, the documents and testimony make clear that the Main Staff retained the final say over whether a particular

<sup>505</sup> See, e.g. GŠ VRS report (06/18-260) addressed to the Sarajevo Romanija Corps and Drina Corps Commands, regarding humanitarian aid convoys, 1 July 1995 (ERN: 0438-0610-0438-0611).

<sup>506</sup> Exh. 6D00007, Official Gazette of Republika Srpska, Decision on Forming a State Committee for Cooperation with United Nations and International Humanitarian Organisations, 14 March 1995, p.3, Article 2 (English) (appointing Col. Miloš Đurđić as coordinator for the Committee’s relations with the Ministry of Defence and the Main Staff); KRALJ, T.29295; SKRBIĆ, T.15542.

<sup>507</sup> Exh. 6D00007, Official RS Gazette, Decision on Forming a State Committee for Cooperation with United Nations and International Humanitarian Organisations, 14 March 1995; MILOVANOVIĆ, T.12278; Exh. 5D00806, Main Staff Confidential no. 17/231-817, to the Drina Corps Command, Order ensuring the functioning of humanitarian aid, type-signed by Maj. Gen. Manojlo Milovanović, 30 December 1993 (noting the recent formation of the Main Staff coordinating body for humanitarian aid).

<sup>508</sup> Exh. 5D00605, Main Staff Strictly confidential number: 09/23-203, Order regarding the movement of humanitarian aid across lines of separation, type-signed by Lt. Gen. Manojlo Milovanović, 31 August 1994, p.2, Order item 4 (English) (ordering that only types and quantities of goods approved and specified by the Main Staff are to be let through and that unapproved types and quantities should be prevented from entering “in every possible way;” those who fail to implement the order shall be exposed to dismissal); KRALJ, T.29233-29234.

<sup>509</sup> KRALJ, T.29294-29295.

convoy went through; and if so, when it could pass; with what cargo it could pass; and in how many vehicles it could pass.<sup>510</sup>

226. Some illustrative examples of how the Main Staff notification of convoy approvals/denials worked in practice include:

- a 10 March 1995 Main Staff notification of convoy approvals/denials, stating that “We reduced the plan for enclaves in number of vehicles and the transport of fuel is not permitted. Despite the information on restrictions we submitted to the Coordinating Body for HP /Humanitarian Aid/ we expect that UNHCR will try to bring fuel into the enclaves, which has to be prevented”;<sup>511</sup>
- a 10 March 1995 Main Staff notification of convoy approvals/denials, denying, *inter alia*, spare parts for Žepa; various foodstuffs for Goražde; diesel, dry rations, frozen and cold food, water trailer, prefab huts, spare parts and work clothes; and with instructions in last paragraph: “Give information on the convoys that were not approved to checkpoints and do not relate them to third persons or give any explanation to UNPROFOR representatives (as if you if not receive it). If a convoy appears at a crossing, return it to the place of origin”;<sup>512</sup>
- a 7 April 1995 Main Staff notification of convoy approvals/denials, specifying convoys and humanitarian aid items it did not approve, including beds, food, clothes, medicines, school supplies, hospital beds, an x-ray machine, light fittings, nails, water trailer and cleaning goods.<sup>513</sup>
- a 12 June 1995 Main Staff notification of convoy approvals/denials, remarking that “we did not authorise 60 l. of oil for saws” and “We did not authorise one truck with school supplies for Srebrenica on 13 June 1995”;<sup>514</sup>
- and a 30 June 1995 Main Staff notification of convoy approvals/denials, stating that “we agree with realisation of authorisation of the Coordinating Body for Humanitarian Aid to Republika Srpska,” but noting that “We did not approve one more truck within this convoy with school supplies,” and that “In a weekly plan the following convoys were not approved: 1 July for Goražde and Srebrenica, 2 July for Goražde, 5 July for Srebrenica and 6 July for Goražde”.<sup>515</sup>

<sup>510</sup> BUTLER, T.19713, 20509; Exh. P02667, Drina Corps Command, Strictly confidential no.: 01/5-373, Order defining tasks from the briefing and urging their completion, signed by Maj. Gen. Milenko Živanović, 24 July 1994 (prohibiting passage of items not approved by Main Staff and UNPROFOR movements not approved by Main Staff); Exh. 5D00846, Main Staff Order, type-signed by Lt. Gen. Ratko Mladić, 25 November 1994 (Order to blockade convoys; to hide the fact that it is a blockade; and to report immediately to Main Staff by secure means as soon as convoy is stopped); Exh. 5D01312, Main Staff Number 06/18-112, notification of UNPROFOR convoy approvals/denials, type-signed by Maj. Gen. Radivoje MILETIĆ, Standing in for the Chief of Staff, signature by Radoslav Pandić for (za) MILETIĆ, 10 March 1995 (“Give information on the convoys that were not approved to checkpoints and do not relate them to third persons or give any explanation to UNPROFOR representatives (as if you if not receive it). If a convoy appears at a crossing, return it to the place of origin.”); Exh. P03924, 31 March 1995 list of convoy approvals signed by MILETIĆ “for/za” Milovanović, with initials and notations by Mladić, “No.” OBRADOVIĆ, T.28421-28423.

<sup>511</sup> Exh. P04055, Main Staff No. 06/20-104, type-signed by Col. Radivoje MILETIĆ, Standing in for the Chief of Staff, 10 March 1995.

<sup>512</sup> Exh. 5D01312, Main Staff Number 06/18-112, type-signed by Maj. Gen. Radivoje MILETIĆ, Standing in for the Chief of Staff, signature by Radoslav Pandić for (za) MILETIĆ, 10 March 1995. OBRADOVIĆ, T.28266-28267.

<sup>513</sup> Exh. P02687, Main Staff No. 06/18-107, type-signed by Lt. Gen. Manojlo Milovanović, 7 April 1995. See also Exh. P02689, Main Staff Number 07/20-140, notification of convoy approvals/denials, type-signed by Lt. Gen. Manojlo Milovanović, 7 April 1995 (denying beef, salt, oil and clapboards for Srebrenica on 8, 9, 10, 11, 12 and 13 April 1995 and approving heating oil only if Serbs got theirs).

<sup>514</sup> Exh. 5D01429, Main Staff No. 06/20-225, type-signed by Maj. Gen. Radivoje MILETIĆ, Standing in for the Chief of Staff, 12 June 1995.

<sup>515</sup> Exh. P04062, Main Staff No. 06/20-248, type-signed by Maj. Gen. Radivoje MILETIĆ, Standing in for the Chief of Staff, 30 June 1995.

227. A single UN code cable from June 1995 captures the essence of the Main Staff's convoy approval process:

Problems with convoys, both logistics and UNHCR, continue in many part of the UNPROFOR AOR. The 56 truck convoy bound for the eastern enclaves arrived in Belgrade yesterday. However, the BSA has cut the number of trucks from 56 to 23, has cut the amount of food by 50% and the amount of fuel by 70%, has rejected the passage of two ambulances needed for UN troops, and has insisted that those personnel travelling with the convoy to the enclaves must also depart with it, though no one else may, in other words preventing any troop rotation or reinforcement.<sup>516</sup>

As described below, as a result of this process, the already poor living conditions inside the enclaves deteriorated deeply, with a lack of basic amenities, food and medicine for the Bosnian Muslim populations, as well as a severe shortage of essential logistical support for the DutchBat soldiers, as described below.

### **Implementation by the Brigades**

228. The convoys were checked by the VRS in Zvornik, with information about convoys reported back to the Drina Corps in the Daily Combat Report.<sup>517</sup>

229. The final checkpoint was at Yellow Bridge, which was manned by a member of the Bratunac Brigade surnamed "Jović," whose nickname was "Jovo."<sup>518</sup> There the convoys would be stopped and checked before entering the enclave, with Momir Nikolić rigorously enforcing the Main Staff convoy policy on the ground.<sup>519</sup> [REDACTED] PW-138 also testified that all the convoys entering Srebrenica were checked by the Bratunac Brigade MP Platoon and anything not on the papers was not allowed to pass.<sup>520</sup>

### **VRS restrictions on UNPROFOR resupply convoys.**

230. The DutchBat peacekeepers were entirely dependent upon the VRS for the permission of convoys.<sup>521</sup> The restrictions imposed by the VRS ranged from categorical denial of certain items, such as weapons, ammunition and spare parts; to limiting the number of vehicles in a convoy; to denying certain items in a convoy.<sup>522</sup> Although resupply convoys were subject to VRS restrictions from the time DutchBat III first

<sup>516</sup> Exh. P04138, Code Cable from Akashi to Annan, 20 June 1995.

<sup>517</sup> Exh. 5D00320 (2 April 1995 Zvornik Brigade Daily Combat Report re: confiscating steriliser from UNPROFOR convoy); Exh. 5D00321 (4 April 1995 Zvornik Brigade Daily Combat Report re: confiscating goods from MSF vehicle); BUTLER, T.19738-19739 (no military utility for these items); PANDUREVIĆ, T.30809, 32141-32142; [REDACTED].

<sup>518</sup> FRANKEN, T. 2444, 2678; RUTTEN, T.4962.

<sup>519</sup> Exh. P02678, Main Staff Strictly confidential no. 06/20-133, 2 April 1995 (bearing handwritten instruction from Momir Nikolić: "Not a single convoy or ICRC team or MSF may enter Srebrenica without my permission and presence. M. Nikolić"). See also Krstić testimony of [REDACTED] (PW-114), admitted pursuant to Rule 92ter, p.1525 (Nikolić would be present when DutchBat had to consult about the convoys of food not being allowed through); VAN DUIJN, T.2373.

<sup>520</sup> [REDACTED] PW-138, T. 3797:23 – 3798:2.

<sup>521</sup> NICOLAI, T.18457.

<sup>522</sup> NICOLAI, T.18453; FRANKEN, T.2443-2444, KOSTER, T.3034-3035.

arrived in the enclave in January 1995, from March and April 1995 on, the Serbs approved fewer and fewer convoys.<sup>523</sup> For example, fresh food and rations were also significantly restricted from the start of March, so much so that by July, DutchBat had been subsisting on combat rations for four months, which caused stomach problems for the peacekeepers owing to the high level of preservatives in the canned food.<sup>524</sup> In addition, when the convoys did come, they were irregular in terms of when they would come and what they would be carrying.<sup>525</sup> Likewise in Žepa, as a consequence of the VRS resupply restrictions, the Ukrainian peacekeepers in Žepa did not have enough fuel to run their generators, ran out of food and had to subsist on dry rations, which they had to reduce to two meals a day.<sup>526</sup>

### *Fuel Restrictions*

231. The VRS particularly restricted fuel, permitting only one fuel convoy between February and June 1995.<sup>527</sup> Lt. Col. Eelco Koster, then a Lieutenant and the DutchBat Logistics Officer, testified that “On every logistics convoy that we requested, the quantity of fuel that we desired to receive was always indicated, and it was also always refused.”<sup>528</sup> DutchBat’s daily fuel requirement was between 8,000 to 9,000 litres; by July, because of the VRS restrictions, they were minimizing usage to 250 litres a day.<sup>529</sup> When no fuel was delivered after February, DutchBat was forced to use UNHCR’s fuel.<sup>530</sup>

232. On the ground, the lack of fuel meant that DutchBat could no longer carry out motorized patrols, which decreased DutchBat’s presence and the information it could gather.<sup>531</sup> Resupply of the OPs was also hindered by the lack of fuel. Since APCs could no longer be used, the OPs had to be resupplied on foot; those closer to the base were resupplied by pack horse and by a time-consuming four or five hour patrol, whereas OPs further away were re-supplied even less.<sup>532</sup> This meant, ironically, that DutchBat was not in a position adequately to counter ABiH actions towards Serb targets outside the

<sup>523</sup> VAN DUIJN, T.2260-2261, 2322-2323, 2322-2323, 2371; BOERING, T.1893-1894; RUTTEN, T.4807-4808.

<sup>524</sup> VAN DUIJN, T.2260-2262; KOSTER, T.2035.

<sup>525</sup> FRANKEN, T.2658; KOSTER, T.3035.

<sup>526</sup> Exh. P02956, UNPROFOR Sector Sarajevo Weekly Situation Report of Civil Affairs Officer David Harland, 3 June 1995, p.3 (English).

<sup>527</sup> NICOLAI, T.18456; FRANKEN, T.2445.

<sup>528</sup> KOSTER, T.3133, 3034-3035.

<sup>529</sup> FRANKEN, T.2447, 2656-2657.

<sup>530</sup> FRANKEN, T.2638-2639, 2658; KOSTER, T.3097.

<sup>531</sup> NICOLAI, T.18459; VAN DUIJN, T.2261.

<sup>532</sup> VAN DUIJN, T.2261, 2372.

enclave.<sup>533</sup> The lack of fuel also meant that DutchBat had to stop providing medical care through its mobile Red Cross points, to the civilian population of several villages in the Srebrenica enclave.<sup>534</sup> The water purification also required diesel fuel.<sup>535</sup> DutchBat even had to resort to cutting wood to cook and heat the bases and using candles for light.<sup>536</sup>

### *Supply Restrictions*

233. Ammunition and anything pertaining to weapons and weapons systems, spare parts and testing devices were categorically denied by the VRS, as was communications equipment.<sup>537</sup> DutchBat was not allowed any weapons - - including individual service weapons - - into the enclave, so they had to use weapons which had been used by prior peacekeepers in DutchBat I since 1993 and were already in poor condition, wearing quickly owing to their daily exposure to the elements.<sup>538</sup> Because of the VRS restrictions on spare parts, personal weapons not already beyond repair could not be repaired.<sup>539</sup> Moreover, small arms ammunition becomes quickly unusable as it degrades in field conditions, so DutchBat had little usable ammunition by July 1995.<sup>540</sup>

234. With respect to the largest weapons DutchBat had available, such as anti-tank systems and mortars the restrictions on the testing systems and spare parts required to keep them serviceable rendered these weapons unusable as well.<sup>541</sup>

235. DutchBat's medical supplies were also at the lowest level acceptable.<sup>542</sup>

236. In Žepa, the Ukrainian Company ("Ukrcoy") peacekeepers faced similar problems.<sup>543</sup>

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<sup>533</sup> NICOLAI, T.18531, 18560-61.

<sup>534</sup> FRANKEN, T.2643.

<sup>535</sup> EGBERS, T.2919.

<sup>536</sup> NICOLAI, T.18459; P04126, Code Cable from Akashi to Annan, 18 April 1995.

<sup>537</sup> FRANKEN, T.2443-2444; 2447-2448.

<sup>538</sup> VAN DUIJN, T. 2262, 2374.

<sup>539</sup> VAN DUIJN, T.2262-2263.

<sup>540</sup> FRANKEN, T.2449, 2666 (should have had 450 rounds per soldier, but had only 120 when they entered); VAN DUIJN, T.2262 (old bullets fell out of casings); RUTTEN, T.5237-5238 (ammunition was too old to use and not replaced).

<sup>541</sup> FRANKEN, T.2667 (could not test TOW anti-tank weapons systems; rockets for TOW and Dragon anti-tank systems and mortars made useless by moisture and could not be replaced; down to 15% of mortar ammo and 75% of that was unusable anymore); VAN DUIJN, T.2262; 2448-2449 (operational readiness of TOW system was zero).

<sup>542</sup> FRANKEN, T.2643.

<sup>543</sup> Exh. P04132, Sector Sarajevo SitRep from 20H00B 31<sup>st</sup> of May to 20H00B 01<sup>st</sup> of June 1995, ("The most critical situation with the food is in Gorazde and Žepa Ukrcoys. Due to the blockade of these pockets by BSA there is no opportunity to resupply them.")

### *Leave Restrictions*

237. Beginning in the end of March or April, the VRS also refused to permit DutchBat soldiers to rotate back into the enclave following their leave, thereby reducing the number of the peacekeepers in the Srebrenica enclave from approximately 600 to 350.<sup>544</sup> The VRS applied the same leave restrictions on the United Nations Military Observers in the enclave, reducing the number of UNMOs in the enclave from six to three.<sup>545</sup>

### **VRS restrictions on NGO resupply convoys.**

238. Non-governmental organizations such as UNHCR and MSF were also subject to the VRS convoy-approval process and also experienced tightening restrictions in the first quarter of 1995.<sup>546</sup> According to information provided by UNHCR representatives in Srebrenica to UNMO Col. Joseph Kingori, the UNHCR planned three convoys a week to supply the enclave; however, “due to the persistence Šić refusal by the BSA to allow into the enclave these convoys an average of one arrives per week.”<sup>547</sup> According to the UNHCR, even had the planned three convoys per week been permitted by the VRS, “this would have served barely about 65% of the needs of the entire population. However, with the present rate of delivery, less than 25% of the needs is being met.”<sup>548</sup>

239. When convoys did arrive in Žepa, the Serbs took a certain amount of goods from all of them.<sup>549</sup>

### **The effect of the convoy restrictions on DutchBat and the civilian population.**

<sup>544</sup> FRANKEN, T.2449-2450 (318 down to 147 combat-ready soldiers by July); BOERING, T.1872-1873, 2157 (60% manning strength by July), 2167; NICOLAI, T.18457-58; RUTTEN, T.4960 (leave restricted from April on); KOSTER, T.3134 (Koster on last leave permitted back in in late April); VAN DUIJN, T.2261, 2407; EGBERS, T.2708, 2904

<sup>545</sup> KINGORI, T.19172; Exh. P04138, Code Cable from Akashi to Annan, 20 June 1995 (noting that UNMOs in Srebrenica have not been able to rotate for more than 60 days and repeated requests for their rotation have been refused by the VRS).

<sup>546</sup> BOERING, T.1894 (“These convoys with respect to number of vehicles per convoy and total number of convoys decreased considerably”); FRANKEN, T.2446; RUTTEN, T.4807-4808 (The UNHCR convoys also began decreasing at the end of February and the beginning of March 1995; [REDACTED]; [REDACTED] PW-106, T.3938 (“At the beginning of 1995, the humanitarian situation got worse. All of a sudden, lots of people were forced to start begging for food” and going through minefields to reach Žepa, which had more food).

<sup>547</sup> Exh. P00493, UNMO Report, “Food Situation in Srebrenica,” 8 July 1995; Exh. P04136, Code Cable from Akashi to Annan, 14 June 1995 (“None of the UNHCR convoys to the enclaves have received clearances. The Srebrenica convoy has been cancelled. The Sarajevo convoy has not left Zenica. The BSA are demanding a 50-50 share of the aid to which UNHCR will not agree.”); .

<sup>548</sup> Exh. P00493, UNMO Report, “Food Situation in Srebrenica,” 8 July 1995.

<sup>549</sup> DŽEBO, T.9685. See also Exh. P02496, Command of the 1<sup>st</sup> Podrinje Light Infantry Brigade to the Main Staff, Strictly confidential no.: 02-640/95, 23 June 1995. type-signed by Brigade Commander Maj. Rajko Kušić, noting that his Brigade took half of the fuel from UNPROFOR fuel resupply convoy for its own needs.



240. As the VRS refused more and more DutchBat and humanitarian aid convoys permission and supplies were dwindling, UNPROFOR was forced to develop a plan to air-lift the supplies, though it was never realised.<sup>550</sup> Consequently, the situation became critical.

*Effect on DutchBat's operational capability.*

241. By June of 1995, DutchBat's operational usefulness was seriously compromised.<sup>551</sup> DutchBat Deputy Commander Robert Franken testified that DutchBat's operational effectiveness was severely compromised, as they had to patrol on foot; chop wood for heat; could not keep medical dressing station operational; couldn't purify water; and had no electricity.<sup>552</sup> The DutchBat commander in Srebrenica, Col. Karremans, communicated the acute effects of these restrictions on DutchBat's ability to carry out its mission.<sup>553</sup> Naturally, the restrictions also reduced DutchBat's morale.<sup>554</sup>

*Effect on the civilian population.*

242. The VRS "convoy terror"<sup>555</sup> also had the intended effect on the civilian populations, creating a desperate humanitarian situation in the Srebrenica and Žepa enclaves.

243. First, there became simply not enough food in the Srebrenica.<sup>556</sup> In Srebrenica, the UNHCR food convoys were "the main lifeline for the whole enclave."<sup>557</sup> DutchBat peacekeepers who escorted the UNHCR convoys from OP Papa to the food warehouse in Srebrenica<sup>558</sup> became aware when the foodstocks were running out.<sup>559</sup> The civilian population became so desperate that they regularly went through DutchBat's dumped garbage, looking for anything edible.<sup>560</sup>

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<sup>550</sup> NICOLAI, T.18454-18456.

<sup>551</sup> NICOLAI, T.18459; EGBERS, T.2904 ("We had no fresh ammunition. We had no food delivered. We had no diesel delivered. So if you ask me whether we could ever - - we could carry out our mission, it was no, because we couldn't get stuff inside it.").

<sup>552</sup> FRANKEN, T.2447.

<sup>553</sup> NICOLAI, T.18459; FRANKEN, T.2455.

<sup>554</sup> KOSTER, T.3125-3126.

<sup>555</sup> FRANKEN, T.2450.

<sup>556</sup> RUTTEN, Testimony in *Krstić*, admitted pursuant to Rule 92ter, p.2106.

<sup>557</sup> KINGORI, T.19195, 19198; [REDACTED] PW-106, T.3938 (when asked how dependent he was personally on the humanitarian aid, PW-106 responded, "Let me put it this way: A hundred per cent. I depended on that a hundred per cent").

<sup>558</sup> FRANKEN, T.2446; RUTTEN, T.5228-5229;

<sup>559</sup> RUTTEN, T.4807, 5234.

<sup>560</sup> RUTTEN, Testimony in *Krstić*, admitted pursuant to Rule 92ter, pp.2105-2107; P02183 (photo taken by Rutten of refugees going through garbage pile).

244. In Žepa, humanitarian aid dwindled prior to the attack on Žepa and stopped altogether about a month before attack.<sup>561</sup> During the same time, people from Srebrenica began arriving in Žepa begging for food.<sup>562</sup> By the time the *Krivaja-95* attack began, first people to die of starvation in Srebrenica had already been registered.<sup>563</sup> UN Civil Affairs Officer Edward Joseph, a veteran of many conflict zones, was struck by the thin and gaunt appearances both of the Srebrenica women he saw in Tuzla, as well as the women he saw in Žepa.<sup>564</sup>

245. Second, medical care and supplies were insufficient; while sometimes a convoy did get through, the convoy restrictions were a problem for both DutchBat and the hospital in Srebrenica getting drug supplies.<sup>565</sup> These shortages would have tragic consequences during the *Krivaja-95* attack.<sup>566</sup>

**The Serb military and political leadership were unified on convoy restrictions.**

246. The increasingly tighter “squeezing”<sup>567</sup> of the enclaves by the VRS through the spring of 1995 was the subject of frequent complaints by the UN to the Bosnian Serb military and political leadership. When General Smith visited Srebrenica for the first time in early March 1995, shortages resulting from the VRS restrictions were already being felt within DutchBat and by NGOs like UNHCR and MSF.<sup>568</sup> General Mladić informed Smith that he had approved convoys to Srebrenica and Žepa, which confirmed the view held by Smith and his predecessor, General Rose, “that Mladić was very much in charge and that these restrictions and orders were centrally controlled and controlled by him and his headquarters.”<sup>569</sup>

247. In a meeting with Smith on 7 March 1995, Mladić stated that the Muslims had gained too much territory in the enclaves, pointing out the significance to the VRS of the east-west road near DutchBat OP Echo at Zeleni Jadar and indicating on a map the

<sup>561</sup> [REDACTED] (PW-155), T.6829; Exh. P02486, OTP Witness Statement of Meho DŽEBO, admitted pursuant to Rule 92ter, p.2, para.3 (English).

<sup>562</sup> [REDACTED]; Exh. P02486, OTP Witness Statement of Meho DŽEBO, p.2, para.3 (English).

<sup>563</sup> Exh. P00432, ABiH 28<sup>th</sup> Infantry Division Combat Report No. 01-163/95, 6 July 1995 (“The situation continues to be exceptionally difficult. The food convoy announced for today has not arrived. Elderly and weak persons are in an exceptionally difficult situation due to starvation. The first people to die of hunger in the area of Srebrenica after the demilitarisation were registered today.”).

<sup>564</sup> JOSEPH, T.14152, 14183.

<sup>565</sup> BOERING, T.1892, [REDACTED]; [REDACTED] PW-106, T.3941-3942, [REDACTED].

<sup>566</sup> Exh. P00510, 11 July UNMO Sitrep (17:30 hours, “The stream of refugees is still coming into the compound of DutchBat . . . DutchBat can’t give much help because their supplies have not been coming in since the end of April. The only medical help that is available is coming from MSF, however that is also not enough for all the wounded people”).

<sup>567</sup> SMITH, T.17472, 17484, 17667.

<sup>568</sup> SMITH, T.17480-17481; Exh. P02933.

<sup>569</sup> SMITH, T.17483.

reduction in size of the enclaves he would seek by attacking them.<sup>570</sup> Mladić told Smith that these concerns had led him to restrict the amount of food, medicine and fuel destined for the enclaves.<sup>571</sup>

248. Like Mladić, the Bosnian Serb political leadership sought to justify the restriction of humanitarian aid. For example, in a 5 April 1995 meeting with Smith, President Karadžić stated that he would not facilitate the movement of humanitarian aid while the Serbs were under international blockade, and that he had information that the enclaves were well-supplied and that supplies were being used to support the ABiH.<sup>572</sup>

249. Indeed, the Bosnian Serb military and political leadership spoke with one voice concerning the restrictions on UN and humanitarian aid resupply convoys. In a 20 April 1995 meeting attended by Karadžić, Koljević, Krajsnik, **GVERO**, Akashi and Smith, Smith complained to **GVERO** about the fuel restrictions, to which **GVERO** replied that he had intelligence that UNPROFOR troops in Srebrenica were supplying the ABiH with fuel, and that **GVERO** further knew that UNPROFOR had sufficient fuel reserves.<sup>573</sup> Ten days later, President Karadžić accused UNPROFOR of providing fuel and supplies to the Muslims in the Eastern enclaves and warned that “you can expect more restrictions.”<sup>574</sup> Again, on 9 May 1995, Karadžić told Smith that Karadžić had been “convinced” by the VRS that the UN had ample fuel reserves in the enclaves and repeated the claim that in Srebrenica the Muslims had built up a large supply of fuel from UN sources.<sup>575</sup> In the same meeting, Karadžić confirmed the Bosnian Serb restrictions on food, mail and leave convoys, characterizing them as their own “resolutions” against the UN.<sup>576</sup> By 21 May 1995, Karadžić described the Eastern enclaves to Smith as “a time bomb about to explode.”<sup>577</sup>

250. Smith understood that the intent of these restrictions was to “neutralize” UNPROFOR and “squeeze” the enclaves,<sup>578</sup> and resupply remained a problem right to the end.<sup>579</sup>

<sup>570</sup> SMITH, T.17483-17485; Exh. P02934.

<sup>571</sup> SMITH, T.17485; Exh. P02934.

<sup>572</sup> SMITH, T.17488-17490; Exh. P02935.

<sup>573</sup> SMITH, T.17492-17493, Exh. P02936.

<sup>574</sup> SMITH, T.17496; Exh. P02937.

<sup>575</sup> SMITH, T.17501; Exh. 6D00163; Exh. P04130, UNPROFOR Weekly Situation Report, Number 118, 8-15 May, dated 15 May 1995, p.4, para.10 (English) (“Serbs allow some UNHCR convoys into the eastern enclaves of Gorazde, Žepa and Srebrenica but continue to deny UNPROFOR resupplies, creating critical conditions for the troops. The Serbs’ contention is that so long as they suffer under international sanctions, they will impose the same predicament on Bosnian area over which they have leverage”).

<sup>576</sup> SMITH, T.17501-17502, Exh. 6D00163.

<sup>577</sup> SMITH, T.17505-17506; Exh. 6D00164.

<sup>578</sup> SMITH, T.17472, 17484, 17490, 17667.

(xxv) **Shelling and sniping of the civilian population.**

251. Also pursuant to Directive 7, continuing in March 1995 through the fall of the enclaves in July 1995, the VRS shelled and sniped various civilian targets in the Srebrenica and Žepa enclaves, as part of the effort to make life for the Bosnian Muslims in the enclaves impossible and thereby remove them.<sup>580</sup>

252. The VRS targeted civilians going about their daily lives,<sup>581</sup> and even inserted a team from the 10<sup>th</sup> Sabotage Detachment through a mine tunnel in order to attack civilians inside the enclave.<sup>582</sup>

253. From May through July, there were more shootings and shelling by the Serbs into the enclave, causing the population to become more insecure.<sup>583</sup> Swedish Shelter refugees withdrew to Srebrenica as a result.<sup>584</sup> From Potočari, DutchBat could see occupied Muslim houses being shelled from VRS positions in Bratunac, which caused the inhabitants to leave for Srebrenica.<sup>585</sup> They also heard this was going on further south.<sup>586</sup> Colonel Boering observed shelling twice in June and heard about other such incidents and received reports of deaths and injuries from the shelling.<sup>587</sup> Tension was mounting in early, mid-June.<sup>588</sup>

254. The VRS also fired at DutchBat more frequently in the months prior to the *Krivaja-95* operation. DutchBat vehicles were targeted as they left the compound.<sup>589</sup> This happened to Boering on several occasions, causing him to have to be assigned a new driver.<sup>590</sup>

255. ABiH reports during this period also confirmed that Muslim civilians had been targeted by Serb snipers. For example, an ABiH 28<sup>th</sup> Division monthly report to the 2<sup>nd</sup> Corps in Tuzla, dated 23 June 1995, noted that on 10 June “the enemy *wounded a civilian*

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<sup>579</sup> SMITH, T.17661.

<sup>580</sup> FRANKEN, T.2440-2441; NICOLAI, T.18461; NIKOLIĆ, T.32965-32967; Exh. P02939 (Smith complaint letter to Mladić about shelling of civilians in the enclaves and targeting of UNPROFOR); [REDACTED] PW-106, T.3939-3940; PALIĆ, T.6911 (shelling of Žepa started again in March 1995 on fringes of Žepa town; then beginning in June 1995, inhabited areas and town centre were shelled, injuring civilians); Exh. P02486, OTP Witness Statement of Meho DŽEBO, admitted pursuant to Rule 92ter, p.2, para.5 (English).

<sup>581</sup> KINGORI, T.19366-19369; NIKOLIĆ, T.32965-32966.

<sup>582</sup> KINGORI, T.19476; Exh. 5D00541; ERDEMOVIĆ, T.10936-10937; NIKOLIĆ, T.32975-32976.

<sup>583</sup> BOERING, T.1895.

<sup>584</sup> BOERING, T.1895, 1898; [REDACTED] PW-106, T.3940.

<sup>585</sup> BOERING, T.1895-1897.

<sup>586</sup> BOERING, T.1895.

<sup>587</sup> BOERING, T.1896.

<sup>588</sup> BOERING, T.2170.

<sup>589</sup> BOERING, T.1897-1898.

<sup>590</sup> BOERING, T.2235-2236.

*from a sniper rifle* in D. Polje, the area of responsibility of the 280<sup>th</sup> Brigade.”<sup>591</sup> Similarly, an ABiH 28<sup>th</sup> Division intelligence report dated 3 July recorded that heavy fire was being directed at civilian targets, and that one woman was killed by sniper fire:

Chetniks are still carrying out reconnaissance in force of our forward defence lines and shooting fiercely with infantry and anti-aircraft weapons at all defence lines of the 28<sup>th</sup> Ground Army Division *and civilian facilities*. Particularly fierce *sniper fire* is coming from the direction of Buljim, trig point 820, Zeleni Jadar and Zalazje area, where *one woman was killed by a sniper bullet yesterday*.<sup>592</sup>

256. During his examination in chief, defence witness Milenko Jevđević claimed that:

I often toured the various front lines in the Drina Corps area of responsibility, and *believe me when I say that I never saw a single soldier who was issued with a sniper rifle ... And we didn't have such rifles at all in our stocks...*<sup>593</sup>

257. Jevđević's evidence that the Drina Corps did not have sniper rifles in its stocks is contradicted by a significant amount of evidence. First, at least 17 members of the Bratunac Brigade were issued with sniper rifles in mid-1994.<sup>594</sup> There is evidence that the Bratunac Brigade had 1,350 sniper bullets in its warehouse as of 30 June 1995;<sup>595</sup> that 1,905 sniper bullets had been received in the period from 1 January to 30 June;<sup>596</sup> and that 555 sniper bullets had been actually issued during this period.<sup>597</sup> 150 of those sniper bullets were used on 18 June 1995,<sup>598</sup> less than three weeks before the VRS attack on the Srebrenica enclave commenced. Given the Bratunac Brigade's receipt and issuance of sniper bullets in 1995, the sniper weapons listed in the Bratunac Brigade's inventory in 1994 were clearly still in use in 1995.

258. Second, on 8 July, the Drina Corps reported to the Main Staff that it had used 1,825 sniper bullets in the month of June;<sup>599</sup> and on 1 September 1995, the Milići Brigade (who was positioned along one side of the Srebrenica enclave) reported having 17 working sniper rifles in its inventory.<sup>600</sup>

<sup>591</sup> Exh. 4D00134, 28 Division ABiH - Monthly Report for the month of June 1995 (emphasis added).

<sup>592</sup> Exh. P04109, ABiH 28th Division intelligence report, signed by Ekrem Salihović, 3 July 1995 (emphasis added).

<sup>593</sup> M.JEVĐEVIĆ, T.29490:23 – 29491:4 (emphasis added). *See also* T.29738:19-25.

<sup>594</sup> Exh. P04091, Bratunac Brigade inventory of sniper rifles, dated 10 July 1994.

<sup>595</sup> Exh. P00230 (same as Exh. 4D00316), Bratunac Brigade Report 433-1, analysis of combat readiness in the first half of 1995, signed by Col. Vidoje Blagojević, 4 July 1995, at ERN: 0071-6541.

<sup>596</sup> Exh. P00230 at ERN: 0071-6542.

<sup>597</sup> Exh. P00230 at ERN: 0071-6542.

<sup>598</sup> Exh. P04093, Bratunac Brigade daily combat report No. 03-253-78, signed by Vidoje Blagojević, dated 18 June 1995.

<sup>599</sup> Exh. P04098, Drina Corps report No. 27/7-50 on ammunition use for the period from 1-30 June 1995, signed by Lazar Aćamović, dated 8 July 1995.

<sup>600</sup> Exh. P04099, 1st Milići Light Infantry Brigade Operative Records updated on 1 September 1995.

259. Third, there is evidence that 13 members of the Bratunac Brigade attended a seven-day sniper training course in the first half of 1995.<sup>601</sup> The VRS Main Staff also had a comprehensive programme for a sniper course in 1995,<sup>602</sup> which falls within the remit of the Main Staff Branch for Operations and Training. During cross-examination, Jevdević was asked who was in charge of the Main Staff Branch for Operations and Training, to which Jevdević replied: "I don't know exactly... I don't have that information to hand just now."<sup>603</sup> The Prosecution then put it to Jevdević that Gen. **MILETIĆ** was in command of the Operations and Training Branch:

Q. Sir, in the corps and in the brigade, the branch is called "Operations and Training." It's always under the Chief of Staff. It has a boss. In this case, it was General **MILETIĆ**. You know that; right?

A. No. There was sectors up there at the Main Staff. We say "up there" because it was Han Pijesak. There were sectors up there. Now, who occupied what duties and posts within the sectors, I really can't say, I don't know, because I went to the Main Staff on rare occasions.<sup>604</sup>

260. Given that Milenko Jevdević was called as a witness by the defence of Gen. **MILETIĆ**, Jevdević's supposed inability to recall **MILETIĆ**'s position during the very events about which he was called to testify defies credibility and clearly demonstrates his bias in favour of **MILETIĆ**. Moreover, after Jevdević was shown the significant volume of evidence which contradicted his testimony that "*we didn't have such rifles at all in our stocks*,"<sup>605</sup> Jevdević disavowed his prior testimony and claimed that he "certainly didn't say that they did not have this."<sup>606</sup> Given Jevdević's convoluted attempts to explain the contradictory evidence placed before him, and his final effort to distance himself entirely from his prior testimony, Jevdević's evidence on this point should be given no weight. Moreover, Jevdević's attempts to obfuscate the evidence on this issue were so obvious that they provide the Trial Chamber with evidence that the contrary was the truth, thus supporting the Prosecution's evidence of the RS's and VRS's policy of sniping the Muslim population inside the Srebrenica enclave.

**(xxvi) Military activity in the enclaves, May through June 1995.**

261. Beginning in the spring of 1995, the Muslim forces launched a series of offensives out of the ABiH's 2nd Corps area of Tuzla against Mount Majeveca and the transmitter sites up on the mount. The 1st Corps out of Sarajevo also launched offensive operations. The 2<sup>nd</sup> Corps' 28th Infantry Division was specifically tasked to conduct small-scale raids

<sup>601</sup> Exh. P00230 at ERN: 0071-6551.

<sup>602</sup> Exh. P04094, VRS Main Staff program for a sniper course in the VRS, 1995.

<sup>603</sup> M.JEVĐEVIĆ, T.29744:16-21.

<sup>604</sup> M.JEVĐEVIĆ, T.29745:3-9.

<sup>605</sup> M.JEVĐEVIĆ, T.29490:23 – 29491:4 (emphasis added). See also T.29738:19-25.

<sup>606</sup> M.JEVĐEVIĆ, T.29751:19 – 29752:10.

and military operations out of the Srebrenica and Žepa enclaves, with the goal of tying down the VRS away from where the main attacks were occurring in the 1st and 2nd Corps area, and thus preventing the Drina Corps from pulling forces away from the enclaves and sending them to more important areas of the front lines. Thus, the 28<sup>th</sup> Division raided Serb military and village positions. Military supplies for the Muslim forces in Srebrenica and Žepa came from a land route commonly known as the smuggling trail that originates in Muslim territory near the Zvornik Brigade area, near Tuzla, and transits through the Zvornik Brigade zone and the Bratunac Brigade zone through the valleys, which allowed them to bring equipment and supplies, such as small arms, over-land. In addition, the ABiH commissioned clandestine helicopter flights from Tuzla into the enclave in order to drop off war materials such as ammunition, money to pay the soldiers and evacuate wounded.<sup>607</sup>

262. The VRS complained to DutchBat about these incidents.<sup>608</sup> However, DutchBat was unable to investigate, owing to the restriction on movement imposed by the VRS on DutchBat, as well as by the lack of fuel imposed on DutchBat by the VRS.<sup>609</sup> UNPROFOR filed formal complaints with both the VRS and ABiH.<sup>610</sup>

263. At the same time, the VRS did not relent in its efforts towards the enclaves.<sup>611</sup> At one point, General Krstić issued an order date 15 May 1995 to begin preparations for an offensive to “establish conditions for the liberation of the enclaves.”<sup>612</sup> However, the next day Krstić modified the order and notified his subordinate units to stand down.<sup>613</sup> Krstić accordingly notified the Main Staff in his Daily Combat Report that “we are currently unable to implement your order.”<sup>614</sup> The Main Staff in turn notified President

<sup>607</sup> BUTLER, T.19774-19775; TORLAK, T.9722-9723; Prosecution Adjudicated Fact 50.

<sup>608</sup> BOERING, T.2112 (Momir Nikolić complained).

<sup>609</sup> BOERING, T.2112-2113; NICOLAI, T18531, 18560-18561.

<sup>610</sup> Exh. 4D00128 (Nicolai tells Delić to stop attacks and refers to lack of fuel and attack on OP E); Exh. 4D00129 (Nicolai tells Mladić that UNPROFOR will investigate attacks against Serbs); Exh. P02939, Smith letter to Mladić, dated 26 June 1995, regarding the shelling of the populated areas of Bihać, Srebrenica, Goražde, and Sarajevo.

<sup>611</sup> See, e.g., Exh. P01500, Map entitled “Disposition of our Enemy and UNPROFOR Forces around the Srebrenica and Žepa Enclaves;” BUTLER, T.19749-19751; Exh. P02885, Drina Corps Command, Battle Plan, *Sušica*; BUTLER, T.19751-19753, 19776 (*Sušica* Map nearly identical to deployment of ABiH forces described in the *Krivaja-95* plan); Exh. P02884, Extract from Drina Corps artillery firing plan towards the enclaves of Srebrenica and Žepa; BUTLER, T.19754-19756 (target boxes are within 100-200 metres of UN OPs).

<sup>612</sup> Exh. P00204, Drina Corps Command, Strictly confidential no.: 04/112-14, Order to to stabilise defence around Žepa and Srebrenica enclaves and establish conditions for the liberation of the enclaves, 15 May 1995, type-signed by Col. Radislav Krstić; BUTLER, T.19744-19745 (this is laying groundwork for military operations pursuant to Directives 7 and 7/1).

<sup>613</sup> Exh. P00205, Drina Corps Command Strictly Confidential no.04/112-15:, Stabilisation of defence around Žepa and Srebrenica enclaves, addition to the order, 16 May 1995 (“Due to lack of forces . . . Do not perform the planned offensive.”)

<sup>614</sup> Exh. P02892, Drina Corps Daily Combat Report to Main Staff, 16 May 1995.

Karadžić in its Daily Report that “Preparations are continuing for stabilising the defence around the enclaves of Srebrenica and Žepa.”<sup>615</sup>

264. DutchBat observed buildup of VRS forces around Srebrenica enclave in early June.<sup>616</sup> They also noticed an increase in the number of armed ABiH soldiers and an improvement in quality and number of their weapons and uniforms.<sup>617</sup>

265. From DutchBat’s perspective, the peacekeepers “tried to do the best we could with the means we got at that time,” which more or less meant that they monitored how each side behaved.<sup>618</sup>

**On 3 June, the VRS attacked OP Echo and forced DutchBat to withdraw from Zeleni Jadar.**

266. On 3 June 1995, VRS forces directly attacked the UN observation post at Zeleni Jadar, known to the UN forces as “OP Echo,”<sup>619</sup> as a prelude to the major attack on the Srebrenica enclave<sup>620</sup> and to gain access to the significant east-west road at Zeleni Jadar.<sup>621</sup> The VRS had openly acknowledged the importance of the Zeleni Jadar area as early as 7 January 1995, when Gen. Živanović told UN personnel that Zeleni Jadar would be one of the Serbs’ first objectives should hostilities commence around the enclave.<sup>622</sup> Richard Butler explained that control of the Zeleni Jadar area, particularly the road, was necessary for the VRS to have a proper staging area for any future military operation against Srebrenica.<sup>623</sup>

267. United Nations Military Observer (“UNMO”) Joseph Kingori also testified that he was told by a DutchBat officer prior to the takeover of OP Echo that the Bosnian Serbs were insisting on its removal as it apparently was being used by the Muslims.<sup>624</sup>

268. On 29 May, Gen. Živanović issued an urgent order to the commands of the Zvornik Brigade, the Bratunac Brigade and the Skelani Separate Battalion entitled

<sup>615</sup> P02896, Main Staff Strictly confidential no. 03/3-136, Daily Report to the RS President, type-signed by Col. Radivoje MILETIĆ, Standing in for the Chief of Staff, 16 May 1995.

<sup>616</sup> RUTTEN, KT.2169-2171.

<sup>617</sup> KOSTER, T.3058-3059; FRANKEN, T.2438, RUTTEN, *Krstić* testimony, admitted pursuant to Rule 92ter, p.2174; [REDACTED] (PW-114), *Krstić* testimony, admitted pursuant to Rule 92ter, p.1491; EGBERS, T.2862; BOERING, T.2038, 2170; KINGORI, T.19374.

<sup>618</sup> VAN DUIJN, T.2391; BOERING, T.2116 (by June, DutchBat turned a blind eye to armed Muslim fighters).

<sup>619</sup> FRANKEN; T.2454:20-22.

<sup>620</sup> Exh. P04535, Video containing footage of a speech by Gen. Živanović at a lunch hosted by Zvonko Bajagić on 12 July 1995, with accompanying English and BCS transcripts, at p.7.

<sup>621</sup> BUTLER, T.19766; FRANKEN, T.2454 – 2456.

<sup>622</sup> Exh. P00686 at para. 1.36; BUTLER, T.19766.

<sup>623</sup> BUTLER, T.19766:12-25.

<sup>624</sup> KINGORI, T.19372-19373.



“Taking control of the Zeleni Jadar area,”<sup>625</sup> which ordered those units to provide soldiers to order to prevent Muslim forces from entering Zeleni Jadar “after the UNPROFOR leaves their outpost at Zeleni Jadar.”<sup>626</sup> This order, which named Maj. Milenko Jevđević as one of three Drina Corps officers who would lead the attack,<sup>627</sup> clearly portended UNPROFOR’s removal from OP Echo.

269. On 2 June, Gen. Živanović issued a further order to the Command of the Bratunac Brigade and the Commander of the Drina Corps Manoeuvre Battalion [REDACTED]<sup>628</sup> entitled “Restoration of the control over the facilities and the Zeleni Jadar asphalt road.”<sup>629</sup> This order stated that the conditions were right to “enter the final phase of liberation of Zeleni Jadar;” and then brazenly outlined the steps of how to remove the UN checkpoint at Zeleni Jadar.<sup>630</sup>

270. On 3 June, the VRS operation to remove OP Echo was carried out.<sup>631</sup> DutchBat officer Maj. Franken testified that the Serb forces first used a loudspeaker to tell the DutchBat soldiers that they had to withdraw; and after the DutchBat soldiers were denied permission to withdraw by their command, the OP was attacked by approximately 40 Serb infantry soldiers supported by tank and an anti-aircraft gun on the ridge at Zeleni Jadar.<sup>632</sup> Shots were fired, the OP observation tower was hit by tank fire and the anti-aircraft gun on the ridge also fired shots.<sup>633</sup> The DutchBat crew then withdrew under orders from Maj. Franken.<sup>634</sup>

271. The Drina Corps combat report for 3 June, type-signed by Maj. Jevđević, also described “the forceful expulsion of UNPROFOR from the Zeleni Jadar post:”

In a very precise and professional operation, /?our firm and daring approach/ forced the UNPROFOR checkpoint in Zeleni Jadar to withdraw in panic to Srebrenica [...]

Force was used but there were no injuries to the UN personnel [...]

<sup>625</sup> Exh. P04097, Drina Corps order No. 01/4-136-2 re taking control of the area of Zeleni Jadar, signed by Maj. Gen. Milenko Živanović, 29 May 1995.

<sup>626</sup> Exh. P04097.

<sup>627</sup> Exh. P04097.

<sup>628</sup> [REDACTED].

<sup>629</sup> Exh. P02894, Drina Corps IKM Order No. 14/95 re taking control of Zeleni Jadar area, signed by Maj. Gen. Milenko Živanović, dated 2 June 1995.

<sup>630</sup> Exh. P02894.

<sup>631</sup> FRANKEN; T.2452:8; Exh. 5D01083, IKM Pribicevac regular combat report no.17/95, signed by Milenko Jevđević, dated 3 June 1995. *See also* Exh. P00230 (same as Exh. 4D00316), Bratunac Brigade Report 433-1, analysis of combat readiness in the first half of 1995, signed by Col. Vidoje Blagojević, dated 4 July 1995 at ERN: 0071-6535, which describes the Bratunac Brigade’s participation in operation “Jadar-95” from 31 May to 5 June.

<sup>632</sup> FRANKEN, T.2452.

<sup>633</sup> FRANKEN, T.2453:1-7.

<sup>634</sup> FRANKEN, T.2452:18-20.

We have expended small amounts of ammunition and three zolja /hand-held rocket launchers/.<sup>635</sup>

272. On 12 July 1995, in a speech at Defence witness Zvonko Bajagić's house, Gen. Živanović confirmed that the attack on OP Echo had been the start of the VRS's preparations for the ultimate takeover of the Srebrenica enclave:

At the beginning of June, more precisely at the end of May, we started to carry out preparations and then took Zeleni Jadar and tested what the expulsion of UNPROFOR with weapons looked like. Quite a lot of soldiers were involved and as it turned out that we had no casualties and no wounded, then slowly conditions ripened for what we did now.<sup>636</sup>

273. Following the withdrawal of DutchBat soldiers from OP Echo, the UN forces erected two new OPs, Sierra and Uniform, to monitor the southern approach into the Srebrenica enclave.<sup>637</sup> On 9 July, these two OPs were taken over by VRS forces under the command of Vinko **PANDUREVIĆ**.<sup>638</sup>

274. The Drina Corps documents related to the attack on OP Echo show that Milenko Jevđević partly led the attack on OP Echo<sup>639</sup> and also authored the Daily Combat Report describing the attack.<sup>640</sup> Nonetheless, Jevđević testified that he had little knowledge of the attack;<sup>641</sup> that he had no command role;<sup>642</sup> that no shots were fired;<sup>643</sup> and, while he did not doubt the authenticity of the Daily Combat Report issued in his name,<sup>644</sup> he did not compile the Report or have any role in its drafting.<sup>645</sup> Given Jevđević's obvious attempts to minimise his knowledge of and involvement in this attack, in the face of the evidence outlined above, Jevđević's testimony on this point should be given no weight.

275. In late June 1995, President Karadžić and Momčilo Krajišnik arrived at the Drina Corps Command in Vlasenica, were greeted by Col. Milenko Lazić and then sat down with then-Col. Radislav Krstić, Drina Corps Chief of Staff/Deputy Commander (Gen. Živanović was away from the Command at that time).<sup>646</sup> Karadžić asked Krstić how long it would take to set off for Srebrenica, and Krstić replied that preparations would take three to five days.<sup>647</sup> Karadžić told Krstić to try to make it as short as possible, which

<sup>635</sup> Exh. 5D01083, Drina Corps regular combat report no. 17/95, type-signed Major Milenko Jevđević, dated 3 June 1995.

<sup>636</sup> Exh. P04535, Video containing footage of a speech by Gen. Živanović at a lunch hosted by Zvonko Bajagić on 12 July 1995, with accompanying English and BCS transcripts, at p.7.

<sup>637</sup> FRANKEN, T.2454.

<sup>638</sup> **PANDUREVIĆ**, T.30857-30858.

<sup>639</sup> Exh. P04097.

<sup>640</sup> M.JEVĐEVIĆ, T.29725-29737.

<sup>641</sup> M.JEVĐEVIĆ, T.29498:20-25 "I don't have any precise information as to how this was done."

<sup>642</sup> M.JEVĐEVIĆ, T.29727-29728.

<sup>643</sup> M.JEVĐEVIĆ, T.29731, 29732, 29734.

<sup>644</sup> M.JEVĐEVIĆ, T.29735:14-15.

<sup>645</sup> M.JEVĐEVIĆ, T.29502:10 – 29503:9, 29735:23-25.

<sup>646</sup> LAZIĆ, T.21727.

<sup>647</sup> LAZIĆ, T.21727.

they understood to mean to carry out the task as soon as possible when preparations were completed.<sup>648</sup> After Krstić saw Karadžić out, he called Lazić into his office and ordered Lazić to summon the entire command to the operations room and begin drafting a combat plan; in the meantime, the brigade commanders were told to come to the corps command the next day at 08:00 hours.<sup>649</sup> When all of the brigade commanders arrived the next day, they were assigned their tasks.<sup>650</sup> The day after that, the commanders' reconnaissance was carried out, after which the commanders returned to their own commands.<sup>651</sup> Preparations lasted a total of approximately six days, until 5 July.<sup>652</sup>

(xxvii) **The Krivaja-95 Plan and the attack on the Srebrenica enclave.**

276. On 2 July 1995, General Živanović issued a warning order to the brigades regarding the imminent attack on Srebrenica; in the order, Živanović explicitly stated that he was issuing the order pursuant to Directives 7 and 7/1 of the VRS Main Staff.<sup>653</sup>

277. Later that day, Živanović issued the *Krivaja-95* Attack Order, which also explicitly referred to Directives 7 and 7/1 in the most relevant portion pertaining to the objective of the operation:

The Command of the Drina Corps, pursuant to Operations Directive no. 7 and 7/1 of the VRS Main Staff, and on the basis of the situation in the Corps area of responsibility, has the task of carrying out offensive activities with free forces deep within the Drina Corps zone, as soon as possible, in order to split apart the enclaves of Srebrenica and Žepa, and to reduce them to their urban areas.<sup>654</sup>

278. With respect to the splitting the enclaves apart, this refers to the persistent goal of the VRS, dating back to 1993, to seal off the enclaves from each other to prevent communication between the two.<sup>655</sup> The unlawful objective of reducing the enclaves to their urban areas was to force the Bosnian Muslim population into the small towns of Srebrenica and Žepa and thereby create conditions in which it would be impossible for the Muslim population to sustain itself, replicating the humanitarian disaster of 1993, and thus require its departure from the area. Thus, the Attack Order also issued the task “to

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<sup>648</sup> LAZIĆ, T.21727.

<sup>649</sup> LAZIĆ, T.21728.

<sup>650</sup> LAZIĆ, T.21727, 21748.

<sup>651</sup> LAZIĆ, T.21727.

<sup>652</sup> LAZIĆ, T.21747.

<sup>653</sup> Exh. P00106, Drina Corps Command, Strictly confidential no. 01/04-156-1, Warning Order, type-signed by Maj. Gen. Milenko Živanović, 2 July 1995, p.1, para.2 (English).

<sup>654</sup> Exh. P00107, Drina Corps Command, Strictly confidential no.: 04/156-2, Order for Active Combat Operations, *Krivaja-95*, signed by Maj. Gen. Milenko Živanović, 2 July 1995, p.3, para.2 (English); LAZIĆ, T.21864 (Gen. Krstić obviously relied upon Directives 7 and 7/1 as the basis for Gen. Živanović's *Krivaja-95* combat orders, Exh. P00106 and Exh. P00107.).

<sup>655</sup> BUTLER, T.19776-19777.

create conditions for the elimination of the enclaves” with readiness at 6 July 1995 at 04:00 hours.<sup>656</sup>

279. The attack on the Srebrenica enclave had two additional, legitimate military objectives: to ensure demilitarisation of the enclave, thereby preventing the 28<sup>th</sup> Division from attacking outside the enclave; and to completely sever all contact between the Srebrenica and Žepa enclaves. However, the larger objective to create conditions making life impossible for the inhabitants of Srebrenica and Žepa, with the intention for complete elimination of the enclaves, amounted to a serious violation of international criminal law. The presence of a legitimate military motive cannot, and does not, negate the highly illegal objective to forcibly drive out the civilian population.

280. A copy of the *Krivaja-95* Attack Order was sent to Main Staff.<sup>657</sup> Having received a copy of the *Krivaja-95* Attack Order, the Main Staff continued to follow the operational preparations and informed the Supreme Command and other corps of the progress.

281. Based on the Drina Corps attack order, the Bratunac Brigade implemented the concrete combat tasks issued to it in the order.<sup>658</sup>

**6 July: the attack begins.**

282. In the early morning hours of 6 July 1995, units of the VRS Drina Corps launched its attack upon the Srebrenica safe area.<sup>659</sup> The VRS employed tanks, artillery, aerial bombs, mortars, rockets and heavy machine guns to pound the entire enclave.<sup>660</sup> DutchBat’s Bravo Company in Srebrenica reported to Franken that the shelling in Srebrenica was random and that DutchBat was transporting wounded civilians to the Srebrenica hospital.<sup>661</sup>

<sup>656</sup> Exh. P00107, p.3, para.4 (English); BUTLER, T.19777-19779.

<sup>657</sup> Exh. P00107; p.10 (English).

<sup>658</sup> TRIŠIĆ, T.27052-27053; Exh. P03025, Bratunac Brigade *Krivaja-95* Combat Order, 5 July 1995.

<sup>659</sup> See Butler Srebrenica Narrative.

<sup>660</sup> Exh. P00490, UNMO SitRep, 6 July (VRS “used tanks, artillery, mortars, rockets and heavy machine-gun and have targeted the DutchBat headquarters, Bandera Triangle, DutchBat OPs U and S, south of OP H, Potočari township, Srebrenica township; at least 250 artillery and mortar rounds recorded so far; UNMO team confirmed two fatalities and six casualties so far taken to hospital; two civilian casualties recorded by DutchBat from shelling on Potočari area; OP F came under direct shelling from Company Hill” by the VRS); FRANKEN, T.2474 (DutchBat ultimately counted 32 active artillery or mortar positions and six active battle tanks); BOERING, T.1920-1922 (around 6 July, artillery or heavy mortar projectiles from Bratunac came flying around the compound, one fell on compound).

<sup>661</sup> FRANKEN, T.2457-2458 (Bravo Company reported random shelling of the city on 6 July and that civilians brought into Srebrenica hospital by DutchBat; T.2613-2614, repeats that he received reports of random shelling of town of Srebrenica).

283. UNMO Joseph Kingori was in the PTT building in Srebrenica when the attack began and described the shelling beginning in the early morning hours of 6 July; when he and UNMO Tetteh realized it was not typical of previous shelling of the enclave, they began counting shells and noticed that shells would fall over 50 at a time, stop for a while, and then continue from one side of Srebrenica to the other.<sup>662</sup> During the lulls in the shelling, he and Tetteh alternated going out into the town with an interpreter to locate any injured or killed; urge people to stay inside; analyze craters; and inspect the damage, while the other remained in the PTT building to draft the reports.<sup>663</sup> There were fatalities in the first days of shelling. However, despite the heavy shelling, the number of casualties was surprisingly low; the UNMOs brought a few injured people to the hospital on the first day of the attack.<sup>664</sup> Kingori observed that the targets included the market area, the hospital and the PTT building, though the latter two buildings were not struck during the beginning of the attack.<sup>665</sup>

284. Over the next few days, the attack would continue to involve the shelling of civilians and civilian targets in the enclave.<sup>666</sup> The VRS fired indiscriminately on civilian targets, which resulted in numerous civilian deaths and injuries.<sup>667</sup>

285. The attack also included deliberate firing on DutchBat OPs, positions and vehicles with tank, artillery, rocket, heavy machine gun and small arms fire.<sup>668</sup> DutchBat OPs

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<sup>662</sup> KINGORI, T.19173.

<sup>663</sup> KINGORI, T.19175-19176, 19194.

<sup>664</sup> KINGORI, T.19176.

<sup>665</sup> KINGORI, T.19181-19182, 19354-19356. Exh. P00491, UNMO SitRep, 6 July, 21:00 hours (artillery impact killed a civilian and injured a boy; DutchBat reporting 150 detonations, but could not get exact number because of bunker alarms).

<sup>666</sup> NICOLAI, T.18479; Exh. P02974; BOERING, T.1931 (shell fell close to Bravo Company and injured a little boy; "from the report of a patrol and somebody told me personally that he had seen in the south of the enclave that villages were being - - were under fire and that the population was being driven into Srebrenica - - the city of Srebrenica itself"); FRANKEN, T.2627 (if the Serbs were aiming for the 28<sup>th</sup> Division HQ in Srebrenica, "Then they were very poor gunners because they hit the whole city instead of those two locations"); RUTTEN, T.4831 (regular houses in Budak struck by shelling where there were no Muslim soldiers), T.4830 (heard reports of heavy shelling of Srebrenica town through his second radio set); KINGORI, T.19475 (whole enclave shelled and aimed at civilians); KOSTER, T.3037, 3044-3045, 3057 (Serbs twice shelled area of houses 50-75 metres from refugees when dusk was falling on 11 July).

<sup>667</sup> NICOLAI, T.18477, 18534; Exh. P02975; Exh. P00490, 6 July UNMO SitRep (two killed and eight wounded); Exh. P00491, UNMO SitRep, 6 July, 21:00 hours (civilian killed and boy wounded in Srebrenica by artillery impact); Exh. P00492, UNMO Sitrep, 7 July (one man killed and several wounded); RUTTEN, *Krstić* testimony, admitted pursuant to Rule 92ter, p.2111 (heavily wounded woman brought to Potočari base and treated in evening of 10 July); KOSTER, T.3035-3036 (woman with shrapnel injury brought in on 10 July and died later); RUTTEN, *Krstić* testimony, admitted pursuant to Rule 92ter, p.2160-2161 (saw two dead bodies in street in Srebrenica on 13 July); Exh. P02047, Trial Video (bodies in gutter on 14 July).

<sup>668</sup> NICOLAI, T.18466, 18474, 18482 (VRS attacked blocking positions), 18564, 18568 (UN target of VRS because OPs shot at), T.18565 (VRS attacked UNPROFOR), 18565 (VRS shot at Dutch OPs and APCs and this is a hostile act), T.18567 (VRS attacked OPs and shot at the compound), 18569 ("there is no justification for attacking UN troops. Just because you expect it, that doesn't make it justified"); FORTIN, T.18250 ("the information we got from the Dutch and from the British manning the TACPs was basically

were targeted,<sup>669</sup> as was the entrance to the Potočari compound and the area around it.<sup>670</sup> When the peacekeepers set up blocking positions with their APCs to stop the Serb advance, they were shelled, too.<sup>671</sup>

286. DutchBat soldiers suffered injuries as a result of the VRS attack.<sup>672</sup> During the trial there were repeated misstatements of this evidence by counsel on this point, incorrectly claiming that there were no DutchBat injuries.<sup>673</sup>

287. Pursuant to the Bratunac Brigade's *Krivaja-95* Combat Order, air bombs ("*avio-bombe*") were used during the attack; these semi-improvised weapons were notoriously inaccurate.<sup>674</sup> Use of these weapons was permitted only upon approval of the Main Staff.<sup>675</sup>

### 7. July.

288. On 7 July, the shelling continued, concentrating on civilian targets in Srebrenica and Potočari and resulting in more deaths and injuries.<sup>676</sup> Kingori attributed the relatively

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telling us to do something because they were attacked by the VRS"); VAN DUIJN, T.2263 (on 6 July saw rockets flying overhead in direction of Srebrenica; constant shelling of whole area; from 6 July we stopped counting detonations because it was constant and very intense from 6-12 July).

<sup>669</sup> Exh. P00491, UNMO SitRep, 6 July and Annex B (VRS tanks directly firing on OP Foxtrot's watchtower and wall; OP Foxtrot was hit by several tank rounds which caused great damage to the watch tower); FRANKEN, T.2456 (direct VRS firing on OP Foxtrot on 6 July by small machine guns, tanks and mortar fire), T.2458 (defence wall was blown away by the tank fire) T.2461-2462 (OP Mike under mortar fire and direct fire on 9 July), T.2669 (The VRS could and, in a couple of cases, did blow the OPs off the face of the earth); Exh. P02199, 24 and 25 October 1995 Witness Statement of Martijn Mulder, admitted pursuant to Rule 92bis, p.2 ("On Sunday, 9<sup>th</sup> July 1995, in the early afternoon, OP Mike was hit by a mortar shell from the Serbs. Mortar grenades fell at random around our OP. After a grenade hit the OP, the Serbians told us that we had 10 minutes to leave the OP. They very demonstratively set up a mortar in our direct line of vision. The Serbs spoke English and shouted out in Serbian "fuck off."); GROENEWEGEN, *Blagojević* testimony, admitted pursuant to Rule 92ter, p.1017 (OP Mike came under small and large calibre and mortar fire from Serbs); P00510, UNMO Sitrep, 11 July (OP N under VRS fire); DIBB, T.16325 (OP came under direct tank fire).

<sup>670</sup> RUTTEN, T.4808, 4836 (VRS firing along a lane on the Potočari-Srebrenica road from the hills of Borići; they shot at Boering's jeep as he entered the compound), 4848 (on evening of 11 July, Serbs still shelling down a lane from Borići hills; they also shelled a medical APC when it came in from Srebrenica and DutchBat cars); KOSTER, T.3036 (the road in front of the compound regularly came under fire); Exh. P00491, UNMO SitRep, 6 July ("Potočari compound was targeted several times during the day"); Exh. P00492, UNMO SitRep, 7 July (DutchBat reported heavy shelling around their compound").

<sup>671</sup> EGBERS, T.2715 (his blocking position shelled 9 and 10 July) and VAN DUIJN, T.2266 (VRS shelled close to his blocking positions).

<sup>672</sup> FRANKEN, T.2472-2473, 2670-2671 (three or four DutchBat had shrapnel wounds, light injuries; disabled APC crew members injured); EGBERS, T.2715-2716 (one of his soldiers slightly injured by VRS shelling, APC damaged), T.2790, 2871 (Egbers' ear was injured; hearing affected for day; shrapnels going through the APC and he had a light injury), T.2930 (two of his soldiers injured by shrapnel).

<sup>673</sup> T.18541 and 18565 (cross examination of Nicolai by counsel for **GVERO**).

<sup>674</sup> Exh. P03025, Bratunac Brigade *Krivaja-95* Combat Order (ordering avio-bombes to be used on Potočari); MASAL, T.29061-29062; Exh. 5D00976 (**MILETIĆ** involved in arranging transportation of air bombs); MASAL, T.29101-29104.

<sup>675</sup> MASAL, T.29142; Exh. P03981.

<sup>676</sup> KINGORI, T.19187-19188; Exh. P00492, UNMO Sitrep, 7 July (DutchBat reporting heavy shelling around Potočari compound; three men injured and brought by MSF to hospital in Srebrenica (confirmed by Kingori); three shells landed in Srebrenica and injured two men, one picked up by UNMO patrol, one by

low number of casualties despite the heavy shelling to the difficulty of shelling Srebrenica owing to its location and the fact that civilians had safe places to go to and had been used to shelling from the war.<sup>677</sup> He and Tetteh counted over 200 shells hitting Srebrenica on 7 July.<sup>678</sup> By the second day of shelling, Kingori's recollection was that approximately four civilians had been killed.<sup>679</sup>

### 8 July.

289. Kingori recalled 8 July as the heaviest day of shelling, concentrating on Srebrenica and Potočari.<sup>680</sup> Kingori began to feel insecure at the PTT building after shrapnel began penetrating its wooden window replacements.<sup>681</sup> The evidence of the fresh VRS shelling could be seen in the town of Srebrenica.<sup>682</sup>

290. On 8 July, refugees began arriving from the Swedish Shelter Project towards Srebrenica in a mounting panic, as shots aimed at the civilian houses came from the VRS Bratunac Brigade positions. The streets of Srebrenica were overflowing with people during this time, there was not enough food or drink for the masses of people, and mortars were being fired into the crowds from the VRS positions.<sup>683</sup>

### 9 July.

291. Owing to a VRS tank which was now visible and with small arms fire nearby, Kingori and Tetteh decided to leave Srebrenica for Potočari, since the tank could directly target the PTT building. Kingori had to convince a tearful deputy mayor of Srebrenica that he and Tetteh would continue to report from Potočari.<sup>684</sup> When Kingori, Tetteh and

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MSF; one of whom died at Srebrenica hospital (Kingori recalls this, but doesn't know if he or Tetteh picked that one up); more shells landing in same spot suspected from tank; "a lot of damage on building has been caused in that area, despite the low casualty figure"; 21 detonations heard by UNMO deHaan in Potočari; VRS seems "to be concentrating more on civilian targets in Srebrenica town and Potočari"; several civilian casualties and unassessed damage to property).

<sup>677</sup> KINGORI, T.19186.

<sup>678</sup> KINGORI, T.19188. Exh. P00492, UNMO SitRep 7 July ("The BSA offensive seems to be steadily intensifying, whatever their aims are, they seem to be concentrating more on civilian targets in Srebrenica town and Potočari. There are several civilian casualties and unassessed damage to civilian property"; "a lot of damage on buildings"); Exh. P00494, UNMO Sitrep 7 July, 21:00 hours (DutchBat info re: VRS tank firing 10 rounds at Potočari electrical station; owing to VRS shelling inside the enclave, total of and four civilians killed and 17 wounded).

<sup>679</sup> KINGORI, T.19190; [REDACTED].

<sup>680</sup> KINGORI, T.19191. Exh. P00495, UNMO SitRep, 8 July, 14:30 hours (shelling of Srebrenica village began at 08:00 hours, concentrating more on densely populated areas and Potočari town; 31 explosions in Potočari and 34 in Srebrenica; one shell landing 20 metres from PTT building, hurling shrapnel; this report from him being retransmitted verbatim to Zagreb, KINGORI, T.19193-19194).

<sup>681</sup> KINGORI, T.19192.

<sup>682</sup> NICOLAI, T.18503-18504; KINGORI, T.19187 (lots of damage to buildings in Srebrenica; could distinguish new damage from old damage), T.19516, 19519; RUTTEN, T.4830-4831.

<sup>683</sup> BOERING, T.1931-1932.

<sup>684</sup> KINGORI, T.19215-19216.

interpreter Emir Slujagić set off from Srebrenica towards the end of the day, the shells were falling all around them on the road to Potočari.<sup>685</sup>

292. Also on 9 July, General Tolimir sent a report marked Very Urgent personally to Generals **GVERO** and Krstić at the Drina Corps IKM in Pribičevac, reporting that the President of Republika Srpska was satisfied with combat operations around Srebrenica and had agreed with the continuation of operations to take over the enclave.<sup>686</sup>

293. In some cases, DutchBat soldiers manning OPs captured by the VRS voluntarily surrendered to VRS forces, but in other cases were threatened by force of arms to lay down their weapons.<sup>687</sup>

294. In the evening on 9 July, Franken issued a “green” order to defend enclave with blocking positions.<sup>688</sup>

### 10 July

295. Blocking positions and APCs came under direct Serb machine gun, tank and artillery fire beginning in the morning of 10 July.<sup>689</sup> Vincentius Egbers testified that at his first blocking position, the VRS fired five shells, which injured two of his men; he was not sure if the VRS was shelling his position at first because of an ABiH artillery gun nearby, but when he moved he was shelled en route to the new position and was shelled again at new position, so he concluded that the VRS was shelling him.<sup>690</sup> He was then ordered to return to the original position and was shelled there again.<sup>691</sup>

296. A recovery vehicle sent for an APC shot off the road was itself fired upon by anti-tank gun located in the area of OP Papa as it left the gate at Potočari base, and then fired upon by a Serb T55 tank when it approached the disabled APC.<sup>692</sup>

297. From 9 to 10 July, a large crowd of refugees had gathered at the Bravo Company compound in Srebrenica.<sup>693</sup> Col. Franken recalled that on 10 July there was “massive”

<sup>685</sup> KINGORI, T.19217, 19220. Exh. P00498, UNMO SitRep, 9 July, 14:40 hours (113 detonations in Srebrenica and Potočari between 08:00 and 14:40 hours; Swedish Shelter Project refugees moving to Srebrenica from night of 8 July); Exh. P00499, UNMO SitRep, 9 July, 17:00 hours (78 explosions on Srebrenica town alone between 14:00 and 15:16 hours; 70% of explosions in the centre of town; small arms fire nearby; UNMOs considering withdrawal).

<sup>686</sup> Exh. P00033 (same as Exh. P00849), Main Staff Strictly confidential no. 12/46-501/95, Conduct of combat operations around Srebrenica, personally to Generals **GVERO** and Krstić, type-signed by Maj. Gen. Zdravko Tolimir, 9 July 1995.

<sup>687</sup> NICOLAI, T.18478, 18542.

<sup>688</sup> FRANKEN, T.2462-2466, Exh. P02263.

<sup>689</sup> FRANKEN, T.2471-2472; EGBERS, T.2869, 2878-2879, 2909-2910.

<sup>690</sup> EGBERS, T.2934-2940.

<sup>691</sup> EGBERS, T.2934-2940.

<sup>692</sup> FRANKEN, T.2472; Exh. P00501, UNMO SitRep, 10 July, 10:25 hours (VRS tanks making recovery difficult).



shelling of Srebrenica, including the DutchBat compound there.<sup>694</sup> Indeed, he ordered DutchBat at the Srebrenica base to stop counting at 160 or 200.<sup>695</sup>

298. From his elevated blocking position, Lt. van Duijn was able to see both the northern and southern portions of Srebrenica town.<sup>696</sup> From there, he could see the shells falling on the town of Srebrenica and hitting houses.<sup>697</sup> As UNMO Kingori also recalled, every thirty to forty-five minutes, the shelling would stop for five to ten minutes, then change from the town to his position.<sup>698</sup> The shells landed between 50 and 100 metres from his APC, causing dirt from the impacts to fall on their APCs.<sup>699</sup> He ordered his men inside his APC owing to the shrapnel threat.<sup>700</sup> These were large bore shells being fired from a distance of 10-15 kilometres.<sup>701</sup> The shells were clearly aimed at his general location, but he did not think they were being aimed directly at his APC, though if one is being shelled by artillery, it doesn't matter if they aim directly at you; "if the shell falls within 50 metres of your APC, it's time to get out of there."<sup>702</sup>

299. By 10 July, Kingori and Tetteh had fled to the Potočari base and were sending reports from there.<sup>703</sup> UNMO interpreter Emir Suljagić had returned to Srebrenica to report shelling there; however, Kingori and Tetteh could also hear and count the detonations in Srebrenica from Potočari.<sup>704</sup> From Srebrenica, Suljagić reported that two heavy artillery shells, probably 155mm, hit the area immediately surrounding the hospital, shattering windows and showering the rooms of the hospital with shrapnel.<sup>705</sup> Kingori saw nothing to indicate hospital being used for military purposes.<sup>706</sup> The UNMOs' assessment that "it looks as if the BSA are now targeting the hospital and the surroundings" was accurate [REDACTED].<sup>707</sup>

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<sup>693</sup> BOERING, T.2074.

<sup>694</sup> FRANKEN, T.2473 (reports of wounded taken to Srebrenica hospital).

<sup>695</sup> FRANKEN, T.2473.

<sup>696</sup> VAN DUIJN, T.2264.

<sup>697</sup> VAN DUIJN, T.2266.

<sup>698</sup> VAN DUIJN, T.2266.

<sup>699</sup> VAN DUIJN, T.2266.

<sup>700</sup> VAN DUIJN, T.2399.

<sup>701</sup> VAN DUIJN, T.2400.

<sup>702</sup> VAN DUIJN, T.2401.

<sup>703</sup> Exh. P00501, UNMO SitRep, 10 July, 10:25 hours (by 10:25 hours, 100 detonations in Srebrenica; 09:30, 8 rockets fired toward Srebrenica; VRS tank making recovery of APCs difficult; number of casualties and wounded increasing).

<sup>704</sup> KINGORI, T.19218-19220, 19227-19228. Exh. P00502, UNMO SitRep, 10 July, 11:50 hours (3 rockets fired from Bratunac to Potočari; shelling ongoing in Srebrenica).

<sup>705</sup> KINGORI, T.19229-19230; P00501, UNMO Sit Update, 10 July.

<sup>706</sup> KINGORI, T.19222-19223.

<sup>707</sup> [REDACTED].

300. The heavy shelling continued throughout the day on 10 July.<sup>708</sup> Later that day, using the radio from a captured UN APC, the VRS delivered an ultimatum to DutchBat via one of the captured DutchBat soldiers: the civilians have 48 hours from 06:00 hours on 11 July to leave through Yellow Bridge, and Dutchbat must hand over its weapons<sup>709</sup>. Civilians poured into Srebrenica town itself, including in the DutchBat Bravo Company compound in Srebrenica.<sup>710</sup>

301. As ABiH retreated from positions, they left DutchBat completely outnumbered and overwhelmed by the Serb forces, which one by one took over the OPs and took the DutchBat soldiers prisoner, taking the APCs and equipment.<sup>711</sup> The Serbs took weapons, Jeeps and 15 or 16 APCs, plus three which were lost to hostile fire.<sup>712</sup>

302. In the early morning hours of 11 July, Karremans met with ABiH and civilian leaders to discuss the VRS ultimatums; DutchBat then issued its own ultimatum to the VRS: by 06:00 on 11 July, stop the attack, withdraw to the 1993 confrontation line or there will be a massive air strike.<sup>713</sup>

### 11 July

303. By the morning of 11 July, Srebrenica town was in chaos, people were very scared, running and grabbing whatever they could take with them and gathering near the Bravo Company compound.<sup>714</sup> The Serbs also shelled the Bravo Company compound.<sup>715</sup>

304. With Serb forces occupying the high ground around Srebrenica town, Franken ordered his Bravo Company soldiers to withdraw from Srebrenica and follow the refugees who had started to flee towards the Charlie Company compound at Potočari and to stay

<sup>708</sup> Exh. P00503, UNMO Retransmission of Update, 10 July (Srebrenica township still undergoing a very heavy shelling. 49 Shells between 12:50 and 13:53 hours. 9 Rockets launched into the town and heavy machine gun and small arms fire.); KINGORI, T.19231-19232; Exh. P00505, UNMO Sitrep, 10 July, Annex A (15:52 hours, Srebrenica town came under another heavy shelling resulting in 9 serious injuries; western end of town most heavily hit with 12 shells; PTT under a barrage of shelling and hit 10 times in past hour; DutchBat reports OP A attacked by VRS from 3 sides; VRS burning Pasmulići). The information regarding the burning of Pasmulić came from refugees. KINGORI, T.19232. EGBERS, T.2713 (VRS using tank and artillery), T.2713-2714, 2911, 2943-2944 (saw VRS entering houses in Pasmulici and villages with dogs, and smoke coming out of houses houses).

<sup>709</sup> FRANKEN, T.2474-2478, 2548; P02264.

<sup>710</sup> FRANKEN, T.2479-2480.

<sup>711</sup> FRANKEN, T.2461, 2478-2479.

<sup>712</sup> FRANKEN, T.2496, 2669.

<sup>713</sup> KINGORI, T.19233-19234; Exh. P00510, UNMO SitRep, 11 July (02:00 meeting with LO DutchBat team and Ramiz, Osman, mayor and deputy mayor; 2 ultimatums from VRS, both turned down: 1) no refugees on Potočari compound, only NGOs; VRS will demilitarize enclave; 2) DutchBat and NGOs to leave and turn over weapons; population had 48 hours to leave enclave; DutchBat issued its own ultimatum: by 06:00 on 11 July, stop attack, withdraw to 1993 confrontation line or there will be massive air strike).

<sup>714</sup> VAN DUIJN, T.2268; BOERING, T. 2274.

<sup>715</sup> KINGORI, T.19268 (when he returned to Srebrenica with MSF to collect last hospital patients, he saw a crater at Bravo Company compound and bloodstains); 19538-19539.

between the advancing Serb forces and the fleeing civilians.<sup>716</sup> DutchBat trucks were sent from the Potočari compound to help transport the refugees.<sup>717</sup> This column of refugees and peacekeepers was shelled on either side by Serb mortars and artillery, as the VRS engaged in an effort to force them to the main UN base at Potočari, and the wounded were brought on board the Dutch APCs.<sup>718</sup> According to DutchBat doctors, 114 wounded were brought to Potočari during the attack.<sup>719</sup>

305. As van Duijn and his APCs maintained the tail of the column of refugees fleeing from Srebrenica to Potočari, the shelling would follow his position, forcing him to move further and further north towards Potočari.<sup>720</sup> From Point 02, he could see the refugees passing on their way north, whereas the Muslim forces stayed near his position; the Muslim civilians and military were not mixed.<sup>721</sup> At one point, van Duijn gave his gunner the order to fire overhead, and then directly at, the advancing Serb forces when they did not stop their advance.<sup>722</sup> At that stage, there were no Muslim fighters near his position, other than one or two aiming an RPG at his APC.<sup>723</sup>

306. Believing that the VRS would fire on the column of refugees approaching Potočari, Franken ordered his men, under the command of Maj. Otter, to create a route for the column out of the line of fire of the VRS anti-tank gun, T55 battle tank and multiple rocket launcher positioned in the area of OP Papa which had been laying fire on the entrance to the DutchBat compound in Potočari since the beginning of the attack.<sup>724</sup> When the refugees first began arriving on 11 July, they were not permitted to enter the DutchBat compound at first because the VRS had threatened to shell the compound.<sup>725</sup>

<sup>716</sup> FRANKEN, T.2480; BOERING, T.1931-1932, 1937-1938.

<sup>717</sup> RUTTEN, *Krstić* testimony, admitted pursuant to Rule 92ter, p.2181.

<sup>718</sup> FRANKEN, T.2479-2481, 2610; EGBERS, T.2717-2718, 2882 (shelling 100 metres from column); KINGORI, T.19434, 19437 ("Well, as far as I know, there's nobody who told them, but it's common sense that the safe place was now towards where the UNPROFOR is. It's common sense, so I think that is - - that is exactly what they followed. Even ourselves, that is the route we followed."), T.19441-19442 (Muslims "crushed in one place" from shelling and had to look for a safe way out); BOERING, T.1938 ("They were proceeding slowly along the road and to the left and the right, and there were shots but not very - - not a very close range. So they felt that the situation was unsafe. They would look around very nervously and they would hear the shots and the general feeling was we should go to Potočari.").

<sup>719</sup> FRANKEN, T.2551, 2610, 2629.

<sup>720</sup> VAN DUIJN, T.2269-2270.

<sup>721</sup> VAN DUIJN, T.2375-2376.

<sup>722</sup> VAN DUIJN, T.2376, 2402.

<sup>723</sup> VAN DUIJN, T.2402.

<sup>724</sup> FRANKEN, T.2481-2482; KOSTER, R.61 Testimony, admitted pursuant to Rule 92ter, p.3 ("the road which led from Srebrenica to Potočari was constantly on the direct sight, in direct fire from the Serbs. For example, when the days before, when we left the compound by vehicle, we were fired upon with mortar fire and that kind of thing.").

<sup>725</sup> KOSTER, T.3134.

307. The refugees approached the Potočari compound the south and were directed out of the line of fire of the Serb positions to the north, gathering in the industrial areas to the south of the compound.<sup>726</sup> Refugees were then permitted to enter the compound until there as no longer enough room, after which they continued to fill the industrial area, consisting of old factories and an abandoned bus compound. When the civilians arrived in Potočari, “at first in small groups, later on there was one big mass of people coming down the road from Srebrenica to Potočari and, well, they came with a big noise, women crying, children screaming, children also crying. Well, the people were in terror.”<sup>727</sup> The men who DutchBat allowed onto the Potočari base on 11 July were very young or old or otherwise unable to be a combatant.<sup>728</sup>

308. NATO close air support was finally delivered in the early afternoon of 11 July.<sup>729</sup> The close air support was soon followed by a VRS threat to stop further air support or the VRS would shell the base, including the areas where the civilians were gathered, and kill the DutchBat POWs.<sup>730</sup> When Franken received this threat, which was read to him in English by one of the Dutch NCOs via the radio in one of the captured UN APCs in Bratunac, he did not take the threat to execute his soldiers seriously.<sup>731</sup> However, he did take the VRS threat to shell the Potočari compound very seriously as a realistic one, given the VRS previous targeting of civilians.<sup>732</sup> Shortly after the threat was issued, the VRS shelled the bus station area with mortars and fired a full round from the multiple rocket

<sup>726</sup> Exh. P00510, 11 July UNMO SitRep (16:00 hours, “At this moment the stream of refugees and wounded in uncountable. We figure that a total of 20,000 refugees have come to the DutchBat compound of Potočari already and is growing steadily. Since our last report the shelling of the town has been going on despite the air strikes. The town (Srebrenica) is in the hands of the BSA by now and the latest ultimatum given by the BSA is that if the air strikes continue everything inside the enclave will be bombed including UNPROFOR and the other UN organisations”; 19:10 hours, “The number of severely wounded has grown now to 50. DutchBat is trying to do something about the food situation of the people. They have opened the normal rations and try to make some soup of it. By doing this the food reserve will last for about 48 hours. After that no more food for UN personnel and refugees”; from 18:44 to 19:00 hours the BSA fired 22 rockets/shells towards Budak and Gradac. The sound is very close so the panic amongst the refugees increases with every shell”); KINGORI, T.19240. The rocket fire came from an MLRS which was visible from the compound. KINGORI, T.19244.

<sup>727</sup> KOSTER, R.61 testimony, admitted pursuant to Rule 92ter, p.4; GROENEWEGEN, *Blagojević* testimony, admitted pursuant to Rule 92ter, p.1019 (refugees arrive on 11 July exhausted and full of fear); 1041 (doesn’t think refugees went to Potočari of their own free will; “I think they had no other option”).

<sup>728</sup> RUTTEN, T.4885-4887.

<sup>729</sup> FRANKEN, T.2485.

<sup>730</sup> FRANKEN, T.2485; [REDACTED] PW-115, Exh. P02200, *Blagojević* testimony, admitted pursuant to Rule 92bis, pp.6081-6082; BOERING, T.1928-1929.

<sup>731</sup> FRANKEN, T.2485.

<sup>732</sup> FRANKEN, T.2486, 2612-2614 (“They’ve used artillery before on those masses of refugees, and if they want to do it again, they probably will, yes”).

launcher in the area of Potočari.<sup>733</sup> The shelling caused casualties and panic among the civilians.<sup>734</sup> The Serbs continued their advance.

309. During the evening of 11 July, tank fire was directed from the area of Yellow Bridge towards the Potočari compound.<sup>735</sup> The impression gained by Kingori and the other UNMOs was that the tank fire was deliberately aimed not to hit the buildings.<sup>736</sup> The tank fire caused a great deal of panic amongst the refugees.<sup>737</sup>

310. On the night of 11 July, van Duijn had to move his blocking position from Point 02 to a position north of Point 02 because the shelling on his position became too intense.<sup>738</sup> Van Duijn also saw large group of Muslim heading towards Šušnari from Point 02 toward OP Mike.<sup>739</sup>

**(xxviii) The fall of the Srebrenica enclave**

311. Srebrenica fell to the Bosnian Serb forces on the afternoon of 11 July. That same afternoon, Gen. Mladić, accompanied by Gen. Živanović, Gen. Krstić and other VRS officers, took a triumphant walk through the empty streets of Srebrenica town.<sup>740</sup> During his walk through the town, Mladić spoke with Drina Corps brigade commanders Mirko Trivić, Radomir Furtula and Vinko **PANDUREVIĆ**. Mladić was also accompanied by Drina Corps Security Chief Vujadin **POPOVIĆ**. At one point, Gen. Mladić also turned to the TV cameraman following him and stated into the camera:

Here we are, on 11 July 1995, in Serb Srebrenica. On the eve of yet [another] great Serb holiday, we give this town to the Serb people as a gift. Finally, after the Rebellion against the Dahis, the time has come to take revenge on the Turks in this region.<sup>741</sup>

312. The Muslims who were in Srebrenica after the beginning of the VRS attack took two courses of action. As described above, one group of thousands of women, children and men fled to the UNPROFOR compound in Potočari, located within the enclave of

<sup>733</sup> FRANKEN, T.2486.

<sup>734</sup> FRANKEN, T.2486; KINGORI, T.19237 (after air strike, there was a lull, then shelling started again).

<sup>735</sup> KINGORI, T.19243.

<sup>736</sup> KINGORI, T.19243-19244.

<sup>737</sup> Exh. P00511, UNMO Update, 11 July 21:35 hours (from 18:45 to 20:51 hours, UNMOs have counted 45 shells overflying DutchBat compound in Potočari, but deliberately missing the buildings). NIKOLIĆ, T. 32985-32986 (**BOROVČANIN** directing tank fire on 11 July).

<sup>738</sup> VAN DUIJN, T.2270, 2335

<sup>739</sup> VAN DUIJN, T.2271.

<sup>740</sup> Exh. P02047, Trial Video.

<sup>741</sup> Exh. P02047, Trial Video.

Srebrenica, and sought the protection of the base there.<sup>742</sup> These refugees remained in and around Potočari from 11 July until 13 July 1995.

313. A second group of approximately 15,000 Muslim men and boys, with some women and children, gathered at Šušnjari village, approximately seven kilometres northwest of Srebrenica, during the evening of 11 July 1995 and fled, in a huge column, through the woods towards Tuzla. Approximately one-third of this group consisted of armed men, most of whom were located towards the front of the column. The rest were unarmed military personnel and civilians.<sup>743</sup>

314. [REDACTED] PW-169 (Orahovac survivor) was one of the elderly men who proceeded towards the UNPROFOR base with his wife, daughter, daughter-in-law and granddaughter and reached Potočari around 21:00 hours.<sup>744</sup> [REDACTED] PW-169 and his family stayed that night in Potočari next to the “Sacmara” factory in Potočari, some 500 metres from the UN compound.<sup>745</sup>

### **The First Hotel Fontana Meeting**

315. On the evening of 11 July and morning of 12 July, three meetings took place at the Hotel Fontana between representatives of the VRS, DutchBat and the Muslims. The first meeting took place at around 20:00 hours on 11 July, and was attended by Col. Karremans, Col. Boering and Sgt. Rave and Generals Mladić, Živanović and Krstić and Cols. Janković and Kosorić. At this meeting, Mladić made it clear that he was in complete control of the situation, driving Karremans into a corner and threatening the DutchBat officers, inquiring menacingly about who had ordered NATO strikes and threatening to harm the DutchBat soldiers.<sup>746</sup> Boering stated that he was threatened.

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<sup>742</sup> See e.g., [REDACTED] PW-169, T.17304-17305, who testified that around 17:00 hours on 11 July, he received a message from the civilian protection in Srebrenica that the old and infirm people were to go to the UNPROFOR base in Potočari and the military-aged men were to go through the forest. [REDACTED] PW-106 testified that in the area of the gas station at Kazani, near the exit to Srebrenica, he saw a large group of civilians heading towards Potočari; another group of prominent people and ham radio operators were also gathered, deciding whether to wait for NATO air strikes or move towards free territory. [REDACTED] PW-106, T.3945-3950.

<sup>743</sup> RUTTEN, T.4838-4839 (men heading toward Buljim were not only soldiers); VAN DUIJN, T.2271-2272 (column had young boys and old men; recognized a 12 year old boy from OP Quebec); JANKOVIĆ, T.27371-27377 (when he was captured by the column on 14 July, he saw some women, but mainly middle-aged men and some elderly men; 80% armed, some with hunting rifles and older semi-autos and others with very high-quality weapons, including sniper rifles and rockets; also included civilians; he was captured by the security flank of the column, which was well-organised and had elite units providing security; he was in the middle and front of the column, where the prominent people from Srebrenica were, such as Zulfo Tursunović and Naser Orić's replacement; no food in column).

<sup>744</sup> [REDACTED] PW-169, T.17304-17305.

<sup>745</sup> [REDACTED] PW-169, T.17306. See also Exh. 4DIC00186, Aerial photograph of Potočari, on which PW-169 marked where he spent the night.

<sup>746</sup> Exh. P02047, Trial Video; BOERING, T.1945-1946.

Karremans realised that “the enclave had been lost,”<sup>747</sup> the refugees required “humanitarian support” and wanted to leave the enclave<sup>748</sup> with most of them wishing to go to Tuzla.”<sup>749</sup> Mladić told Karremans that his actions were not aimed at the UNPROFOR forces or the civilian Bosnian Muslim population.<sup>750</sup> The meeting concluded with Mladić instructing Karremans to bring civilian representatives of the Muslim population and a representative of the ABiH forces in Srebrenica to a second meeting at the Hotel Fontana later that evening.<sup>751</sup>

### **The Second Hotel Fontana Meeting**

316. Karremans returned to the Hotel Fontana later that night for the second meeting with Mladić, Krstić, Janković, Kosorić and Rave. As instructed, the DutchBat officers brought a representative of the Muslim civilians in Potočari, Nesib Mandžić; Boering had proposed Mandžić as one of the representatives.<sup>752</sup> Mladić created an atmosphere of intimidation and control. At the beginning of the meeting, the Serbs opened a window so that Mandžić and the Dutch soldiers could hear the screams of a pig being slaughtered.<sup>753</sup> After this Karremans and Mandžić explained the humanitarian needs of the population.<sup>754</sup> Mladić claimed that all of the Muslim soldiers who laid down their arms would be treated in accordance with international conventions. He then said menacingly that “the destiny of these people...is in your hands,” and gave Mandžić an ultimatum of either their survival or “disappearance.”<sup>755</sup> Mladić laid the broken sign from the town hall before Mandžić.<sup>756</sup>

317. Mladić ended the meeting and insisted on having another meeting the next day. He ordered Mandžić to “bring people who can secure the surrender of weapons and save your people from destruction.”<sup>757</sup> Mladić again demanded the surrender of the Muslim troops, believing they were still in the area. Mandžić was frightened and insecure after

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<sup>747</sup> Exh. P02047.

<sup>748</sup> Exh. P02047.

<sup>749</sup> Exh. P02047.

<sup>750</sup> Exh. P02047. These claims were made solely for propaganda purposes. After the first NATO air strikes on 11 July, the VRS had threatened to kill the captured DutchBat soldiers and shell the civilian population at Potočari unless the air strikes ceased. FRANKEN, T.2485; NICOLAI, T.18481-18487 and 18563-18564.

<sup>751</sup> Exh. P02047.

<sup>752</sup> BOERING, T.2140.

<sup>753</sup> BOERING, T.1953, 1959.

<sup>754</sup> Exh. P02047.

<sup>755</sup> Exh. P02047.

<sup>756</sup> BOERING, T.1960.

<sup>757</sup> Exh. P02047.

the meeting.<sup>758</sup> However, that evening and the next morning it became clear that the Muslim army would not be surrendering *en masse*.

318. Karremans summarized the situation in a memo faxed to Gen. Nicolai, the UNPROFOR Chief of Staff, based in Sarajevo.<sup>759</sup> By the morning of 12 July, approximately 30,000 refugees were gathered at various locations in and around the Potočari compound.<sup>760</sup>

### **Violence and Terror in Potočari**

319. On the evening of 11 July 1995 after the fall of Srebrenica, 20,000 to 25,000 Bosnian Muslim refugees from the enclave had gathered in and around the UN DutchBat headquarters in Potočari. When they arrived, the refugees appeared totally exhausted and were in bad condition; women were giving birth and babies were dying.<sup>761</sup> There was a suicide and an attempted suicide.<sup>762</sup> The conditions for these refugees in Potočari, which began as deplorable on 11 July, continued to degenerate on 12 and 13 July. Throughout this period, there was no meaningful access to food, water, basic medical treatment or toilet facilities.<sup>763</sup> Moreover, those refugees gathered outside the UN compound were subjected to close fire by Serb units.

320. In addition to the generally dire living conditions and the Serb firing near the civilian refugee population as a collective whole, various specific refugees at Potočari were singled out for individual terrorisation and intimidation. Such episodes, which included murder, beatings and other particularised methods of physical cruelty, were witnessed by DutchBat personnel and by other Bosnian Muslim refugees throughout 12 and 13 July.

<sup>758</sup> Franken saw Mandžić after the second Fontana meeting and recalled that he was very, very nervous and almost panicking. FRANKEN, T.2487; BOERING, T.1961.

<sup>759</sup> Exh. P00531; BOERING, T.1965-1967.

<sup>760</sup> Exh. P00512, 12 July UNMO SitRep; KINGORI, T.19264; P02047, Trial Video, P02047 at 02:02:58.26 (shot of huge crowd on 12 July).

<sup>761</sup> FRANKEN ("they didn't react on anything, just turned into themselves" and looked "as if the world stopped for them;" also, had no regard for each other), T.2489; KOSTER, R.61 testimony, admitted pursuant to Rule 92ter, p.5; [REDACTED] PW-114, Krstić testimony, admitted pursuant to Rule 92ter, p.1509, 1526 ("It was save yourselves. Older people were left behind. Everybody was just trying to get to safety, onto the compound. And several times, I held babies in my arms which were so swollen that they finally died;" babies were undernourished); BOERING, T.1931 (on 10 July, "I could see people looking very apathetically, hungrily, very nervously. People were at a loss, asking you what was to happen to them, asking me what could we do").

<sup>762</sup> FRANKEN, T.2511-2512; KOSTER, T.3069, 3095-3096.

<sup>763</sup> FRANKEN, T.2511.



**The Third Hotel Fontana Meeting, 12 July**

321. Representatives of the Bosnian Serbs, DutchBat and the Muslim refugees reconvened at the Hotel Fontana for a third time at 10:00 hours on 12 July. Those present included Mladić, Krstić, Janković, Kosorić and Lt. Colonel **POPOVIĆ** from the VRS and Karremans with Mandžić, Ibro Nuhanović and Čamila Omanović representing the Muslim refugees.<sup>764</sup> Also present were Dragomir Vasić, Miroslav Deronjić, Srblav Davidović and Ljubisav Simić. During the meeting, Krstić and others were called out of the meeting to attend to urgent matters and tracked vehicles and firing could be heard outside.<sup>765</sup>

322. Mladić repeated his threat from the second meeting that the Muslims could either “survive or disappear.”<sup>766</sup> He informed the Muslim representatives that all Muslims had to lay down their arms as a condition for survival. He also made several comments about the Muslims leaving the enclave, sometimes adding that they could choose to remain in Srebrenica.<sup>767</sup>

323. Notably, Mladić announced that all the men between the ages of 16 and 60 would be separated, purportedly so that they could be screened for war crimes.<sup>768</sup> This was the first time Mladić mentioned screening, which necessarily required the separation of the men from the women. Shortly thereafter, the separation of Muslim men from their families began in Potočari. However, it was clear from the beginning of the process that no “screening” for war criminals was being done. All of the men between the ages of 16 and 60, including many who were 12 to 15 years old and even more above the age of 60 and 70, were separated.

324. When Karremans and Boering returned to Potočari, they realized that several issues remained unclear from the meeting that morning at the Fontana. When Boering and Rave returned to the Fontana on Karremans’ orders to clarify the matters, he ran into Momir Nikolić, who told Boering to leave immediately and that the transportations had already started or were about to start. Nikolić was with Kosorić at the time. By the time Boering returned to Potočari, the buses had already begun to arrive.<sup>769</sup>

<sup>764</sup> Exh. P02047; BOERING, T.1968-1969.

<sup>765</sup> BOERING, T.1975.

<sup>766</sup> Exh. P02047.

<sup>767</sup> Exh. P02047.

<sup>768</sup> BOERING, T.1969, 1974-1975; BUTLER, T.19822-19823.

<sup>769</sup> BOERING, T.1976, 2077, 2151.

**The Entry of the Serb Forces into Potočari, 12 July**

325. Meanwhile, in the early morning of 12 July, in a coordinated action, VRS and MUP soldiers entered Potočari from the direction of OP Papa, deployed in an attack formation and supported by a main battle tank.<sup>770</sup> These forces were in proper uniforms and advanced in a line.<sup>771</sup> DutchBat soldier [REDACTED] (PW-114) described what he saw:

This first wave of an organised army consisted of well-disciplined infantry. They were dressed with helmets, beautiful, good camouflage suits, well-armed. They had several commanders, at least NCOs, who gave orders. They had good liaison materiel. The units were posted on both sides of the enclave and they had contact. That is how they advanced in line. And it was - - I had the impression that they were very well-organised, and I think I have enough experience to judge this after my time in service. On the right side of the compound from - - to my right-hand side, most of them were dressed in black. They were big, strong boys, strong guys, lightly armed. They had very good liaison materiel, carried on their backs mainly, and most of them were dressed in black. They also cleansed all the houses very thoroughly. And to the left, there was mainly infantry. They advanced across the field. To the left, there were fewer houses than to the right, so there were infantry in camouflage suits, helmets. They had machine-guns, AK-47s, grenades. It was an infantry unit, an ordinary infantry unit. The soldiers advancing on the right were dressed in black and cleansed or cleared the houses in such a way that they could be certain that there were no Muslim fighters or other people left behind. Their task was cleaning or cleansing out the whole area so that the units coming after them could advance through this area. There was more fighting on the right side than left side. The two groups converged from either side of the road in front of the Potočari base. These units were followed by less disciplined, older "Rambo-types."<sup>772</sup>

[REDACTED] PW-114 also observed that the units were independent with their own commanders.<sup>773</sup>

326. Other DutchBat officers who observed the Serb forces entering Potočari on the morning of 12 July described hearing small arms and mortar fire and seeing houses burning.<sup>774</sup> Paul Groenewegen recalled that "At the same time as the soldiers came in along the road, we noticed that troops were also coming in through the hills. And we heard shelling explosions, and we saw houses catching fire."<sup>775</sup> [REDACTED] PW-114 described in detail what he saw:

And later that day, and I don't know the exact times, more Serbs started coming in. We saw smoke arise around OP Papa and on both sides of the hill, more shooting, more heavy engine sounds, tank sounds. And the Muslim fighters were very nervous, and they started to disappear into the woods, they ran off. On the eastern side, there were a couple of Muslim fighters firing mortars at, I think, Serb materiel, and they were taken under heavy machine-gun fire." Most of the houses were set afire. Sometimes we even saw the flames.<sup>776</sup>

327. In addition to shelling, the Serb soldiers also looted houses and set them on fire. Serb soldiers were seen entering houses on their way from Bratunac to Potočari, looting

<sup>770</sup> FRANKEN, T.2489, 2614.

<sup>771</sup> FRANKEN, T.2489-2490.

<sup>772</sup> [REDACTED] (PW-114), *Krstić* testimony, admitted pursuant to Rule 92ter, pp.1498-1504.

<sup>773</sup> [REDACTED] PW-114, *Krstić* testimony, admitted pursuant to Rule 92ter, , p.1544.

<sup>774</sup> RUTTEN, *Krstić* testimony, admitted pursuant to Rule 92ter, , pp.2115-2116.

<sup>775</sup> GROENEWEGEN, *Blagojević* testimony, admitted pursuant to Rule 92ter, p.1023.

<sup>776</sup> [REDACTED] PW-114, , *Krstić* testimony, admitted pursuant to Rule 92ter, p.1496-14968.

the houses, and taking livestock from the fields. Shortly after the soldiers left the houses, the houses caught fire.<sup>777</sup>

328. The Serb forces advanced from the direction of Bratunac and OP Papa to the north, with one group proceeding through the fields and hills on either side of the Srebrenica – Bratunac road that passes in front of the Potočari base, and another group proceeding on the road itself; other Serb forces proceeded northwards from the direction of Srebrenica along the same road.<sup>778</sup>

329. The first soldiers who came down to Potočari from the hills were arrogant and did as they pleased; one drew his finger across his throat at a young wounded Muslim soldier who was in a wheelbarrow.<sup>779</sup> Some Serb soldiers shouted at the refugees and mocked them.<sup>780</sup> Among the first Serb forces to enter Potočari was a unit with dogs.<sup>781</sup>

330. Rutten notified Franken that Serb soldiers wanted to enter the compound to check for Muslim soldiers, so Franken escorted two through the compound.<sup>782</sup>

331. In the early afternoon, Mladić arrived and Serb soldiers, including Accused Ljubomir **BOROVČANIN**, were filmed handing out candy and bread to the refugees. When the filming stopped, the Serbs took some of the items back from the refugees.<sup>783</sup> While they were distributing the bread, the Serbs shouted at the refugees, mocked them and called them names.<sup>784</sup> Rutten saw this footage played on Dutch television two days later.<sup>785</sup> The utter hollowness of this propaganda exercise is also belied by Mladić's own words. While being filmed addressing some of the civilians crowded in Potočari, Mladić tells them that they are free to stay; however he was intercepted during this same period of time telling someone in an intercepted conversation to "Continue to monitor the situation. Don't let small groups of them sneak in. They've all capitulated and

<sup>777</sup> GROENEWEGEN, *Blagojević* testimony, admitted pursuant to Rule 92ter, p.1023.

<sup>778</sup> VAN DUIJN, T.2238, 2414 (indicating path of Serb forces on aerial); ĐURIĆ, T.10806, 10833, 10859 (1<sup>st</sup> Jahorina Company members told Đurić they saw houses burning with smoke coming out), 10897.

<sup>779</sup> RUTTEN, T.4877, *Krstić* testimony, admitted pursuant to Rule 92ter, p.2117-2118.

<sup>780</sup> KOSTER, R.61 testimony, admitted pursuant to Rule 92ter, p.8; GROENEWEGEN, T.2968 ("We saw that the soldiers were approaching the population aggressively through physical violence and we tried to prevent that.").

<sup>781</sup> GROENEWEGEN, T.2975; KOSTER, R.61 testimony, admitted pursuant to Rule 92ter, p.10; FRANKEN, T.2491. Momir Nikolić testified that among the units present in Potočari was a MUP dog unit commanded by a Col. Malešić. NIKOLIĆ, T.32987.

<sup>782</sup> FRANKEN, T.2491.

<sup>783</sup> RUTTEN, *Krstić* testimony, admitted pursuant to Rule 92ter, p.2125; KINGORI, T.19247-19248; [REDACTED] (PW-114), *Krstić* testimony, admitted pursuant to Rule 92ter, p.1521 ("After the camera crew stopped filming, the General turned around, he laughed. The soldiers took the candy back, took the cigarettes back.").

<sup>784</sup> KOSTER, R.61 testimony, admitted pursuant to Rule 92ter, p.9.

<sup>785</sup> RUTTEN, *Krstić* testimony, admitted pursuant to Rule 92ter, p.2127.

surrendered and *we'll evacuate them all – those who want to go and those who don't want to.*<sup>786</sup>

332. Near the crowd of civilians, Koster encountered Mladić, who told him, “I don’t care about your commander, I’m in charge here and you’d be best off cooperating.”<sup>787</sup>

Kingori also approached Mladić, who told him,

point blank, he does not require the use or help from the UN. He himself, has organised his own transport, and he’s going to transport these people from here to Tuzla, where their Muslim brothers are located. Those were his words, “We will move the Muslims from here and take them to Tuzla to join their brothers there.”<sup>788</sup>

333. Shortly after Karremans returned from the third Fontana meeting, the buses began arriving from the north.<sup>789</sup> Franken was surprised the transportations were beginning so quickly.<sup>790</sup> On Karremans orders, Boering objected to Mladić that the infirm, elderly and women should be transported first; however, despite appeals to Mladić from Boering, an MSF representative and, eventually, Karremans, the buses were loaded without any selection of the injured or the elderly. Mladić simply did what he wanted without regard to DutchBat.<sup>791</sup>

334. Later in the afternoon, around 14:00 or 15:00 hours, Franken was approached by a VRS officer who identified himself by name as Col. Acamović and by function as a G4 (logistics) officer from Pale. Acamović told Franken that Acamović was responsible for transporting the civilians out of Potočari and asked for support, including transport and fuel.<sup>792</sup> Franken refused to supply fuel because he did not have any.<sup>793</sup> Kingori also encountered Ačamović.<sup>794</sup>

335. Franken also met another VRS colonel that day, who introduced himself as Janković and stated that he was from Pale, and told him that he was responsible for preparing and coordinating DutchBat’s withdrawal.<sup>795</sup> Van Duijn also saw Janković in Potočari, who carried a leather briefcase and introduced himself as a colonel and a

<sup>786</sup> Exh. P01113a, Intercept between Mladić and X, 12 July 1995, 12:50 hours.

<sup>787</sup> KOSTER, R.61 testimony, admitted pursuant to Rule 92ter, p.9; Exh. P02047, Trial Videoat 01:58:42.10 (“It regards my order. I couldn’t care less about your commander.”).

<sup>788</sup> KINGORI, T.19253, 19444-19445 (about 20-30 minutes later, buses started arriving).

<sup>789</sup> FRANKEN, T.2492.

<sup>790</sup> FRANKEN, T.; VAN DUIJN, T.2341-2342.

<sup>791</sup> BOERING, T.2009-2014; KINGORI, T.19253, 19444-19445. Exh. P00512, 12 July UNMO SitRep (evacuation started at 15:12 hours with 30 buses and trucks supplied by VRS; this was not approved by Karremans, but Mladić ordered transportations to proceed”).

<sup>792</sup> FRANKEN, T.2492-2493, 2620.

<sup>793</sup> FRANKEN, T.2493.

<sup>794</sup> Exh. P00516, 13 July UNMO SitRep, 17:15 hours (“All refugees from outside the compound are transported now. The transport of the refugees inside the compound is taking place now. DutchBat is refuelling the busses now who have been driving the refugees up till now. Ačamović is the logistics officer of Mladić’s staff.”); KINGORI, T.19274-19276 (Ačamović in charge of operation in Potočari).

<sup>795</sup> FRANKEN, T.2493.

logistics officer. Janković appeared to be inspecting the area to see what was happening.<sup>796</sup>

336. By the afternoon, VRS and MUP soldiers started to steal DutchBat vehicles, weapons and communications sets during the DutchBat escort of refugees from Srebrenica, as well as from peacekeepers in Potočari. Major Franken testified that these actions were systematic and sanctioned by the VRS leadership and done in order to take away the “eyes and ears” of the DutchBat based at the UN Compound at Potočari.<sup>797</sup>

**The first convoy, 12 July**

337. The first convoy was well-organized and had 50-60 people per bus, although this would not be the case with subsequent convoys.<sup>798</sup> The first convoy consisted of ten buses and six trucks and departed in the afternoon.<sup>799</sup> The first convoy to leave had some men of military age on it, but after that, men and boys of all ages were separated from beyond the perimeter secured by DutchBat.<sup>800</sup> In fact even with the first convoy, men were separated all along the column of waiting buses, included at the doors of the buses as they tried to board.<sup>801</sup>

338. When the first convoy began to depart, Franken ordered Boering and Voerman to get a Jeep and accompany it.<sup>802</sup> Boering and Voerman were in a Jeep towards the front of the convoy and Egbers was in a Jeep at the end of the convoy.<sup>803</sup> A Serb officer identified by Boering as “Kosović” or “Kosorić” led the convoy in a civilian vehicle.<sup>804</sup> Franken then ordered Melchers to arrange to have one Jeep in front of and behind each convoy that left.<sup>805</sup>

339. When the first convoy finally stopped, Boering encountered a Major Šarkiće, who asked Boering to escort the refugees on foot to Kladanj, as he was afraid of coming too close to Muslim forces, so Boering walked with the refugees to free territory.<sup>806</sup>

<sup>796</sup> VAN DUIJN, T.2280,2283-2284 (IDs Janković).

<sup>797</sup> FRANKEN, T.2494-2495; RUTTEN, T.4806-4807.

<sup>798</sup> EGBERS, T.2747; 2756 (The convoys were less organized and people were standing on every inch of the buses by the second day).

<sup>799</sup> BOERING, T.2078, 2082.

<sup>800</sup> FRANKEN, T.2498-2499; BOERING, T.2010 (first convoy had some boys, elderly men and military-aged men, in addition to elderly women and children); MOMIR NIKOLIĆ, Exh. 4D00016, Statement of Facts (men allowed on first convoy as propaganda exercise).

<sup>801</sup> BOERING, T.2015.

<sup>802</sup> FRANKEN, T.2494; EGBERS, T.2804; BOERING, T.2019-2020, 2158.

<sup>803</sup> EGBERS, T.2804; BOERING, T.2020.

<sup>804</sup> BOERING, T.2020, 2158.

<sup>805</sup> FRANKEN, T.2494; EGBERS, T.2720.

<sup>806</sup> BOERING, T.2025

340. When the first convoy disembarked, the Serb soldiers abused the refugees getting off the buses, yelling at them and pointing and cocking their weapons to intimidate them.<sup>807</sup> Mulder saw a Serb soldier put his AK-47 on the head of a Muslim woman.<sup>808</sup> Mulder saw the bodies of at least four dead women on the buses, which he laid by the side of the road.<sup>809</sup> Mulder encountered Boering speaking to a Serb Major, who said that it was not good to let the refugees go to the free territory and that “we should have killed all of them to save the future of next Serb generations.”<sup>810</sup>

**(xxix) The Forcible Removal of the Muslim population**

**Separation of the Men, 12 July**

341. On the morning of 12 July, [REDACTED] PW-169 (Orahovac survivor), who had arrived at Potočari the day before, saw Serb soldiers enter Potočari, setting hay on fire as they approached,<sup>811</sup> and heard that transportation was coming to take the Muslim population to Tuzla.<sup>812</sup> At approximately 14:00 hours, the first convoy of vehicles arrived.<sup>813</sup> [REDACTED] PW-169 went down to the road where barricades had been set up and saw approximately ten Serb soldiers in dark green camouflage uniforms standing along the road.<sup>814</sup> As [REDACTED] PW-169 walked towards the buses, a Serb soldier took him by the shoulder and directed him to the left side of the road to stand with a group of elderly Muslim men who had already been separated.<sup>815</sup> [REDACTED] PW-169’s family were allowed towards the buses.<sup>816</sup> The Serb soldiers continued to separate the men.<sup>817</sup>

342. When there were about 20 Muslim men standing by the road,<sup>818</sup> the Serb soldiers, who were armed with automatic rifles,<sup>819</sup> told them to go to an unfinished house nearby.<sup>820</sup> The Muslim men entered the unfinished house and sat down on the floor.<sup>821</sup>

<sup>807</sup> MULDER, Exh. P02199, 12 May 2000 OTP Witness Statement, admitted pursuant to Rule 92bis, p.3.

<sup>808</sup> MULDER, Exh. P02199, p.4.

<sup>809</sup> MULDER, Exh. P02199, p.3. See also Exh. P00515, 13 July UNMO SitRep, 11:00 hours (DutchBat reported one woman and one baby died on one of the convoys); Kingori, T.19274.

<sup>810</sup> MULDER, Exh. P02199, pp.3-4.

<sup>811</sup> [REDACTED] PW-169, T.17307.

<sup>812</sup> [REDACTED] PW-169, T.17307.

<sup>813</sup> [REDACTED] PW-169, T.17307.

<sup>814</sup> [REDACTED] PW-169, T.17306:21 – 17309:11.

<sup>815</sup> [REDACTED] PW-169, T.17309.

<sup>816</sup> [REDACTED] PW-169, T.17310.

<sup>817</sup> [REDACTED] PW-169, T.17309.

<sup>818</sup> [REDACTED] PW-169, T.17310.

<sup>819</sup> [REDACTED] PW-169, T.17311:1-2.

<sup>820</sup> [REDACTED] PW-169, T.17309-17310. At T.17378, [REDACTED] PW-169 was shown a picture of the “White House” (Exh. P02103 at p.8) and confirmed that this was not the house he was detained in. See

The Serb guards threatened the Muslim men and they received no food or water.<sup>822</sup> Groups of approximately 20 Muslim men continued to arrive, and when the house was full, the men sat in front of the house.<sup>823</sup> The men were all approximately the same age as [REDACTED] PW-169 and many were disabled, including some with walking sticks.<sup>824</sup> The Muslim men asked the Serb soldiers why they were being separated but the Serb soldiers responded that they did not know.<sup>825</sup> After a while, General Mladić arrived and told the men that he needed 180 men to exchange for 180 Serb prisoners who were being held in Tuzla.<sup>826</sup> The men spent approximately four hours in this house,<sup>827</sup> after which they were crammed onto two buses,<sup>828</sup> along with a Serb soldier armed with an automatic rifle,<sup>829</sup> and driven to Bratunac.<sup>830</sup> The Muslim men still had their possessions at this stage.<sup>831</sup>

**Organised transportations begin, 12 July**

343. On the afternoon of 12 July, Muslim women, children and men started to board the buses and trucks, as MUP forces working with the VRS began to separate Bosnian Muslim men from the women and children in and around Potočari.<sup>832</sup> As [REDACTED] PW-169's example above illustrates, this was carried out roughly in phases. Closer to the area where the refugees had gathered near the bus compound, van Duijn and Mendeljev "Mane" Đurić, known to van Duijn and the other DutchBat officers simply as "Capt. Mane,"<sup>833</sup> were assembling and regulating the movement of groups of refugees towards the buses, which were lined up closer to the White House and the entrance to the UN's Potočari compound. As described in more detail below, Muslim family members were literally forced by Serb soldiers to let go of each other as the men were separated.<sup>834</sup>

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also Exh. 4DIC00186, Aerial photograph of Potocari on which [REDACTED] PW-169 marked the location of the "Unfinished House."

<sup>821</sup> [REDACTED] PW-169, T.17310.

<sup>822</sup> [REDACTED] PW-169, T.17311.

<sup>823</sup> [REDACTED] PW-169, T.17312.

<sup>824</sup> [REDACTED] PW-169, T.17313.

<sup>825</sup> [REDACTED] PW-169, T.17312.

<sup>826</sup> [REDACTED] PW-169, T.17312-17313.

<sup>827</sup> [REDACTED] PW-169, T.17314:1-2.

<sup>828</sup> [REDACTED] PW-169, T.17313:5-10.

<sup>829</sup> [REDACTED] PW-169, T.17314.

<sup>830</sup> [REDACTED] PW-169, T.17315.

<sup>831</sup> [REDACTED] PW-169, T.17315:7-10.

<sup>832</sup> [REDACTED] (PW-118), T.3408-3409; BOERING, T.2014-2016; FRANKEN, T.2496; MALAGIĆ, *Krstić* testimony, admitted pursuant to Rule 92bis, p.1966.

<sup>833</sup> RUTTEN, T. T.4939; Rutten also identified Đurić as "Captain Mane" from a video still during his *Krstić* testimony at p.2123-2124.

<sup>834</sup> VAN DUIJN, T.2291-2292, 2310-2311.

**MUP forces take control of movement of refugees to buses and separated men, 12 July**

344. After he saw the Serb forces enter Potočari from the south and north and take over the enclave, van Duijn went north some 400-500 metres from his position above Point 02 to the factory sites south of the Potočari compound.<sup>835</sup> There he was approached by a Serb commander who identified himself as Mane.<sup>836</sup> Through Miki his interpreter, Mane told van Duijn that he was a captain and that he was a commander of a military police unit which had some sort of liaison with the Drina Wolves, but was not part of the Drina Wolves.<sup>837</sup> Mane asked van Duijn if he was the UN commander of that area outside the compound and told van Duijn that he was the local commander of the Serb forces there.<sup>838</sup> Mane told van Duijn that the Serbs were going to transport the refugees out of the enclave. Mane wanted to know whether the UN would stay there or withdraw to the compound, otherwise the Serbs would do it their way. Mane was very clear and stated it as a fact that the refugees were going to leave Srebrenica, telling van Duijn that 200 buses were coming to pick up the refugees.<sup>839</sup> The way Mane said this and the words he chose made van Duijn decide to stay there between the refugees and the Serbs, instead of retreating to the UN compound.<sup>840</sup>

345. Mane also told van Duijn that his commander was nicknamed Stalin and that Stalin was a short person with a big pair of Ray-Ban sunglasses.<sup>841</sup> Mane also pointed out Stalin to van Duijn, who also saw Stalin at various locations in the area.<sup>842</sup> Mane and Stalin “had a key role in the events on those two days.”<sup>843</sup> Mane was central to what was going on in Potočari and was the one in charge there.<sup>844</sup>

346. Van Duijn saw Stalin with Momir Nikolić, who was a well-known figure to DutchBat. Nikolić made an inspection visit with Stalin, who appeared to be explaining by his gestures what was happening, what was going on and how they organised things, as they walked down the road together.<sup>845</sup>

347. Shortly after van Duijn’s conversation with Mane, the buses arrived. The DutchBat soldiers formed a human cordon between the refugees and the Serb soldiers.

<sup>835</sup> VAN DUIJN, T.2272-2273.

<sup>836</sup> VAN DUIJN, T.2277. At trial, Mendeljev Đurić identified himself as this “Mane.”

<sup>837</sup> VAN DUIJN, T.2277-2278, 2282 (IDs Mane and Miki), 2340.

<sup>838</sup> VAN DUIJN, T.2277-2278.

<sup>839</sup> VAN DUIJN, T.2284-2285.

<sup>840</sup> VAN DUIJN, T.2284-2285.

<sup>841</sup> VAN DUIJN, T.2278-2279; [REDACTED] (PW-100), T.14800. [REDACTED].

<sup>842</sup> VAN DUIJN, T.2278.

<sup>843</sup> VAN DUIJN, T.2328.

<sup>844</sup> VAN DUIJN, T.2404.

<sup>845</sup> VAN DUIJN, T.2279-2280, 2282 (IDs Stalin), 2284 (IDs Momir Nikolić).



Van Duijn, Mane and Miki stood approximately 20-25 metres behind the DutchBat soldiers forming the human cordon between the Serb soldiers and the refugees.<sup>846</sup> Mane told van Duijn how many buses or trucks were present and how many refugees could be seated in them. Van Duijn would give orders to the UN soldiers to let people through the cordon in small groups so they would not trample each other.<sup>847</sup>

348. In the beginning, men were let through with their families. However, later on the Serb soldiers behind van Duijn's location singled out the Muslim men, who were placed on a lawn in front of a pair of unfinished houses, as described by [REDACTED] PW-169.<sup>848</sup> These separations on the first day occurred in the area of the unfinished houses.<sup>849</sup> The houses had no façade and were different from the White House.<sup>850</sup> When van Duijn questioned Mane as to why the men were being separated, Mane replied that they were going to be checked against a list of war criminals, which van Duijn at the time considered to be a reasonable explanation.<sup>851</sup> At the end of the day, the men on the lawn were taken north to an unknown destination by the Serbs in a truck that had earlier in the day brought bread and water which van Duijn had requested through Mane.<sup>852</sup>

349. When van Duijn saw the Serbs single out a boy or man who was too young or too old to be a soldier, he protested to Mane, who let them pass through with their families.<sup>853</sup> Mane agreed with van Duijn whenever van Duijn protested that someone was too young or too old and could not have been a soldier.<sup>854</sup> During this process, only the Serb forces separated the men; the UN soldiers never did so.<sup>855</sup> Van Duijn did assist in helping people get on a truck if they were unable to do that themselves.<sup>856</sup> For example, Van Duijn carried a weak and hysterical mother to a bus in which her children had been boarded after she had lost them in the chaos.<sup>857</sup> From what van Duijn observed from

<sup>846</sup> VAN DUIJN, T.2343-2344.

<sup>847</sup> VAN DUIJN, T.2286.

<sup>848</sup> VAN DUIJN, T.2286-2287; GROENEWEGEN, *Blagojević* testimony, admitted pursuant to Rule 92ter, p.1026 ("Most of the younger men were taken out of the crowd rather aggressively"). [REDACTED] (PW-100) testified that a fellow 1<sup>st</sup> Jahorina Training Company member told him that Special Police Brigade members had participated in the separations. [REDACTED] PW-100, T.14817.

<sup>849</sup> VAN DUIJN, T.2298.

<sup>850</sup> VAN DUIJN, T.2377-2378.

<sup>851</sup> VAN DUIJN, T.2287, 2346.

<sup>852</sup> VAN DUIJN, T.2296.

<sup>853</sup> VAN DUIJN, T.2289.

<sup>854</sup> VAN DUIJN, T.2347, 2379.

<sup>855</sup> VAN DUIJN, T.2290.

<sup>856</sup> VAN DUIJN, T.2290.

<sup>857</sup> VAN DUIJN, T.2293-2294.

where he was located, Mane was in command of the soldiers and process of getting the refugees on the buses.<sup>858</sup>

350. Not surprisingly, Mendeljev Đurić recalled this process a little differently, minimizing his conduct by describing the Serb soldiers and Dutch peacekeepers as “holding hands” to keep the civilians from stampeding, and claiming that the DutchBat soldiers in van Duijn’s area were simply performing the same tasks as Đurić’s men.<sup>859</sup> Moreover, he claimed, incredibly, that he did not see any separations.<sup>860</sup>

351. Nevertheless, Đurić testified that there were no VRS units participating in this process in his area; the only VRS soldiers he saw accompanied the drivers of the buses and trucks alone or in pairs.<sup>861</sup> Neither the First Zvornik PJP Company nor the Second Šekovići Detachment were working with him in this area either.<sup>862</sup> Đurić stayed in the same spot all day and was in contact with van Duijn until the last transportations.<sup>863</sup>

352. In his area, van Duijn did not witness any mistreatment, except for a boy who was almost strangled and a threat to his interpreter by Mladić.<sup>864</sup> Van Duijn did receive reports later in the day that people were kicked, beaten and mistreated by Serb soldiers when they neared the buses north of his location.<sup>865</sup>

**Forcible transfer of women, children and elderly**

353. Force and violence was used by the Serbs to get the Muslims on the buses.<sup>866</sup> The Serbs pushed the people to the buses and overfilled them.<sup>867</sup>

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<sup>858</sup> VAN DUIJN, T.2290.

<sup>859</sup> ĐURIĆ, T. 10809-10812.

<sup>860</sup> ĐURIĆ, T. 10817.

<sup>861</sup> ĐURIĆ, T.10811

<sup>862</sup> ĐURIĆ, T.10864.

<sup>863</sup> ĐURIĆ, T.10810, 10812.

<sup>864</sup> VAN DUIJN, T.2380. Van Duijn witnessed a Serb soldier in a black uniform not from Mane’s unit grab a young boy by the throat to separate him, but Mane intervened and prevented it. VAN DUIJN, T.2347.

<sup>865</sup> VAN DUIJN, T.2290-2291, 2381.

<sup>866</sup> FRANKEN, T.2652; RUTTEN, T.4822; KOSTER, T.3089 (some refugees pushing towards buses, another part of refugees standing back, more reluctant; “People were pushing and jostling and when they headed towards the buses they were rushed by the Bosnian Serb soldiers), T.3104 (“when the Muslim population was being chased to the buses, people were indeed chased by the Bosnian Serbs and that happened by kicking at them and yelling at them and pushing at them so if you consider that to be abuse, then, yes, I did see abuse.”); Exh. P02196, GROENEWEGEN, p.1025 (“The first people to go there were those who wanted to get into the buses on their own account. The people who didn’t want to get in kind of withdrew into the background and were forced afterwards to get into the buses still. Initially, there was only shouting and people were being called names. And if they still didn’t want to get in, then violence was used” by the Serb soldiers), Exh. P02196, GROENEWEGEN, T.2969 (force was used because the women didn’t want to be separated from the male members of their families); Exh. P02188, [REDACTED] PW-114, p.1520 (“sometimes they were kicked, they were beaten, they were pushed. Many people fell because of that, and some kind of traffic jams resulted. And they panicked. The buses were loaded so full that people were squashed inside the buses. They didn’t get any water for the way, no food. The windows could not be opened. It was like a hot tin oven, it was so hot. Yes, indeed, there was kicking, beating, spitting, shouting.”); ĐURIĆ, T.10809 (when transport began, “They wanted to go, they didn’t want to go.

### Separations

354. The separations were marked by brutality and scenes of unbearable distress and heartbreak.<sup>868</sup> Consistent with the Serb forces' well-coordinated entry into Potočari, the separation process appeared to be as well-planned as it was ruthless.<sup>869</sup>

355. The men who were separated were mainly between 17 and 50 to 60 years of age,<sup>870</sup> though even very young boys and men who could barely walk were taken away.<sup>871</sup> Other than at one point checking hands and looking for IDs and weapons, there was no selection process before they were sent to the lawn in front of the unfinished houses and to the White House.<sup>872</sup> Very quickly, the indiscriminate "screening" process

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There was a dose of fear, I assume. However, they did go.). Ahmo HASIC, T. 1217:11-13: "It was very crowded and people were struggling and pushing in front of the trucks in order to get on to the trucks as soon as possible." [REDACTED] PW-118, T. 3407:25-3408:7 : "The evening in the bus compound was horrible... There was not enough space in the bus compound. It was crowded. Children were crying, and mothers had to try to bring in hay for the children to sleep on. There was not enough food. People needed to go to the toilet. And the witness couldn't sleep at all that night because he was in a sitting position." [REDACTED]. Joseph KINGORI, T. 19255:16-19256:11: "The process was not that honourable, in that they were not being requested to get in. In fact, they were being pushed in. And in the moment you tried to either resist or maybe try to shout at your brother or sister, your relatives, that they come to the same bus, you could be pushed even to the ground by force... you are forced. You are pushed to the ground. You are pushed until you physically get in. They start crying. They start making a lot of noises, "Why are you doing this do us?" "What is wrong?" "What have we done?" You know, a lot of issues were coming up, and it was to do with, "Why should you people be doing this to us?" We were ourselves now we also hear some of the -- I mean, we could understand some or part of the language because we were there for some time, but not fully. But we could hear the outcry of the Muslims being pushed to go into those buses, and it was not the most comfortable position or situation." [REDACTED]. Mirsada MALAGIĆ: Exh. P2218, at T. 1965-1970.

<sup>867</sup> Exh. P02269, KOSTER, p.10; Exh. P02188, [REDACTED] PW-114, p.1520 ("The buses were loaded so full that people were squashed inside the buses. They didn't get any water for the way, no food. The windows could not be opened. It was like a hot tin oven, it was so hot.").

<sup>868</sup> Exh. P02218, MALAGIĆ, T.1966-1967; KINGORI, T.19251-19256.

<sup>869</sup> Exh. P02178, RUTTEN, p.2194, 2196 ("They knew exactly who I was, they even asked me for my rank, and they knew exactly who was in charge. They could see that. They easily -- they didn't speak to the soldiers. They more or less addressed always the lieutenants that were around. So they knew exactly what they were doing."); Exh. P02188, [REDACTED] PW-114, p.1514-1515 ("From a military point of view, I would never condone what happened, but it was a good operation. It was well organised, well prepared, good command. Everybody knew their task. Certainly it was planned about how to go about this, and several units were involved for this approach. It was a large-scale approach in such a way that they did not know what resistance to expect, but they knew that they would be able to handle it as quickly as possible. There was good communication, internal communication, good liaison materiel").

<sup>870</sup> BOERING, T.2010, 2012.

<sup>871</sup> KINGORI, T.19254-19255. [REDACTED] PW-169, T.17312, 17316. [REDACTED] PW-110 also testified that when he arrived at the School the following morning, the people who were there were "elderly people; the average age was 70" (T.677); Dragoje IVANOVIĆ described the prisoners as "civilians" (T.14541:15); while Stanoje BIRČAKOVIĆ testified that they were all men who were dressed in predominantly civilian clothing (T.10746). See also Šifa HAFIZOVIĆ, Exh. P03236 at ERN:0096-8618.

<sup>872</sup> VAN DUIJN, T.2286-2287, 2297-2298, 2315, 2377-2378, 2407-2409 (prisoners seated on lawn of unfinished house with no façade on 12 July, then APC funnel moved up closer to White House, where prisoners taken on 13 July); RUTTEN, T.5263-5264, Exh. P02178, RUTTEN, p.2194; Exh. P02188, KOSTER, p.11; GROENEWEGEN, BT.1026, T.2987-2988, 3002 (house looked pretty dilapidated and one wall was entirely missing), 3014-3016; [REDACTED] PW-169, T.17378; KINGORI, T.19254-19255.

used by the Serbs in Potočari consisted in telling the Muslim men and boys drop all of their belongings and IDs in a huge pile in front of the White House.<sup>873</sup>

356. [REDACTED] PW-121 described her terror and anguish as her 14-year old son was separated from her that day:

A. Finally, it was our turn to approach the rope and we were finally let through. I felt relieved. I thought to myself, thank God. After everything I had seen, after I had seen people being separated, I kept thanking God because we seemed to have passed through, me, my children, and these friends of ours.

But then there was a line of their soldiers standing there on both sides, on our left-hand side and on our right-hand side, and it was a kind of column that they had formed, a kind of gauntlet, a corridor that we had to pass through. We couldn't see the trucks or the buses. We had covered a distance of about 100 metres but we still couldn't see any vehicles.

When we were halfway through, I heard a voice say, "Popović, look out for this one," and I immediately realised that he was referring to my child. But then there were other children there as well. There was my sister-in-law's child and some other people. Then the soldiers insisted and I felt paralysed at one point. But I mustered some courage to whisper in my son's ear and to tell him, "Don't worry, sonny. Just go. Keep going."

We walked for about 50 metres, and then from the left column one of their soldiers jumped out, and he spoke to my child. He told us to move to the right side, and he told my son, "Young man, you should go to the left side." And then he said, "Why me? I was born in 1981." But he repeated what he had said, "You people should go to the right-hand side."

He had some kind of bags in his hand, and the soldier told him to throw the bag to the right side and to go to the left, but I grabbed him by his hand and I -- he kept repeating, "I was born in 1981. What will you do with me? What do you want me to do?" And then I begged them, I pleaded with them. Why are you taking him? He was born in 1981. But he repeated his order. And I held him so hard, but he grabbed him.

And then my son threw out that bag, and the soldier picked up the bag and threw it on a pile on the right-hand side, and he took my son's hand, and he dragged him to the left side. And he turned around, and then he told me, "Mommy, please, can you get that bag for me? Could you please get it for me?" ...

That was the last time I heard his voice.

My other child who was with me kept screaming. This child was born in 1986. He grabbed me by my hair; he was pulling my hair. He was shouting and screaming, "Mommy, they have taken my brother away. They have taken our brother." And then I was thinking about taking this other child and going to where my son had been taken, but he kept screaming. He was asking for his aunt that had been with us, but I just stood there thinking what to do. But he kept screaming, pulling my clothes, my hair, and then I started comforting him, and I told him to calm down. I was trying to tell him that his brother would not be harmed in any way.

And I just stood there for a while. I didn't know what to do. I didn't know where to go. But at that point my sister-in-law came and her sister-in-law, and they took me with them. They told me to go with them, and we went to a truck. It was a large truck. It didn't have any canvas on. So they put me onto that truck, and we sat down. The truck was still standing, and I kept looking at that direction where they had taken him to. There was a bus full of men that was standing there, and there was some men around the bus as well. They were actually many of them. They could have been put in five more buses. And I was thinking, well, thank God, at least they have buses. They will be taken somewhere by a bus. But at that point our truck left, and I didn't see him again. Nothing.<sup>874</sup> ...

Q. What do you think has happened to your husband and your two sons?

<sup>873</sup> RUTTEN, T.4853-4857, 4893; Exh. P02178, RUTTEN, p.2134, 2195; Exh. P02047 Trial Video (at 02:30:38.28 for beginning of footage of pile and men in White House); VAN DUIJN, T. 2302-2304; BOERING, T.2012-13; Exh. P02218, Mirsada MALAGIĆ, T.1966, 1973-74; Ahmo HASIĆ, T. 1179:9-1179:19 (At the White House, no VRS soldiers asked Ahmo or any other Muslim prisoners for their name. VRS soldiers did not interview anybody - other than to ask for money - not did they explain to the men why they were being detained, other than to say that they would be interrogated and then let go to Tuzla).

<sup>874</sup> [REDACTED] PW-121, Exh. P02227 at T.5754-5756.

A. How do I know? As a mother, I still have hope. I just can't believe that this is true. How is it possible that a human being could do something like this, could destroy everything, could kill so many people?

Just imagine this youngest boy I had, those little hands of his, how could they be dead? I imagine those hands picking strawberries, reading books, going to school, going on excursions.

Every morning I wake up, I cover my eyes not to look at other children going to school, and husbands going to work, holding hands.<sup>875</sup>

357. Even for someone who did not have to leave a family member himself, the experience of the separations profoundly and an indelibly effected van Duijn:

There are still all the separations and the whole process was terrible, and still I think back on those situations. And of course, when you have a family that consists of more than five, six people and you are standing in the middle of the process in which the man is being separated from his wife and family and you literally - - they literally take you by the arm to - - to help - - ask if you can help or if you can aid them in any way, then this is something that burns into your soul, especially when, in that specific incident, there is the classic border case in which you have a man that is old but not that old. He could be - - could have been a soldier for the Muslim forces, and especially because in that specific incident I decided not to protest with Mane. So the separation happened and the man was separated from his family. And that together with other decisions I had to take, in the cases where you don't protest, that is something that will stick with me the rest of my life.<sup>876</sup>

**DutchBat escorts systematically blocked and stripped of equipment, 12 July**

358. Although the first convoy was permitted to pass with DutchBat escort and some men on board, by the late afternoon of 12 July, the Dutch convoy escorts were systematically stopped, disarmed and turned back. Franken perceived this to be a coordinated effort by the Serbs to take away his "eyes and ears" so the Dutch peacekeepers could not be witnesses.<sup>877</sup> DutchBat stopped sending armed escorts because they would just be robbed of their weapons.<sup>878</sup> As Rutten put it:

all of the jeeps and soldiers that were escorting the convoys of buses were either thrown out of the buses or pushed out, and the jeeps were hijacked by the Bosnian Serbs. So if we continued the process of escorting the buses, we had no jeeps left. So more or less it was no use to escort them when you lose all your materiel and are brought back half an hour back to the compound, or a day later. And, yeah, the escort hadn't succeeded at all.

I think it was well organised, because having no one on the buses, having no UN car around, it was impossible for us to secure the road to Kladanj and impossible for us to see what happened to the refugees which were on the buses.<sup>879</sup>

<sup>875</sup> [REDACTED] PW-121, Exh. P02227 at T.5761.

<sup>876</sup> VAN DUIJN, T.2291-2292, 2310-2311.

<sup>877</sup> FRANKEN, T.2494-2496; RUTTEN, T.4904 ("We tried throughout the 12<sup>th</sup> and the 13<sup>th</sup> to observe what was happening with the people, by sending jeeps with personnel on it, with it, to the direction of OP Papa and, in fact, Bratunac or Kladanj. But every time we sent our people along, they were excluded from the convoy that was moving, yes."); EGBERS, T.2752-2753, 2889 (Egbers tried to have a convoy of three buses from the White House escorted on 13 July, but the DutchBat escorts had an AK-47 put to their heads and did not get past Bratunac).

<sup>878</sup> EGBERS, T.2753.

<sup>879</sup> RUTTEN, *Krstić* testimony, admitted pursuant to Rule 92ter, p.2151, 2156.

**DutchBat soldiers in Potočari detained and stripped of equipment, 12 July**

359. In addition, Serb forces also held DutchBat soldiers captive at gunpoint and forcibly stripped DutchBat soldiers of their radios, flak vests, weapons and other equipment. Rutten was held at gunpoint by a group of soldiers who identified themselves as “*Specijalni*”, a special police unit from Belgrade, some of whom wore blue flak vests.<sup>880</sup> Rutten had two radio sets and when a Serb soldier ordered him to give up his communications equipment at gunpoint, so Rutten turned his back and transmitted over one of his radios that he was being seized, then gave up the radio set. Koster received the radio call from Rutten that he and his men were being disarmed and held.<sup>881</sup> Rutten and the ten peacekeepers under his command plus a DutchBat doctor were held captive for a few hours that afternoon near the bus compound.<sup>882</sup> When Rutten protested to someone who looked to him like an officer and who became known to him as “Capt. Mane,” Capt. Mane ignored him and told him to return to his group. A few hours later, when Capt. Mane returned, Rutten again protested, after which Capt. Mane sent Rutten back to the DutchBat compound, escorted by two of Capt. Mane’s soldiers.<sup>883</sup>

360. During the night of 12 July, Koster was approached by two Serb soldiers who demanded his flak jacket, helmet and other equipment. Koster refused, and when the Serb soldier pushed the barrel of his Kalashnikov into his Koster’s stomach, Koster shouted the names “Miki” and “Mane,” at which point the soldier with the gun in Koster’s stomach hesitated, indicated to the other soldier that they had to leave Koster alone, then left.<sup>884</sup> The majority of the 30 men under Koster’s command were robbed of their weapons, flak vests and helmets at gunpoint this way by Serb soldiers.<sup>885</sup>

**Transportations end for the day, 12 July**

361. At the end of the day on 12 July, van Duijn briefed Koster, who was relieving him for the night.<sup>886</sup> Van Duijn asked Koster to make a V-shaped funnel with four APCs to assist the passage of the refugees to the buses.<sup>887</sup> Koster testified that he was also told

<sup>880</sup> RUTTEN, T.4810-4811, 4921, 4928, Exh. 3D00040 (debriefing questionnaire in which Rutten writes that soldiers said they were a special police force of the army); RUTTEN *Krstić* testimony, admitted pursuant to Rule 92ter, p.2122 (he gave up his equipment when Serb chambered a round and pointed gun at his head).

<sup>881</sup> KOSTER, T.3049, 3051-3052.

<sup>882</sup> RUTTEN, *Krstić* testimony, admitted pursuant to Rule 92ter, pp.2122-2123.

<sup>883</sup> RUTTEN, *Krstić* testimony, p.2123; VAN DUIJN, T.2296 (Mane demanded his pistol).

<sup>884</sup> KOSTER, T.3052-3053.

<sup>885</sup> KOSTER, R.61 testimony, admitted pursuant to Rule 92ter, p.12.

<sup>886</sup> GROENEWEGEN, T.2986.

<sup>887</sup> VAN DUIJN, T.2297; KOSTER, R.61 testimony, admitted pursuant to Rule 92ter, pp.12-13; Exh. P02047, Trial Video at 02:26:46.05 (footage of APC funnel and surrounding area).

by the Serbs to clear the road because there could be some transport moving from Srebrenica to Potočari.<sup>888</sup>

362. As van Duijn returned to the compound that evening, he saw Stalin conducting a roll call of 50-70 Serb soldiers, who were standing in a U-shaped formation in the middle of the road between the two houses with the lawn and the White House.<sup>889</sup> [REDACTED] (PW-100), a 1<sup>st</sup> Jahorina Training Company member, testified that at approximately 21:00 hours, the 1<sup>st</sup> Company was formed up in front of the UN compound before boarding the bus back to Bjelovac.<sup>890</sup>

363. During the evening of 12 July, recalling a tactic used by Amnesty International, Franken decided to assemble a list of Bosnian Muslim men who were inside the UN compound, in an attempt to protect them by making their identities public.<sup>891</sup> However, despite DutchBat estimates that there were upwards of 300 men inside the compound and 600 to 800 outside,<sup>892</sup> the Muslim representatives were too intimidated by the Serb forces to continue the process of gathering names and the list only contained 251 names.<sup>893</sup> Mirsada Malagić testified that her son's name, Elvir Malagić, was on Franken's list. Her son has not been seen since the day Srebrenica fell, when he was seen heading towards Potočari.<sup>894</sup> [REDACTED].<sup>895</sup>

364. Paul Groenewegen recalled that the mood was fearful at the compound that night, as "the people who were still there at that time were mainly people who did not want to get on the bus and wanted to stay."<sup>896</sup> Indeed, that night Franken also spoke with Ibro Nuhanović, one of the negotiators present at the third Hotel Fontana meeting, who wanted DutchBat to stop the transportations out of fear for the fate of the men. However, Franken told Nuhanović that he had to consider the survival of the 25,000 to 35,000 women and children, knowing that he was jeopardizing the lives of the upwards of 800 men.<sup>897</sup>

<sup>888</sup> KOSTER, R.61 testimony, admitted pursuant to Rule 92ter, p.12.

<sup>889</sup> VAN DUIJN, T.2297-2298.

<sup>890</sup> [REDACTED] PW-100, T.14821.

<sup>891</sup> FRANKEN, T.2500, 2615, 2684.

<sup>892</sup> FRANKEN, T.2489.

<sup>893</sup> FRANKEN, T.2502; Exh. P02057.

<sup>894</sup> MALAGIĆ, *Krstić* testimony, admitted pursuant to Rule 92bis, pp.1984-1985.

<sup>895</sup> [REDACTED].

<sup>896</sup> GROENEWEGEN, *Blagojević* testimony, admitted pursuant to Rule 92ter, p.1028.

<sup>897</sup> FRANKEN, T.2504, 2694-2695. Franken testified that on 13 July, he saw the father, mother and brother of Hasan Nuhanović leave the compound and escorted them about 30 metres from the gate to the bus. The father kissed him good-bye and the only information he has is that they are still missing. FRANKEN, T.2652-2653, 2695-2696.

**Transportations on 13 July**

365. At approximately 06:00 hours on 13 July, van Duijn returned to the area of the unfinished houses to take over duty from Koster, who had arranged four APCs into a V-shaped funnel.<sup>898</sup> Koster reported to van Duijn that some Muslims had tried to injure themselves during the evening and that one man had hanged himself.<sup>899</sup> The buses had already arrived, though Mane and his men had not, so van Duijn decided to take the opportunity to keep as many of the Muslim families together without being abused and began the transportation process anew.<sup>900</sup> In addition, since the conditions in the factory sites were deplorable, with the refugees sitting in their own excrement, no food or water and injured among them, the refugees could not and did not want to stay there.<sup>901</sup>

366. At approximately 08:30 hours, Mane and 50-60 of his men returned, the separation of the men began again they continued to put the refugees on the buses, with the distinction that on the second day, the separations took place a little further north in the area of the White House, closer to the compound.<sup>902</sup> The separations and transportations were conducted by Mane and the Serb forces which he led.<sup>903</sup> Đurić confirmed that he and his men returned to Potočari in the morning of 13 July to the same location and did the same job as the day before.<sup>904</sup> He believes he maintained radio contact with Jević during the day.<sup>905</sup>

367. In the afternoon of 13 July, a difference of opinion arose between van Duijn and Rutten about the appropriate role of DutchBat during the transportations, as Rutten believed that while van Duijn was unaware of the separations of men and boys from their families that were occurring further up the road near the buses, which Rutten could see, but van Duijn could not.<sup>906</sup> DutchBat soldiers did not participate in the actual separations, which were carried out further up the road from where van Duijn was working.<sup>907</sup> Nevertheless, looking at the situation from a vantage point van Duijn did not have, Rutten thought that van Duijn, while trying to do his best to help the refugees, appeared to be in

<sup>898</sup> VAN DUIJN, T.2299.

<sup>899</sup> VAN DUIJN, T.2299.

<sup>900</sup> VAN DUIJN, T.2300.

<sup>901</sup> VAN DUIJN, T.2300.

<sup>902</sup> VAN DUIJN, T.2298, 2300-2301; ĐURIĆ, T.10870-10871; KOSTER, R.61 testimony, admitted pursuant to Rule 92ter, p.13.

<sup>903</sup> VAN DUIJN, T.2301.

<sup>904</sup> ĐURIĆ, T.10816, 10871.

<sup>905</sup> ĐURIĆ, T.10816; Exh. P02047 Trial Video (Mane has radio in his hand with Miki and van Duijn); Exh. IC00-0098 (Đurić marked aerial where he was). Đurić did not see members of the First Zvornik PJP Company or the Second Šekovići Detachment on 13 July. ĐURIĆ, T.10873.

<sup>906</sup> RUTTEN, T.4812-4813, 4815-4822, IC00-0052, IC00-0053 (aerials marked by Rutten showing location of refugees and van Duijn, and column of buses further up where other separations occurred), 4934, 4968.

<sup>907</sup> RUTTEN, KT.2184-2185.



effect unwittingly collaborating with the Serbs' separation of the Muslim men from their families.<sup>908</sup> Rutten described what he was seeing as "Nazi practices" to van Duijn.<sup>909</sup> This accusation caused Mane to order the transportations stopped temporarily, which caused some refugees to pass out from the heat.<sup>910</sup>

**DutchBat escorts still blocked and stripped of equipment, 13 July**

368. In the morning of 13 July, Rutten was in the ops room and heard Lt. Versteeg radio that two buses filled with men left from nearby the White House, but not as part of a larger convoy. Rutten ordered Versteeg to escort the buses in a jeep, but Versteeg radioed from Bratunac that the buses were not headed to Kladanj and that he was being blocked by Serb soldiers who then seized his car.<sup>911</sup> [REDACTED] PW-115 recalled that the men on the buses were very quiet and looked scared.<sup>912</sup> [REDACTED] PW-115's vehicle drove behind the two buses, which reached Bratunac where, instead of turning as the convoy had done the day before when transporting the women and children to the Luke area, instead drove into Bratunac and stopped in front of a school building.<sup>913</sup> A short time later, six Serb soldiers approached [REDACTED] PW-115's vehicle, pulled the radio out of his hand and the keys from the ignition, then pulled him and the DutchBat soldier accompanying him out of the vehicle.<sup>914</sup> They were taken to a police station, where they stayed for two or three hours until they were escorted back to the compound, their car and all of their equipment having been taken by the Serbs.<sup>915</sup>

369. Similarly, on the way back from Kladanj to Potočari, Egbers was stopped and forced from his vehicle at gunpoint by Bosnian Serb soldiers at Nova Kasaba, where he joined 10 or 12 other DutchBat soldiers who had been tasked to escort convoys, but who had also been forced to give up their vehicles, weapons and equipment.<sup>916</sup>

370. Towards the end of the day, when Rutten attempted to escort the final convoy of civilians on 13 July, his car was blocked at gunpoint in a coordinated action by two cars

<sup>908</sup> RUTTEN, T.5193-5196, KT.2147-2148.

<sup>909</sup> RUTTEN, T.4937-4938.

<sup>910</sup> VAN DUIJN, T.2368-2369.

<sup>911</sup> RUTTEN, Krstić testimony, admitted pursuant to Rule 92ter, pp.2130-2131.

<sup>912</sup> [REDACTED] PW-1115, Exh. P02200, Blagojević testimony, admitted pursuant to Rule 92bis, p.6090-6091.

<sup>913</sup> [REDACTED] PW-115, Exh. P02200, pp.6092-6093.

<sup>914</sup> [REDACTED] PW-115, Exh. P02200, pp.6094-6095.

<sup>915</sup> [REDACTED] PW-115, Exh. P02200, pp.6095-6096.

<sup>916</sup> EGBERS, T.2757.

occupied by Serb soldiers, one car pulling up behind him and one pulling out in front of him from the side.<sup>917</sup>

### **The White House**

371. Beginning 12 July, Muslim men were taken to the building known as the “White House,” across from the UNPROFOR compound.<sup>918</sup> Serb soldiers guarded the building and threatened DutchBat officers at gunpoint to prevent them from investigating. The Muslim men were forced to leave their belongings, including information documents, outside, on the ground.<sup>919</sup> In the end, there was a big mound of belongings around the White House.<sup>920</sup> After the men were forcibly transferred out of Potočari, all of the men’s belongings which had been left outside the White House were set on fire, which burned for almost two days.<sup>921</sup> The confiscation of the Bosnian Muslim men’s identification papers, starting on 12 July and continuing through 13 July, clearly demonstrates that the Bosnian Serb forces were aware, from at least 12 July, that the men being separated would not be interrogated as POWs<sup>922</sup> but would ultimately be killed or suffer some other dark fate.<sup>923</sup>

372. The looming plan to kill the Muslim men is also supported by the abuse the Bosnian Serb forces inflicted on the prisoners in the White House. Their actions demonstrated that the soldiers believed they could act with impunity, without fear of disciplinary measures. When the Bosnian Muslim men entered the White House, the soldiers treated them violently and abusively.<sup>924</sup> Most of them were never seen again.<sup>925</sup> There were reports of beatings, shootings and arbitrary executions.<sup>926</sup>

373. Franken started receiving reports that the prisoners were being treated badly on 12 July.<sup>927</sup> Initially, he sent UNMOs to monitor the situation at the White House and received reports that the same number of prisoners were going in and out of the White

<sup>917</sup> RUTTEN, *Krstić* testimony, admitted pursuant to Rule 92ter, p.2154-2155.

<sup>918</sup> EGBERS, T.2749-2752; FRANKEN, T.2496-2497.

<sup>919</sup> FRANKEN, T.2497; VAN DUIJN, T.2302-2304; RUTTEN, *Krstić* testimony, admitted pursuant to Rule 92ter, pp.2134; [REDACTED] PW-114, *Krstić* testimony, admitted pursuant to Rule 92ter, pp.1512-1513; MALAGIĆ, *Krstić* testimony, admitted pursuant to Rule 92bis, pp.1966, 1973-1974.

<sup>920</sup> Van Duijn, T.2302-2304; Boering, T.2012-2013; Rutten, T.4801; PW-114, KT.1541-1542; MALAGIĆ, *Krstić* testimony, admitted pursuant to Rule 92bis, pp.1966, 1973-1974, 1966, 1974.

<sup>921</sup> RUTTEN, T.5263; RUTTEN, *Krstić* testimony, admitted pursuant to Rule 92ter, p.2136; FRANKEN, T.2512-2513; [REDACTED] PW-114, *Krstić* testimony, admitted pursuant to Rule 92ter, p.1542; Exh. P01897 (photo of burning pile).

<sup>922</sup> BOERING, T.2018.

<sup>923</sup> VAN DUIJN, T.2302-2304.

<sup>924</sup> EGBERS, T.2749-2752.

<sup>925</sup> MALAGIĆ, *Krstić* testimony, admitted pursuant to Rule 92bis, p.1955.

<sup>926</sup> BOERING, T.2012-2016; FRANKEN, T.2505-2506.

<sup>927</sup> FRANKEN, T.2499.

House.<sup>928</sup> However, later in the afternoon of 12 July, Franken received reports that the prisoners in the White House were being treated worse, and as events progressed, his patrols were blocked from entering the White House by Serb soldiers.<sup>929</sup> Franken complained to Col. Janković, but did not see any results.<sup>930</sup>

374. The prisoners from the White House were driven off in a bus, which Franken tried to have followed by DutchBat escorts; however, the VRS prevented the Dutch escorts from following the men from the White House, who were taken in the direction of Bratunac.<sup>931</sup> The men from the White House were terrified and crying when taken to the buses, and were not permitted to back and pick up the belongings they had been forced to discard in front.<sup>932</sup>

**Egbers at the White House, 13 July morning**

375. Like Rutten and van Duijn later, Egbers described the fear he saw on the terrified men inside the White House in the morning of 13 July, who made signs that they were afraid the Serbs would kill them.<sup>933</sup> Egbers also saw the White House guarded by Serb soldiers, though he was permitted to enter.<sup>934</sup>

**Rutten at the White House, 13 July, morning**

376. Versteeg's unsuccessful convoy escort in the morning of 13 July prompted Rutten to inspect the White House, so accompanied by an NCO, Sgt. Maj. van Schaik, he approached under the guise of handing out water and was refused entry by Serb soldiers.<sup>935</sup> Rutten and van Schaik then made their way around the White House and encountered some Serb soldiers who prevented them at gunpoint from inspecting an orchard area behind the house.<sup>936</sup> When Rutten and van Schaik finally managed to enter the White House by handing out some water to the Serb soldiers guarding the entrance, Rutten saw a prisoner handcuffed to a staircase by his arm, with his feet dangling off the floor.<sup>937</sup> When Rutten tried to enter what sounded like an interrogation room, a Serb soldier put a gun to his face and then in his mouth, so Rutten pulled back.<sup>938</sup> Rutten then went upstairs and saw two rooms filled with men and boys, whom he photographed. It

<sup>928</sup> FRANKEN, T.2497-2498; BOERING, T.2019 (Kingori counting prisoners).

<sup>929</sup> FRANKEN, T.2499-2500.

<sup>930</sup> FRANKEN, T.2499.

<sup>931</sup> FRANKEN, T.2497-2498.

<sup>932</sup> KINGORI, T.19256-19257.

<sup>933</sup> EGBERS, T.2750-2752, 2887.

<sup>934</sup> EGBERS, T.2752.

<sup>935</sup> RUTTEN, KT.2132.

<sup>936</sup> RUTTEN, KT.2133.

<sup>937</sup> RUTTEN, KT.2133, T.4859.

<sup>938</sup> RUTTEN, KT.2134.

was clear to Rutten that this was no normal interrogation and that “they wouldn’t be needing it anymore, the IDs and their belongings.”<sup>939</sup> When Rutten was threatened by the Serb soldiers with guns to his head and in his mouth, he took these as serious threats to his life if he tried to continue to gather information.<sup>940</sup>

**Kingori and van Duijn at the White House, 13 July, afternoon**

377. As the Trial Video captured and as Kingori testified, he located van Duijn near the White House to complain about the conditions there.<sup>941</sup> This was at the same time that van Duijn was dealing with **BOROVČANIN** to prevent the Serbs from towing away the water truck which was meant for the sick and wounded.<sup>942</sup> After Kingori complained to him and **BOROVČANIN**, van Duijn went over to the White House with Kingori, Mane and Miki and saw it crammed with very frightened and weakened men.<sup>943</sup> He started picking up passports he saw piled in front of the White House and placing them in his pockets.<sup>944</sup> Mane and Miki had followed van Duijn from the water truck to the White House, so van Duijn questioned Mane about Mane’s earlier explanation that the men were being separated to identify potential war criminals.<sup>945</sup> Van Duijn pointed out to Mane that if the men were being screened to see who was a war criminal, then they would need their passports to provide their identity.<sup>946</sup> Van Duijn testified that Mane then “grinned at me and told me that the men didn’t need the passports anymore, which at that point made clear to me that there was a very dark future ahead for the men in the house.”<sup>947</sup> Out of concern for the security of the men on the buses, van Duijn attempted to board one of them as an escort; however, as he tried to get on the bus, he was forced at gunpoint to stop.<sup>948</sup> At the same time, Mane pulled van Duijn from the bus and was very deliberate and very clear that van Duijn was not going on the bus and that it was not worth it.<sup>949</sup>

**Rutten at the White House, 13 July, afternoon**

378. In the afternoon of 13 July, Rutten’s company commander ordered him to escort the last convoy of buses, so while waiting for the convoy to leave, Rutten took his driver,

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<sup>939</sup> RUTTEN, KT.2135.

<sup>940</sup> RUTTEN, KT.2192; T.4921-4922.

<sup>941</sup> Exh. P02047, Trial Video.

<sup>942</sup> VAN DUIJN, T.2301-2303, 2309; Exh. P02047, Trial Video.

<sup>943</sup> VAN DUIJN, T.2303-2304, 2309.

<sup>944</sup> VAN DUIJN, T.2304.

<sup>945</sup> VAN DUIJN, T.2304.

<sup>946</sup> VAN DUIJN, T.2304.

<sup>947</sup> VAN DUIJN, T.2304, 2356, 2361, 2363-2365, 2411.

<sup>948</sup> VAN DUIJN, T.2305.

<sup>949</sup> VAN DUIJN, T.2305.

Verbrugt, to witness what was happening at the White House.<sup>950</sup> When they reached the White House, they saw Serb soldiers robbing the Muslim prisoners of Deutschmarks at gunpoint.<sup>951</sup> By that time, the White House was so overcrowded with prisoners in “an almost inhuman situation” that Rutten asked the UNMOs to try to contact the Serbs to do something about the situation.<sup>952</sup> Describing the condition of the Muslim prisoners he saw there, Rutten said “I never thought that it really existed, but you could even smell death there because it was total fear, what you saw on the faces of the men and the young boys.”<sup>953</sup> By that time, Serb soldiers were preventing DutchBat soldiers from entering the White House.<sup>954</sup>

### **Transportations End, 13 July**

379. By about 18:00 hours on 13 July, the transportations were completed.<sup>955</sup> As the last refugees were transported out of the enclave, a UNHCR convoy entered Potočari.<sup>956</sup>

380. The last UNMO SitRep reporting on the transportations put it with succinct poignance:

Tears were in our eyes when seeing the desperate displaced persons with no secure future looking at us and seeking for help we cannot give them.<sup>957</sup>

### **(xxx) “Opportunistic” killings in Potočari, Bratunac and Kravica**

381. On 12 and 13 July, approximately one thousand Muslim men were separated and detained in Potočari and thousands more were captured from the column of men retreating from the Srebrenica enclave. At least nine Muslim men were murdered in Potočari. The thousands of other men were transported to locations in and around Bratunac where they were held in schools, buildings and vehicles parked along the road.<sup>958</sup> Between 12 July and the morning of 14 July, these men were held in appalling conditions and over 100 were killed in an opportunistic manner by the Bosnian Serb

<sup>950</sup> RUTTEN, *Krstić* testimony, admitted pursuant to rule 92ter, p.2149.

<sup>951</sup> RUTTEN, *Krstić* testimony, admitted pursuant to rule 92ter, p.2149.

<sup>952</sup> RUTTEN, T.4863, 4865 (situation in White House was “unbearable”), 4974-4975 (asked the UNMOs to contact Serbs).

<sup>953</sup> RUTTEN, *Krstić* testimony, admitted pursuant to rule 92ter, p.2150.

<sup>954</sup> RUTTEN, T.4863.

<sup>955</sup> KOSTER, R.61 testimony, admitted pursuant to Rule 92ter, , p.13; [REDACTED] PW-114, *Krstić* testimony, admitted pursuant to Rule 92ter, p.1541 (transportations ended at 18:00 or 19:00); VAN DUIJN, T.2307 (17:00-18:00). Exh. P00516, 13 July UNMO SitRep Update, 17:15 hours (“All refugees from outside the compound are transported now. The transport of the refugees inside the compound is taking place now.”); KINGORI, T.19274-19276.

<sup>956</sup> KINGORI, T.19277; ĐURIĆ, T.10816, 10871, 10895, 10902 (saw Dragan Kekić of the RS Commission for Refugees in Potočari for the first time).

<sup>957</sup> Exh. P00517, UNMO SitRep, 13 July, 20:45 hours; KINGORI, T.19277-19279.

<sup>958</sup> See Exh. P01553, Aerial of Bratunac town - annotated with various key locations, Hotel Fontana, Vihor Company compound, Vuk Karadzic School, hangar behind old school and football field.

forces. These opportunistic killings were the natural and foreseeable consequence of the Joint Criminal Enterprise to forcibly remove the population of Srebrenica.

### **Potočari**

382. Numerous opportunistic killings of Bosnian Muslims occurred in Potočari on 12 and 13 July. Major Boering testified that on 12 July, one of Mladić's bodyguards led a group of Serb soldiers behind a house and said to Boering, "Look, Major, what I'm going to do."<sup>959</sup> He then heard shooting behind the building and made the assumption that Muslim men had been executed there, though he could not determine the direction of fire.<sup>960</sup>

383. On 13 July, Kingori received a report from DutchBat soldiers that Muslim men were being taken behind a building and never seen again after gunshots were heard. Kingori tried to gain access to the building, but was refused entry by Serb soldiers there. When he returned later, he saw a Muslim man being taken behind the house and heard a shot, but was prevented at gunpoint from investigating further. The building was located somewhere between the UN compound and the factory where the refugees were gathered.<sup>961</sup>

### ***Nine Executed Men near Budak***

384. On 13 July, DutchBat soldiers heard rumours of nine or ten bodies located near a well and road behind the White House on the Budak side.<sup>962</sup> Trying to avoid detection by Serb forces,<sup>963</sup> Rutten, Koster and van Schaik left on foot for the area and encountered a woman who pointed further up the road and drew her finger across her throat.<sup>964</sup> At a small stream near a meadow they located the bodies of nine men.<sup>965</sup> Rutten checked the

<sup>959</sup> Boering, T.2012-2018.

<sup>960</sup> Boering, T.2012-2018, 2208.

<sup>961</sup> KINGORI, T.19267-19268.

<sup>962</sup> RUTTEN, T.4965, KT.2138; VAN DUIJN, T.2306. [REDACTED] PW-114 also testified about hearing rumours about bodies and locating nine bodies near a stream around mid-day. [REDACTED] PW-114, *Krstić* testimony, p.1530-1540. He climbed down to the stream and saw that they were lying in a line and had all been shot. [REDACTED] PW-114, T.3147, [REDACTED]. He did not see the bullet wounds, but saw blood on the victims' backs and heads. [REDACTED] PW-114, T.3170; [REDACTED] PW-114 *Krstić* testimony, p.1539. The victims were all men and all had civilian clothes: blue jeans, pullovers, coats. [REDACTED] PW-114, *Krstić* testimony, p.1539. [REDACTED]. With respect to the date on which he found the bodies, [REDACTED] PW-114 remained convinced that the date was 12 July; however, he also repeatedly confirmed that he located the bodies on the "second day of the evacuation" and that he believed that the date on which the Serbs entered Potočari and the transportations began was 11 July. [REDACTED] PW-114, T.3147-3148, 3157, 3164-3165; [REDACTED] PW-114, *Krstić* testimony, p.1533, 1554, 1559-1560.

<sup>963</sup> KOSTER, T.3026.

<sup>964</sup> RUTTEN, *Krstić* testimony, admitted pursuant to Rule 92ter, p.2139.

<sup>965</sup> KOSTER, T.3027-3029; [REDACTED] PW-114, T.3147, 3158-3159; RUTTEN, T.4811, 4907; RUTTEN, *Krstić* testimony, p.2140.

bodies for pulses and noticed that they were still warm; they had small-calibre sized entry wounds, the blood was still running and there were no flies.<sup>966</sup> All the bodies were dressed in civilian clothes<sup>967</sup> and appeared to have been shot through their clothes at the same height in the back at heart height.<sup>968</sup> The bodies appeared to have been lined up and shot on the spot and never moved.<sup>969</sup> Rutten told van Schaik to pick up the IDs and also took a photo of Koster in front of the bodies.<sup>970</sup> With gunfire erupting nearby, they left the scene fearing for their own safety and van Schaik dropped the IDs.<sup>971</sup> Rutten reported directly to Karremans what they saw and that he had taken photographs.<sup>972</sup> Van Duijn saw Koster after Koster had located the bodies.<sup>973</sup> Koster was agitated and looked very serious; he told van Duijn that he could not explain everything and had to get back to the compound, and was afraid the Serbs were searching for him.<sup>974</sup> This was also reported by Koster to Franken.<sup>975</sup> Aerial images establish that between 17 and 27 July 1995, an area of disturbed earth appeared within metres of where the Dutchbat officers saw these nine bodies.<sup>976</sup> In 2005 and 2006, a total of nine bodies were exhumed from this same area of disturbed earth.<sup>977</sup>

#### *Summary Execution near Bus Compound*

385. In the afternoon of 13 July, DutchBat soldier Paul Groenewegen witnessed the execution of a Muslim man by four Serb soldiers.<sup>978</sup> Groenewegen was moving around in the area of the road where the refugees were gathered when his attention was drawn to a

<sup>966</sup> RUTTEN, T.4907-4908, 5257; RUTTEN, *Krstić* testimony, admitted pursuant to Rule 92ter, p.2140; KOSTER, T.3115 (small entry wounds through clothing).

<sup>967</sup> RUTTEN, T.5256, *Krstić* testimony, p.2140.

<sup>968</sup> RUTTEN, *Krstić* testimony, p.2140, 2143; KOSTER, T.3027-3028; [REDACTED] PW-114, T.3147, 3158-3159;

<sup>969</sup> KOSTER, T.3027, Exh. PIC00-0025 and Exh. PIC00-0026 (aerials marked by Koster); RUTTEN, T.4812.

<sup>970</sup> RUTTEN, *Krstić* testimony, p.2140; KOSTER, T.3032-3033, 3082.

<sup>971</sup> RUTTEN, T.4878, 4917; KOSTER, T.3032-3033.

<sup>972</sup> RUTTEN, *Krstić* testimony, p.2141.

<sup>973</sup> VAN DUIJN, T.2306.

<sup>974</sup> VAN DUIJN, T.2306.

<sup>975</sup> FRANKEN, T.2505-2509; Exh. PIC00-0017 (marked aerial with nine bodies); RUTTEN, T.4815, Exh. Exh. P02179, IC00-0053 (aerials marked by Rutten showing location of nine bodies), 4878-4879.

<sup>976</sup> Exh. P03482, Aerial image titled, "Possible Gravesite Potočari, Bosnia and Herzegovina," dated 17 July 1995 (ERN: R092-1397-R092-1397); Aerial image titled, "Probable Disturbed Earth, Potočari, Bosnia and Herzegovina," dated 27 July 1995 – markings made by provider (ERN: R092-1398-R092-1398); Comparison of probable disturbed earth and DutchBat testimony re location of nine bodies at Potočari (ERN: R065-2777-R065-2777).

<sup>977</sup> Exh. P03486, Exhumation report No. 1466/05 for Potočari dated 27 July 2005 (ERN: X019-0104-X019-0105); Tuzla Canton Prosecutor's Office exhumation report KTA no. RZ-22/06 dated 25 April 2006, related to exhumation in Potočari (ERN: X018-9793-X018-9794); Sketch of exhumations in Potočari on 25 July 2005, location no. SR POT-01 (ERN: X020-3832-X020-3835); Sketch of an exhumation site in Potočari on 25 April 2006, location no. POT 01 SRE (ERN: X021-7671-X021-7671); ICMP 3 July 2008 Report.

<sup>978</sup> GROENWEGEN, T.2664-2965; *Blagojević* testimony, admitted pursuant to Rule 92ter, p.1033-1036; Exh. P02266 (aerial with markings by witness).

lot of shouting. He then saw a group of four Serb soldiers who had taken a Muslim man from the crowd. The Muslim man appeared unarmed and was resisting the Serb soldiers. The man was wearing civilians clothes, blue jeans and a blue-green sweater. After ten or fifteen minutes, Groenewegen's attention was again drawn to the Muslim man and the four Serb soldiers, who took the man to a house and placed him with his back to the wall, then shot him through the head once from a distance of about three metres. The man collapsed to the ground and the four Serb soldiers walked away.

386. Groenewegen was about thirty metres from the execution when it happened. Other Serb soldiers were in the area, but paid little attention. Groenewegen testified that given the four Serb soldiers behaved and interacted with the other soldiers, it would have been very improbable that the soldiers could have belonged to any military or paramilitary unit. The four Serb soldiers' camouflage uniforms were identical to those used by the vast majority of the soldiers present at the site.<sup>979</sup> The other Muslim refugees in the area were about 70-80 metres away and could have seen and heard the shot.<sup>980</sup> Groenewegen was frightened by what he saw and reported it unofficially that evening; the next day he made an official statement.<sup>981</sup> The execution was reported by Groenewegen through his company commander to Karremans, who told Franken.<sup>982</sup>

### **12 - 13 July: the "Hangar" in Bratunac**

387. [REDACTED] PW-169 (Orahovac survivor) was separated from his family in Potočari on 12 July, detained for several hours and then transported to Bratunac along with other Muslim men.<sup>983</sup> In Bratunac, the men were taken to a building which [REDACTED] PW-169 described as an abandoned co-op warehouse behind the Vuk Karadžić School,<sup>984</sup> known in this case as the "Hangar."<sup>985</sup> There were 10 to 15 Serb soldiers at the Hangar and vehicles continued to arrive and men continued to enter the Hangar until it was full.<sup>986</sup> There were at least 400 Muslim men in the Hangar,<sup>987</sup> all of whom were elderly and/or infirm.<sup>988</sup> The conditions were suffocating and the men were

<sup>979</sup> GROENEWEGEN, T.2976.

<sup>980</sup> GROENEWEGEN, T.2989-2990.

<sup>981</sup> GROENEWEGEN, T.2991-2992; FRANKEN, T.2506.

<sup>982</sup> FRANKEN, T. 2573, 2589.

<sup>983</sup> [REDACTED] PW-169, T.17312-15.

<sup>984</sup> [REDACTED] PW-169, T.17315 – 17318.

<sup>985</sup> See Exh. P01553, Aerial of Bratunac town - annotated with various key locations, Hotel Fontana, Vihor Company compound, Vuk Karadzic School, hangar behind old school and football field.

<sup>986</sup> [REDACTED] PW-169, T.17315 – 17316.

<sup>987</sup> [REDACTED] PW-169, T.17316:12-16.

<sup>988</sup> [REDACTED] PW-169, T.17316:17-18.



given no food or water that night.<sup>989</sup> At times, the Serb soldiers fired shots over the heads of the men to keep them quiet.<sup>990</sup>

388. During the night, Serb soldiers with flashlights went into the Hangar and called out men from Glogova and other villages around Bratunac.<sup>991</sup> Approximately 40 Muslim men were taken out of the “Hangar” that night.<sup>992</sup> When a Muslim man responded, he was told to leave his things behind and was taken outside, from where the sound of blunt blows could be heard followed by a comment such as, “All right, he’s finished. Just drag him over there.”<sup>993</sup>

389. [REDACTED] PW-169 testified that one man, Hamed Efendić, was taken outside and approximately four shots could be heard, followed by the comment, “You can drag him away. He’s finished. He’s dead. Drag him off.”<sup>994</sup> [REDACTED].<sup>995</sup>

390. During the night, some men were also beaten and left inside the Hangar.<sup>996</sup> In the morning, [REDACTED] PW-169 could see that five of those badly beaten men had died.<sup>997</sup> Some Muslim men were allowed to take these five dead bodies outside; and when they returned, they reported seeing a “pile of dead” behind the Hangar.<sup>998</sup>

391. The next morning, the men received some water;<sup>999</sup> and a man in a camouflage uniform came in and ordered the Muslim men to turn over all their ID, watches, wallets and money.<sup>1000</sup> That morning, [REDACTED] PW-169 also heard trucks arrive and ten Muslim men were chosen to go outside and perform an unspecified task.<sup>1001</sup> Those ten men did not return.<sup>1002</sup>

392. The killings then recommenced.<sup>1003</sup> Men were allowed to go to another room which was used as a toilet;<sup>1004</sup> but some men were diverted into another area from where the sound of blows could be heard.<sup>1005</sup> [REDACTED] PW-169 could see that the Serb

<sup>989</sup> [REDACTED] PW-169, T.17319.

<sup>990</sup> [REDACTED] PW-169, T.17319.

<sup>991</sup> [REDACTED] PW-169, T.17319:18-25.

<sup>992</sup> [REDACTED] PW-169, T.17320:20-22.

<sup>993</sup> [REDACTED] PW-169, T.17320:1-8.

<sup>994</sup> [REDACTED] PW-169, T.17321:9-24.

<sup>995</sup> [REDACTED].

<sup>996</sup> [REDACTED] PW-169, T.17321:5-7.

<sup>997</sup> [REDACTED] PW-169, T.17321:5-7.

<sup>998</sup> [REDACTED] PW-169, T.17322:3-11.

<sup>999</sup> [REDACTED] PW-169, T.17319, 17326.

<sup>1000</sup> [REDACTED] PW-169, T.17326.

<sup>1001</sup> [REDACTED] PW-169, T.17322.

<sup>1002</sup> [REDACTED] PW-169, T.17322.

<sup>1003</sup> [REDACTED] PW-169, T.17322:22.

<sup>1004</sup> [REDACTED] PW-169, T.17323.

<sup>1005</sup> [REDACTED] PW-169, T.17323.

soldiers were picking men out who looked fitter than those who were completely infirm.<sup>1006</sup> [REDACTED] PW-169 got up at one point to go to the toilet and, *en route*, saw a Serb soldier hit a Muslim man with an iron bar on the head and the back, and another Serb soldier hit that Muslim man in the back with an axe.<sup>1007</sup> Around 40 men in total were killed that day.<sup>1008</sup> Later that afternoon, [REDACTED] PW-169 heard more trucks arrive, then another ten Muslim men were chosen to go outside and perform an unspecified task.<sup>1009</sup> Those ten men did not return.<sup>1010</sup>

393. During the late afternoon, General Mladić came to the Hangar and ordered that the Muslim men be counted so that transport could be arranged.<sup>1011</sup> **296** Muslim men were counted in the Hangar at that time;<sup>1012</sup> approximately 100 fewer than had been brought there just 24 hours earlier.<sup>1013</sup>

394. [REDACTED] PW-161, [REDACTED], testified that he personally saw five to six bodies around the main school<sup>1014</sup> on the morning of 14 July.<sup>1015</sup> He testified that corpses from next to the school were taken for burial at Glogova.<sup>1016</sup> In addition, a driver told him “a lot more” bodies were earlier disposed of.<sup>1017</sup> Momir Nikolić corroborated this evidence, testifying that Mirković had told him sometime after the end of the Srebrenica operation that he received orders from the president of the Executive Board of the Bratunac Municipality to carry out “asenacija” around the Hangar, and that between 80 and 100 bodies were taken from there for burial at Glogova.<sup>1018</sup> The presence of bodies at the School on 14 July is further confirmed by [REDACTED] PW-170, who testified that he was sent to the school to help remove bodies and saw 40-60 bodies at the school.<sup>1019</sup>

<sup>1006</sup> [REDACTED] PW-169, T.17320:15-16.

<sup>1007</sup> [REDACTED] PW-169, T.17323.

<sup>1008</sup> [REDACTED] PW-169, T.17324:5.

<sup>1009</sup> [REDACTED] PW-169, T.17323:20-25.

<sup>1010</sup> [REDACTED] PW-169, T.17324:14-18.

<sup>1011</sup> [REDACTED] PW-169, T.17325.

<sup>1012</sup> [REDACTED] PW-169, T.17325:6.

<sup>1013</sup> [REDACTED] PW-169, T.17346:4-13. [REDACTED] PW-169 stated that there were approximately 400 men at the start; 40 were killed overnight; 40 were killed during the day on 13 July; and two groups of ten men were also taken out to perform tasks; hence, approximately 100 men were taken out of the Hangar.

<sup>1014</sup> [REDACTED] PW-161, T.9390. Exh. PIC00077, Aerial image, exhibit P01553 (Vuk Karadzic School) marked by the witness.

<sup>1015</sup> [REDACTED] PW-161, T.9544.

<sup>1016</sup> [REDACTED] PW-161, T.9372.

<sup>1017</sup> [REDACTED] PW-161, T.9389-9391.

<sup>1018</sup> MOMIR NIKOLIĆ, T.32946; 33307. *See also* Exh. 4D00016, Document titled - Statement of Facts and Acceptance of Responsibility, by Momir Nikolic, p.7: “It was reported to me that approximately 80 to 100 Muslims were murdered in the hangar near the Vuk Karadžić school in Bratunac on the evening of the 13 July. Their bodies were deposited over a hillside and covered with dirt.

<sup>1019</sup> [REDACTED] PW-170, T.17852.

**13 July: the “Old School”**

395. Ahmo Hasić (Branjevo Farm survivor) was detained at the “Old School” in Bratunac.<sup>1020</sup> When Hasić arrived, he and the other prisoners with whom he was detained were forced to leave their bags containing food in front of the School.<sup>1021</sup> Hasić saw many Serb soldiers in camouflage uniforms around the School,<sup>1022</sup> and was then crammed in a room of 150 to 200 people.<sup>1023</sup> Hasić testified that the prisoners were given insufficient amounts of water, no food,<sup>1024</sup> and he did not see any medical treatment given to any prisoners.<sup>1025</sup> Hasić also saw people being hit by Serb soldiers when they were escorted to the toilets,<sup>1026</sup> after which the prisoners urinated in the rooms they were being held in.<sup>1027</sup>

396. During the night, prisoners were taken out of Ahmo Hasić’s room in the “Old School” by Serb soldiers in camouflage uniforms.<sup>1028</sup> Hasić estimated that six or seven men were taken from his room and he could hear screaming and machine-gun fire from outside.<sup>1029</sup> The men taken from this room did not return.<sup>1030</sup> Hasić also testified that one man was severely beaten by a policeman (either a civilian policeman or an MP) in a blue uniform with a white holster, white belt and pistol.<sup>1031</sup> After an hour, that man was called out and did not return.<sup>1032</sup>

**13 July: buses parked outside the Vuk Karadžić School**

397. Mevludin Orić (Orahovac survivor) was detained in a bus which, along with two others, was parked outside the Vuk Karadžić School.<sup>1033</sup> When the bus arrived in Bratunac, the three MPs who had accompanied the bus told the prisoners that there was no room in the Vuk Karadžić School and that they would spend the night on the bus.<sup>1034</sup> That night, the prisoners were given water but no food.<sup>1035</sup>

<sup>1020</sup> At T. 1259:24-1260:12, Ahmo Hasić indicated that he subsequently heard that he had been detained in the Vuk Karadžić School. However, the parties have stipulated that Ahmo Hasić identified the “Old School” on an aerial of Bratunac as the place he was detained (see T.21191).

<sup>1021</sup> A.HASIĆ, T.1179:21-1180:2, 1259:5-7.

<sup>1022</sup> A.HASIĆ, T. 1181:6-1181:16.

<sup>1023</sup> A.HASIĆ, T.1222: 14-17.

<sup>1024</sup> A.HASIĆ, T. 1189:10-1189:14.

<sup>1025</sup> A.HASIĆ, T. 1189:15-1190:5.

<sup>1026</sup> A.HASIĆ, T. 1188:22-1189:8.

<sup>1027</sup> A.HASIĆ, T. 1188:22-1189:8.

<sup>1028</sup> A.HASIĆ, T.1188:1-1188:14.

<sup>1029</sup> A.HASIĆ, T. 1187:16-1187:25, 1223:15-18.

<sup>1030</sup> A.HASIĆ, T. 1188:1-1188:14.

<sup>1031</sup> A.HASIĆ, T. 1180:8-1181:5.

<sup>1032</sup> A.HASIĆ, T. 1180:8-1181:5.

<sup>1033</sup> ORIĆ, T.908.

<sup>1034</sup> ORIĆ, T.909.

<sup>1035</sup> ORIĆ, T.919.

398. Orić and the other prisoners on his bus were told by the Serb soldiers that they could not go to sleep; however, one of the prisoners, who Orić heard was mentally ill, fell asleep.<sup>1036</sup> An MP came in and hit the mentally-ill man on the shoulder, and he retaliated and hit the MP.<sup>1037</sup> Two other MPs dragged this man off the bus, took him in the direction of the School and then shots were heard.<sup>1038</sup> Orić heard the man scream faintly, and then he heard someone say: “Drag him into the School.”<sup>1039</sup> The shots were fired either by one of the three MPs, or by one of the soldiers who was standing guard outside the bus.<sup>1040</sup>

399. At another point in the night, a Serb soldier got on the bus and kicked and used an automatic rifle to beat one of the prisoners whom he recognised.<sup>1041</sup> This soldier was eventually removed from the bus by one of the MPs.<sup>1042</sup> Also during the night, a Serb named “Ilija from Spat,” who Orić recognised from before the war, entered Orić’s bus and asked if there was anyone on the bus with a particular surname.<sup>1043</sup> One man got up, went with “Ilija” and did not return to the bus.<sup>1044</sup> Orić could also see “Ilija”, and two other men, remove other people from the bus behind him, and from a nearby courtyard, and taking those men to the Vuk Karadžić School.<sup>1045</sup> Once a prisoner was taken inside the School, screaming and bursts of fire could be heard.<sup>1046</sup> None of these men returned.<sup>1047</sup>

**13.July: trucks parked outside Vihor’s Garages.**

400. [REDACTED] PW-110 (Orahovac survivor) was detained on a truck which was parked, along with other vehicles, near “Vihor’s garages.”<sup>1048</sup> There were around 30-40 prisoners in [REDACTED] PW-110’s truck, who were packed so tightly that they could

<sup>1036</sup> ORIĆ, T. 911-913, 1071-1072.

<sup>1037</sup> ORIĆ, T. 911-913, 1071-1072.

<sup>1038</sup> ORIĆ, T. 911-913, 1071-1072.

<sup>1039</sup> ORIĆ, T. 911-913, 1071-1072.

<sup>1040</sup> ORIĆ, T. 911-913, 1071-1072. See also Exh. P002094, and Exh. PIC00004; Hand-drawn sketch of a map of Bratunac, drawn and signed by witness Mevludin Orić, on which Orić marked the location of his bus and where the mentally-ill man was apparently shot.

<sup>1041</sup> ORIĆ, T.914.

<sup>1042</sup> ORIĆ, T.914.

<sup>1043</sup> ORIĆ, T.915.

<sup>1044</sup> ORIĆ, T.915.

<sup>1045</sup> ORIĆ, T.916.

<sup>1046</sup> ORIĆ, T.919.

<sup>1047</sup> ORIĆ, T.916.

<sup>1048</sup> [REDACTED] PW-110, T.664-666.

not stretch their legs.<sup>1049</sup> That night, [REDACTED] PW-110 and the prisoners in his truck were given water, but no food and no medical treatment.<sup>1050</sup>

401. [REDACTED] PW-110 was detained on a truck near “Vihor’s garages.”<sup>1051</sup> During the night, Serb soldiers would come and ask whether there were any Muslims from particular villages.<sup>1052</sup> If anyone answered, they were taken out of the vehicle to Vihor’s garage, some 50 metres from the vehicle, from where [REDACTED] PW-100 could here thuds, screaming and bursts of fire.<sup>1053</sup> This lasted all night.<sup>1054</sup>

**13 July: trucks parked near the Kravica Supermarket.**

402. [REDACTED].<sup>1055 1056</sup> This is similar to the evidence of [REDACTED] PW-113 (Petkovci survivor), who was detained on a truck in an unspecified part of Bratunac in a lorry with 100-200 people in it, which was so crowded that people could not sit down.<sup>1057</sup> The prisoners in [REDACTED] PW-113’s truck were jammed so tightly that [REDACTED] PW-113’s legs had no feeling.<sup>1058</sup>

403. [REDACTED].<sup>1059 1060 1061</sup>

404. [REDACTED].<sup>1062 1063 1064 1065 1066 1067</sup>

**(xxxi) The Attack on the Žepa “Safe Area.”**

405. The *Krivaja-95* attack plan reflected the longstanding VRS view that the fates of the Srebrenica and Žepa enclaves were linked, its objectives being to “split apart the enclaves of Žepa and Srebrenica, and to reduce them to their urban areas,” and “to create conditions for the elimination of the enclaves.”<sup>1068</sup>

<sup>1049</sup> [REDACTED] PW-110, T.666.

<sup>1050</sup> [REDACTED] PW-110, T.668.

<sup>1051</sup> [REDACTED] PW-110, T.664-666.

<sup>1052</sup> [REDACTED] PW-110, T.664, 667-668, 811.

<sup>1053</sup> [REDACTED] PW-110, T.664, 667-668, 811.

<sup>1054</sup> [REDACTED] PW-110, T.664, 667-668, 811.

<sup>1055</sup> [REDACTED].

<sup>1056</sup> [REDACTED].

<sup>1057</sup> [REDACTED] PW-113, Exh. P02280 at T.1398.

<sup>1058</sup> [REDACTED] PW-113, Exh. P02280 at T.1399.

<sup>1059</sup> [REDACTED].

<sup>1060</sup> [REDACTED].

<sup>1061</sup> [REDACTED].

<sup>1062</sup> [REDACTED].

<sup>1063</sup> [REDACTED].

<sup>1064</sup> [REDACTED].

<sup>1065</sup> [REDACTED].

<sup>1066</sup> [REDACTED].

<sup>1067</sup> [REDACTED].

<sup>1068</sup> Exh. P00107, Drina Corps Command Order 04/156-2, Operations Order No. 1, 2 July 1995.

**Early July to 13 July 1995: The VRS Attack on Žepa Begins.**

406. Thus, at about the same time that the VRS began its attack on Srebrenica, it began firing on Žepa, continuing throughout the week of 9 July with artillery, mortar and heavy machinegun fire aimed at the enclave's population centres, including the town of Žepa and the villages of Ribinci and Pripecki.<sup>1069</sup> On 9 July, a report was sent to the ABiH General Staff by Colonel Avdo Palić, Žepa's commander, noting that civilians had been wounded by VRS mortar shelling, two of whom were children, and that "over 30 houses had been destroyed" in the surrounding villages.<sup>1070</sup>

407. When news of Srebrenica's fall on 11 July reached Žepa, it entered a state of panic.<sup>1071</sup> By 13 July, Gen. Tolimir was present at a forward command post in Borike in the Rogatica area, from which for the next approximately two weeks he would be communicating with the Main Staff and subordinate units.<sup>1072</sup>

408. After summoning Muslim representatives from Žepa, Tolimir and the Rogatica Brigade Commander, Lt. Col. Rajko Kušić, met with Hamdija Torlak and Mujo Omanović at the UN Checkpoint 2 at Bokšanica overlooking Žepa on 13 July.<sup>1073</sup> At the meeting, Tolimir declared that Srebrenica had fallen and that it was Žepa's turn now.<sup>1074</sup> Tolimir presented Torlak and Omanović two alternatives: complete evacuation of the entire population, or a military solution.<sup>1075</sup> Torlak and Omanović returned to Žepa and conferred with the War Presidency, including its President, Mehmed Hajrić,<sup>1076</sup> and commander Palić.

409. By the morning of 14 July, Tolimir had proposed to UNPROFOR's Ukrainian Company ("UKRcoy") commander in Žepa, Col. Semen Dudnik, to consolidate his UN personnel in two locations which were already under VRS control (one of which was

<sup>1069</sup> Exh. P02502, UNPROFOR Sector Sarajevo Weekly Situation Report of Civil Affairs Officer David Harland, 15 July 1995; FORTIN, T.18271-18272, 18273-18274. In fact, the VRS had shelled most of the Žepa UN OPs on 27 June, the local VRS commander having delivered to the Ukrainian commander the ultimatum that "the attacks would continue until UNPROFOR agreed to leave the pocket altogether." Exh. P02970, UNPROFOR Sector Sarajevo Weekly Situation Report of Civil Affairs Officer David Harland, 2 July 1995. [REDACTED].

<sup>1070</sup> Exh. P02951, ABiH 285<sup>th</sup> Brigade document No. 08-22-143/95, type-signed by Avdo Palić, 9 July 1995.

<sup>1071</sup> Exh. P02875, UNPROFOR Sector Sarajevo Weekly Situation Report of Civil Affairs Officer David Harland, 15 July 1995.

<sup>1072</sup> SAVČIĆ, T.15256; OBRADOVIĆ, T.28299.

<sup>1073</sup> TORLAK, T.9723-9724.

<sup>1074</sup> TORLAK, T.9724.

<sup>1075</sup> TORLAK, T.9724; Exh. P00188, 1<sup>st</sup> Podrinje Light Infantry Brigade Command, Strictly Confidential Number 04-520-50/95, Situation in Žepa enclave, type-signed by Maj. Gen. Zdravko Tolimir, 13 July 1995.

<sup>1076</sup> As President of the War Presidency, Hajrić was sometimes referred to as the "mayor" of Žepa. TORLAK, T.9717. Hajrić was also by profession a religious cleric, or hoda. TORLAK, T.9717.

Checkpoint 2), by which means “we plan to control the work and the reports that UNPROFOR is making to their superior command.”<sup>1077</sup>

410. Also by this time, General Krstić had issued his Attack Order on the Žepa enclave, code named *Stupčanica-95*, which noted that “the enemy in the Srebrenica enclave is completely routed;” that mopping up had begun; and that “Benefiting from the outcome of activities in the Srebrenica enclave, I have decided to immediately move onto the offensive and rout the enemy in the Žepa enclave in order to liberate and clear the Serbian Podrinje of Muslim forces and eliminate the enclaves.” Krstić ordered combat readiness at 08:00 hours on 14 July 1995.<sup>1078</sup>

411. Tolimir advised General **MILETIĆ** later that day that “In order to monitor combat activities around Žepa and have complete review of the Drina Corps Command radio network with brigade commands,” it would be necessary to incorporate the Main Staff into the Drina Corps Command’s communication system with appropriate equipment for crypto-protection.<sup>1079</sup>

412. When the Muslims did not accept Tolimir’s ultimatum, the VRS launched a full scale attack on the Žepa enclave in which defence lines, houses, inhabited areas and villages were shelled.<sup>1080</sup> Thus, on 14 July UNPROFOR reported that “the local VRS commander” had also demanded that UNPROFOR evacuate its OPs and that an assault would begin at 14:00.<sup>1081</sup>

413. By 15 July, the VRS had taken control of the UKRcoy checkpoints. According to a combat report Commander Kušić sent directly to the Main Staff:

Checkpoint No. 2 Bokšanica where the UNPROFOR Commander is located has been put under the control of our forces. An agreement was reached with him not to attack with the condition that they should not open fire on our battle formation which he accepted with the request to leave his

<sup>1077</sup> Exh. P00189, 1<sup>st</sup> Podrinje Light Infantry Brigade, Strictly confidential number 04-520-53/95, Situation in Žepa, type-signed by Gen. Maj. Zdravko Tolimir, 14 July 1995.

<sup>1078</sup> Exh. P00114, Drina Corps Command, Forward Command Post Krivače, Str. Confidential no. 02/04-158-1, Order to attack the Žepa enclave, operation no. 1, signed by Maj. Gen. Radislav Krstić, 13 July 1995.

<sup>1079</sup> Exh. P00183, 1<sup>st</sup> Podrinje Light Infantry Brigade Command, Strictly confidential number: 04-520-56/95, “Protection of secret military information,” personally to General **MILETIĆ**, type-signed by Maj. Gen. Zdravko Tolimir, 14 July 1995.

<sup>1080</sup> TORLAK, T.9727; Exh. P00187, 1<sup>st</sup> Podrinje Light Infantry Brigade, Strictly confidential number 04-520-52/95, Situation in Žepa enclave, type-signed by Gen. Maj. Zdravko Tolimir, 13 July 1995; Exh. P02875, UNPROFOR Sector Sarajevo Weekly Situation Report of Civil Affairs Officer David Harland, dated 15 July 1995.

<sup>1081</sup> Exh. P02875, UNPROFOR Sector Sarajevo Weekly Situation Report of Civil Affairs Officer David Harland, 15 July 1995.

positions where they are and he would in return provide information on enemy activity and would not call in NATO Air Force.<sup>1082</sup>

414. The VRS control of the Bokšanica checkpoint was confirmed by Edward Joseph, who testified that when he arrived there on 20 July, the VRS was in control with a significant presence of weapons.<sup>1083</sup>

415. Between 14 July and 18 July the fighting was very fierce, as the Muslims seized weapons from the UN checkpoints to respond to the VRS shelling and tankfire; fearing for their lives, the Muslims refused to surrender.<sup>1084</sup> Death threats were made by both the Muslim and Serb forces against UKRcoy personnel, with the Muslims threatening to kill the peacekeepers if the peacekeepers did not call for NATO air strikes, and Serb forces threatening the same if they did.<sup>1085</sup> Dudnik confirmed that the Serbs had threatened to kill him and his soldiers if NATO attacked.<sup>1086</sup>

416. On 19 July, the Serbs ceased shelling and firing on Žepa to permit Gen. Mladić, Gen. Tolimir and Col. Milenko Indić to hold a meeting with Gen. Smith at the Jela Restaurant. At the meeting, they discussed Srebrenica, including the withdrawal of DutchBat, the situation at Žepa, and the freedom of movement for UNPROFOR and UNHCR. Mladić told Smith that Žepa had effectively fallen to the VRS at about 13:30 hours that day and that he had set up a meeting between Dudnik and Muslim representatives at Checkpoint 2 at 16:00 hours in order to arrange the evacuation of refugees from Žepa.<sup>1087</sup> Mladić flew to Žepa by helicopter immediately following his meeting with Smith for this second meeting with Muslim representatives from Žepa.<sup>1088</sup>

417. The second meeting involved primarily Mladić and Tolimir for the VRS and Torlak and Dr. Benjamin Kulovac for the Žepa Muslims. Also present at this meeting were Col. Dudnik, Col. Indić, Drina Corps Intelligence Chief Lt. Col. Svetozar Kosorić and Col. Milovan Milutinović, Chief of the Main Staff Press Centre. [REDACTED].<sup>1089</sup> Mladić dictated the terms and means for the removal of the civilian population and insisted on the surrender and a prisoner exchange of the able-bodied men.<sup>1090</sup>

<sup>1082</sup> Exh. P02503, 1<sup>st</sup> Podrinje Light Infantry Brigade, Strictly confidential no. 04-528-57/95, Combat Report, type-signed by Lt. Col. Rajko Kušić, 14 July 1995.

<sup>1083</sup> JOSEPH, T.14155, 14196, 14222, 14274.

<sup>1084</sup> TORLAK, T.9797-9799; SAVČIĆ, T.15328 (Muslims used stolen UN weapons); [REDACTED].

<sup>1085</sup> Exh. P02959; Exh. P02958; Exh. P02340E; Exh. P02339a.

<sup>1086</sup> TORLAK, T.9880.

<sup>1087</sup> Exh. P02943, Report of Meeting between Generals Smith and Mladić on 19 July 1995, by Lt. Col. J.R.J. Baxter, dated 19 July 1995, p.4, para.6 (English).

<sup>1088</sup> SMITH, T.17537.

<sup>1089</sup> [REDACTED].

<sup>1090</sup> TORLAK, T. 9730, 9762-9763, 9801-9802.



418. Mladić, believing that the Muslims had surrendered, sent a letter to Smith dated 19 July advising him that the Muslim representatives had accepted his surrender conditions; that the population would begin to be moved out on 20 July at 14:00 hours; and asking him to send 50 trucks to transport the population and five fuel trucks with D-2 fuel and gasoline “for the needs of the UNPROFOR UKRBAT unit.”<sup>1091</sup> In connection with this, the Main Staff was preparing to secure the necessary vehicles and taking measures to control the looting and seizure of war booty from the fallen enclave.<sup>1092</sup>

419. However, the central problem would remain the fate of the military-aged men, whom the Muslims wanted to be taken out of the enclave by helicopter to be exchanged rather than surrender in Žepa to the VRS, whom they feared would kill the prisoners, which fear was only intensified by reports filtering back from Srebrenica about the events there.<sup>1093</sup> When the Muslims did not accept Mladić’s terms, the VRS assault resumed even stronger than before and lasted another three of four days.<sup>1094</sup> As before, the VRS shelling struck family houses, apartment buildings, lines held by the soldiers and even the UNPROFOR headquarters at the school in Žepa.<sup>1095</sup> This VRS shelling of Žepa resulted in civilian casualties.<sup>1096</sup>

420. In the meantime, UN Civil Affairs Officers Edward Joseph and Viktor Bezrouchenko had been dispatched to Žepa and reached Checkpoint 2 at Bokšanica on 20 July.<sup>1097</sup> As part of its psychological operations, the VRS had installed loudspeakers that broadcasted the message down to the village of Žepa that “there was no chance for the

<sup>1091</sup> Exh. P02944, Code Cable from Janvier to Annan, 20 July 1995, p.3 (English).

<sup>1092</sup> Exh. P01271d, Intercept dated 19 July 1995 at 21:16 hours (Kerkez is told that Krstić is looking for 50-70 vehicles; Kerkez says that Miljanović told him that the agreement was to start loading at 14:00 hours); Exh. 5D01113, Main Staff Logistics Sector Order on Transport of People and the Pull-out of War Booty from Žepa, 19 July 1995, received at 01:50 hours on 20 July 1995 (“If need be, a military police unit shall be secured through **MILETIĆ** to assist the war booty removal.”). See also Exh. P03957, Main Staff Logistics Sector Order, 14 July 1995 (dismantling UNPROFOR equipment for needs of VRS) and Exh. P03958, 26 July 1995, Main Staff Logistics Sector Order, “Expropriation of Material Supplies” from Potočari base. MILJANOVIĆ, T. T.28975-28976, 28982-28984, 29890; Exh. P03015, Drina Corps Command, Forward Command Post Godenje, personally to Gen. **MILETIĆ**, Request for the engagement of the VRS Main Staff’s military police battalion to prevent looting of war booty from Žepa, 20 July 1995, time-stamped at 10:30 hours.

<sup>1093</sup> TORLAK, T.9731, 9762, 9854, 9863; Exh. P02499, Memorandum from David Harland to John Ryan titled “Meeting on Prisoner Exchange and evacuation of Žepa,” 20 July 1995, p.2 (English); Exh. P02945, Notes of Meeting between Gen. Smith and Minister Muratović, 23 July 1995, p.2, para.6 (English); Exh. P02946, Report titled, “The Situation in Žepa, Summary as at 0800hrs 28 July 95,” p.1, para.2 (English).

<sup>1094</sup> TORLAK, T.9731-9732.

<sup>1095</sup> TORLAK, T.9732; Exh. P03251, Tab 3A, p.4 (ERN R012-3930) (a “Draft Demilitarization Agreement” authored by Edward Joseph noted that “Bosnian Serb forces continue to bombard the safe area of Žepa, and its civilian population, with heavy weapons, and continue to make armed incursions into the safe area.”); JOSEPH, T.14336-14337.

<sup>1096</sup> PALIĆ, T.6914.

<sup>1097</sup> Exh. P02944, Code Cable from Janvier to Annan, 20 July 1995, p.2, para.6 (English) (“UNPROFOR to deploy a recce party to Rogatica with ICRC and UNHCR”).

population.”<sup>1098</sup> After Joseph met with some NGO representatives for a lunch meeting filmed by the Serbs, Mladić ordered Joseph to leave as VRS heavy weaponry opened up sustained fire down into the village, continuing its “heavy bombardment” of the enclave. There was no indication that the Serb forces were receiving incoming fire.<sup>1099</sup>

421. With no surrender by the Muslims in sight, on 21 July Tolimir recommended to **MILETIĆ** that the “most propitious means of their destruction would be usage of chemical weapons or aerosol grenades and bombs.”<sup>1100</sup> Tolimir added that “we could force Bosnian Muslims to surrender sooner if we could destroy groups of Bosnian Muslims *Šić* refugees fleeing in the direction of Stublić, Radava and Brloška Planina.”<sup>1101</sup>

422. Over the next several days, meetings were held at the Sarajevo airport concerning the fate of *Žepa*. A central issue during the meetings was accounting for the whereabouts of the men from Srebrenica.<sup>1102</sup> The other key issue remained what would become of the military-aged men of *Žepa*, with the Muslims insisting that the men from *Žepa* be exchanged “all for all,” and not fall into the hands of the VRS in the process.<sup>1103</sup>

423. The third meeting between the VRS and the *Žepa* Muslims took place on 24 July. The only Muslim representative that day was Torlak, who met with Mladić, Tolimir and Kušić alone in Bokšanica.<sup>1104</sup> By this time, the key defensive summit of Brezova Ravan had been taken by the VRS, which made defence of *Žepa* centre impossible, and the population of *Žepa* had retreated to the mountains and caves to the north of town,

<sup>1098</sup> JOSEPH, T.14162. Esma Palić also testified that a few days following the fall of Srebrenica, she heard a loudspeaker repeatedly broadcasting the message, “The people of *Žepa*, this is Ratko Mladić speaking to you. You cannot stay in *Žepa*. Take white flags and move to Brezova Ravan where buses are awaiting you to take you to the territory controlled by Aljia Izetbegović. Don’t listen to crazy Avdo. You are his hostages. He will take you to your deaths.” PALIĆ, T.6912. See also Exh. P02588, Main Staff Strictly confidential no.: 07/23-44 from Zdravko Tolimir to the 1<sup>st</sup> Krajina Corps Security Department, 15 July 1995 (ordering the transportation of a 5,000 watt loudspeaker van from the 1<sup>st</sup> Krajina Corps Press Centre to Rogatica, to be arranged with the Chief of the Main Staff Centre for Information and Propaganda Activities, Milovan Milutinović.).

<sup>1099</sup> JOSEPH, T.14163, 14165-14166, 14274; Exh. P03251, Tab 2, p.2 (ERN R012-3422) (noting that at 19:00 hours the Serbs had resumed a heavy bombardment of the enclave and that the UN team on the spot had been told by the Serbs to return to Sarajevo).

<sup>1100</sup> Exh. P02517 (same as Exh. P02794), Main Staff Strictly confidential number 04-520-61/95, personally to General **MILETIĆ**, “Situation in *Žepa*, type-signed by Maj. Gen. Zdravko Tolimir, 21 July 1995.

<sup>1101</sup> Exh. P02517.

<sup>1102</sup> JOSEPH, T.14167-14169.

<sup>1103</sup> JOSEPH, T.14169-14170; SMITH, T.17540-17541, 17554-17555; Exh. P02945, Notes of Meeting between Gen. Smith and Minister Muratović, 23 July 1995, p.2, para.6 (English) (Muratović says he would never allow *Žepa* civilians to be transported out on trucks and buses like Srebrenica because more segregation and atrocities would follow; demanded no VRS access to civilians; Muslims wanted all for all per Civil Affairs demilitarization document); Exh. P02946, Report titled, “The Situation in *Žepa*, Summary as at 0800hrs 28 July 95,” p.1, para.2 (Muslims wanted all for all without falling into Serb hands).

<sup>1104</sup> TORLAK, T.9732-9733.

fearful amid reports of terrible events in Srebrenica.<sup>1105</sup> Mladić was quite angry and had laid out a piece of paper on the table; Mladić told Torlak that he had to sign it, and that there was no other solution.<sup>1106</sup>

424. At approximately 18:30 hours, Torlak signed the agreement, which provided for an immediate cease-fire, demilitarisation, registration of the male population for a prisoner exchange, and transportation for the civilian population.<sup>1107</sup> Although he signed the agreement, Torlak told Mladić that he did not have any control or influence over the ABiH and that he could not effectuate the surrender of Žepa's able-bodied men.<sup>1108</sup> Indeed, when later presented with the agreement, BiH Prime Minister Muratović denied that Torlak possessed the authority to negotiate on behalf of the government and insisted that any evacuation be performed by UNPROFOR.<sup>1109</sup>

425. While the agreement referred to compliance with the Geneva Conventions and freedom for the Žepa civilians to choose where to live, these matters were not discussed and were meaningless in light of the Žepa population's fear and events on the ground. Torlak made clear how free the people of Žepa felt at that time:

Civilians left Žepa because they were afraid for their lives if they stayed behind. And that is the only reason for their departure. All I know is the emotions and fear people felt, if they were to stay behind, and I think the option of staying behind in people's minds did not exist at all at that period of time in Žepa.<sup>1110</sup>

426. By the time of the transportations, Torlak was not aware of any people who wanted to stay in Žepa; indeed:

there was no possibility of anyone staying to live in Žepa. That was the real situation, and this was the consequence of all the prior events, the resistance, et cetera. So the moment the evacuation started on the 25<sup>th</sup> of July, this was no longer a realistic option, nor did anyone give it any more thought.<sup>1111</sup>

427. Mladić told Torlak that Tolimir would be in charge of the evacuation and that Tolimir and Avdo Palić would organise the transportations in the town centre.<sup>1112</sup> Mladić further told Torlak that when the transportations began, Torlak would stay at the Bokšanica checkpoint to guarantee Tolimir's safety in town.<sup>1113</sup>

<sup>1105</sup> TORLAK, T.9732-9734, 9744-9745, 9862; PALIĆ, T.6916-6918; [REDACTED] (PW-155), T.6832-6835.

<sup>1106</sup> TORLAK, T.9733.

<sup>1107</sup> TORLAK, T.9733-9737; Exh. P03251, Tab 9, pp.5-6 (ERN R012-3914) ("Agreement on Disarmament of the Military-Able Population in the Enclave of Žepa," dated 24 July 1995).

<sup>1108</sup> TORLAK, T.9811.

<sup>1109</sup> [REDACTED]; Exh. 6D00108, "The Situation in Žepa," 26 July 1995, p.4, para.15 (English).

<sup>1110</sup> TORLAK, T.9735-9736, 9812-9813, 9821-9822.

<sup>1111</sup> TORLAK, T.9863.

<sup>1112</sup> TORLAK, T.9736.

<sup>1113</sup> TORLAK, T.9736-9738.

428. The Main Staff remained involved in the negotiations, not only via Tolimir's leadership deployed forward, but by his consultations with other senior members of the Main Staff such as Generals **GVERO** and **MILETIĆ**, who were also actively participating in the Žepa operation.

429. By the morning of 25 July General Tolimir had sent another proposal personally to "General **GVERO** or General **MILETIĆ**," noting that they had received the text of the agreement and citing the risk if UNPROFOR sent a general rather than a colonel to Žepa that there might be a repeat of Gen. Morillon's stand at Srebrenica in 1993.<sup>1114</sup> In this proposal, Tolimir noted that the Muslims could take advantage of the signed agreement, "which they have already tried to do by bringing up the issue of prisoners from Srebrenica."<sup>1115</sup>

430. Later that day, Gen. Smith, Lt. Col. Baxter and Capt. Bliss (Sayer) met at the Jela Restaurant with Gen. Mladić and Gen. **GVERO** to discuss the situation in Žepa and the agreement, which Mladić had with him. Smith saw that his role was "to try and ameliorate the consequences of the collapse of this pocket."<sup>1116</sup> After the meeting, Mladić flew by helicopter to Žepa and Smith, Baxter and Sayer drove to Bokšanica to meet NGO and local Muslim representatives, including Torlak, and to assess the situation; however, Mladić and Tolimir had already begun the transportation of the civilian population.<sup>1117</sup>

431. After meeting with Mladić at Brezova Ravan, Torlak met later with General Smith at Bokšanica. Smith recalled meeting Torlak in the early evening and remembered him as "clearly a worried man" in shirt sleeves who was a member of the wartime presidency and was trying to get the population out of harm's way.<sup>1118</sup> After meeting with Smith, Torlak returned to Žepa.<sup>1119</sup>

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<sup>1114</sup> Exh. P00191, 1<sup>st</sup> Podrinje Light Infantry Brigade Command, Strictly confidential number 04-520-63:95, personally to General **GVERO** or **MILETIĆ**, "Agreement on Žepa," type-signed by Maj. Gen. Zdravko Tolimir, 25 July 1995, with notation received at 05:30 hours.

<sup>1115</sup> Exh. P00191.

<sup>1116</sup> SMITH, T.17556.

<sup>1117</sup> SMITH, T.17544-17545; Exh. P02747, Report of Meeting between Generals Smith and Mladić - 25 July, by Lt. Col. J.R.J. Baxter, 26 July 1995 (referring at p.1, para.3 to separate note, Exh. 6D00108, Report, The Situation in Žepa, by Lt. Col. J.R.J. Baxter, 26 July 1995.).

<sup>1118</sup> SMITH, T.17547; Exh. 6D00108 (26 July Baxter report of events of 25 July, met with Torlak at 19:50 hours).

<sup>1119</sup> TORLAK, T.9741.

(xxxii) **The forcible removal of the Bosnian Muslim population from Žepa**

**25 July**

432. The transportations began on 25 July, consisting first of one convoy of mostly of the sick and seriously wounded, who were taken to Sarajevo, and another convoy of civilians, who were taken to Kladanj.<sup>1120</sup> Dr. Kulovac went out in this first convoy with wounded.<sup>1121</sup>

433. A VRS doctor and an UNPROFOR doctor checked the most seriously wounded men, who were evacuated. This was ICRC's only involvement.<sup>1122</sup> ICRC and UNHCR refused to be part of what they considered would be the "ethnic cleansing" of Žepa.<sup>1123</sup>

434. Palić and Tolimir escorted the last convoys on 25 July, in which Palić's wife and daughters also left.<sup>1124</sup> The transportations went smoothly, other than some scuffling to get on the buses first, and there was no mistreatment that Torlak could see.<sup>1125</sup>

**26 July**

435. The following day, 26 July, Torlak met in Žepa town with Avdo Palić, who had returned from escorting the convoy to Kladanj the night before.<sup>1126</sup> The day before, the civilians had moved closer to the town centre to follow what was going on, so on 26 July, they came down in large numbers and wanted to leave as soon as possible.<sup>1127</sup> As the day before, the transportations proceeded smoothly on 26 July, and Torlak observed no mistreatment.<sup>1128</sup> With Tolimir in the town centre, Torlak then travelled with the first convoy that day up to Bokšanica in order to guarantee Tolimir's safety, as directed by Mladić.<sup>1129</sup>

436. 26 July saw the removal of the Muslim population from Žepa begin in earnest, with Tolimir overseeing the boarding process down in Žepa centre. Buses and trucks were supplied by the VRS and driven by Ukrainians, VRS and local Serbs.<sup>1130</sup> Not every

<sup>1120</sup> TORLAK, T.9738, 9745.

<sup>1121</sup> SMITH, T.17551; Exh. 6D00108.

<sup>1122</sup> Exh. P02486, DŽEBO 92<sup>ter</sup> Statement at p.3, para.7 (English); JOSEPH, T.14186-14187.

<sup>1123</sup> DIBB, T.16282-16283, 16304; JOSEPH, T.14175, 14181 (ICRC involvement limited to wounded), 14187.

<sup>1124</sup> TORLAK, T.9739; PALIĆ, T.6919-6921.

<sup>1125</sup> TORLAK, T.9740.

<sup>1126</sup> TORLAK, T.9744.

<sup>1127</sup> TORLAK, T.9744-9745.

<sup>1128</sup> TORLAK, T.9746.

<sup>1129</sup> TORLAK, T.9744; Exh. P04537, Bokšanica Video, 0:15:20 – 0:15:26 (Torlak the first off of the first bus).

<sup>1130</sup> JOSEPH, T.14185, 14188; TORLAK, T.9740.

bus was escorted by UNPROFOR.<sup>1131</sup> MLADIĆ gave them directions and instructions on how to carry out transportation.<sup>1132</sup> Like in Potočari, the civilians were moved out in buses, open lorries and dump trucks.<sup>1133</sup>

437. Meanwhile, observing the buses arrive up at Bokšanica loaded with the frightened and exhausted people were Mladić, **GVERO**, Krstić, **PANDUREVIĆ** and Kušić.<sup>1134</sup> Mladić boarded buses on every convoy that arrived at Bokšanica that day.<sup>1135</sup> Mladić also introduced Torlak to Gen. Krstić, and they spoke about their respective birthplaces as they sat around a table.<sup>1136</sup> Torlak slept that night in a room with the Ukrainian peacekeepers at the Bokšanica checkpoint.<sup>1137</sup>

## 27 July

438. The transportations continued on 27 July. The Main Staff's hands-on involvement in the Žepa forced movement is exemplified by Tolimir's personal participation in the seizure on 27 July of approximately 36 men -- including a group of approximately a dozen wounded -- from a bus headed to Kladanj.<sup>1138</sup> Tolimir had initially refused, and then personally assured Edward Joseph that the lightly wounded men would be allowed to leave.<sup>1139</sup> However, they were then taken off the bus *en route* near Tišća by Tolimir, who had an A4 sheet of paper with the names the wounded men on it, placed on another bus and taken to a prison in Rogatica.<sup>1140</sup>

439. Of a piece with this ominous development, Edward Joseph witnessed Avdo Palić being seized at the UKRcoy compound; while on a satellite telephone call, Joseph saw heavily armed Serb soldiers take Palić from the compound in view of UKRcoy soldiers. Joseph and Bezrouchenko pursued Palić and his captors by car, but could not follow them.<sup>1141</sup>

440. Meanwhile, as Torlak's authority to negotiate on behalf of the Muslim authorities in Sarajevo had been disputed, another meeting between Muslim

<sup>1131</sup> JOSEPH, T.14188.

<sup>1132</sup> JOSEPH, T.14286.

<sup>1133</sup> [REDACTED].

<sup>1134</sup> Exh. P04537, Bokšanica Video.

<sup>1135</sup> TORLAK, T.9747; Exh. P04537, Bokšanica Video, 0:15:27 – 0:15:30 (Mladić boards the first bus).

<sup>1136</sup> TORLAK, T.9747-9748; Exh. P04537, Bokšanica Video, 0:33:02 – 0:33:21 (conversation between Krstić and Torlak).

<sup>1137</sup> TORLAK, T.9748.

<sup>1138</sup> Exh. P02486, OTP Witness Statement of Meho DŽEBO, admitted pursuant to Rule 92ter, p.4, para.8 (English); FORTIN, T.18289-18290.

<sup>1139</sup> JOSEPH, T.14142-14345; DIBB, T.16291; [REDACTED] (PW-111), T.7018.

<sup>1140</sup> JOSEPH, T.14192-14194 (describing lightly wounded man in a sling asking to get taken out); Exh. P02486, DŽEBO 92ter Statement at p.4, paras.10-11 (English); [REDACTED] (PW-111), T.7023-7025; DŽEBO, T.9596.

<sup>1141</sup> JOSEPH, T.14190, 14196-14200, 14207, 14211; DIBB, T.16297.

representatives and the VRS was held on 27 July, at which Torlak, Mehmed Harjić and Amir Imamović met with Mladić and Smith. Despite Smith's advice that they not do so owing to concern that as civilians they could not bind the ABiH; that they did not have the approval of the civilian leadership in Sarajevo; and that UNPROFOR could not deliver on the promises contained in the agreement, the three representatives signed an agreement setting forth the terms of surrender and exchange of military-aged men.<sup>1142</sup>

441. Sometime after Smith left, Dibb saw Tolimir personally separate Mehmet Hajrić, the Žepa hoda, at the Bokšanica checkpoint on the last day of the transportations. Dibb recalled Hajrić as a "youngish guy, clearly in now way a fighting man;" however, Tolimir identified Hajrić, said he could not leave and took him away. Joseph also witnessed Hajrić being taken away.<sup>1143</sup>

442. In the afternoon, the last convoys from Žepa arrived at Bokšanica; Mehmed Hajrić and Amir Imamović, the Civilian Protection head,<sup>1144</sup> were on the last convoy.<sup>1145</sup> Mladić was angry about the failure of the Muslim men to surrender, detained the last convoy at Bokšanica and told Hajrić to go into the mountains to tell the military-aged men there to surrender.<sup>1146</sup> Later that evening, Torlak and Imamović were taken to the room where he had spent the previous night with the peacekeepers, until approximately 23:00 hours, when in view of Ukrainian peacekeepers, VRS soldiers arrived, handcuffed them, told them that they were now POWs and took them to a hotel in Borike, where they remained handcuffed to each other over night.<sup>1147</sup> During this time, the convoy was permitted to move on.<sup>1148</sup>

443. By the evening of 27 July, approximately 5,000 Žepa Bosnian Muslims had arrived in Kladanj.<sup>1149</sup>

## **28 July**

444. In the morning, the transportations of the last few hundred civilians finished.<sup>1150</sup>

<sup>1142</sup> Exh. P02946, "Baxter memo, The situation at Žepa, Summary as at 08:00 hours, dated 28 July 95"; Exh. P03251, Tab 11, Negotiations on Žepa (10), 27 July 1995, p.2 (ERN R012-3910); FORTIN, T.18282-18285 and 18372; SMITH, T.17553-17556; SAYER, T.21085 ("Mladić stated he would "liquidate" men left in Žepa who refused to surrender their weapons); JOSEPH, T.14201, 14203-14206; SMITH, T.17553-17556.

<sup>1143</sup> DIBB, T.16287-16288, 16291-16292; JOSEPH, T.14208 (sees Hajrić taken away with another older man), T.14213-14214 (met Hajrić's father in 1997 and son was still missing), 14206; 14212 (IDs Hajrić in video); [REDACTED].

<sup>1144</sup> TORLAK, T.9716.

<sup>1145</sup> TORLAK, T.9748-9749.

<sup>1146</sup> TORLAK, T.9748-9749.

<sup>1147</sup> TORLAK, T.9749-9750.

<sup>1148</sup> TORLAK, T.9749; Exh. P02486, OTP Witness Statement of Meho DŽEBO, admitted pursuant to Rule 92ter, p.3, para.8 (English).

<sup>1149</sup> DIBB, T.16289 (estimating close to 4,000 people transported during two full days).

445. When confronted at the Bokšanica checkpoint by Gen. Herve Gobillard and Col. Louis Fortin that afternoon about the reasons for removing the men from the last two convoys on the evening of 27 July, Tolimir replied that he had cross-referenced their vehicles' manifests with a list of military aged males and determined they had lied about their age to try to escape and would be taken to Rogatica, registered by the ICRC, and exchanged.<sup>1151</sup>

446. As he watched the arrival of refugees who were leaving their homes behind and appeared resigned to their fate, he observed that the Ukrainian peacekeepers were sidelined and not doing much.<sup>1152</sup>

447. Meanwhile, Torlak and Imamović were taken back to Bokšanica, where Torlak was questioned by a security officer.<sup>1153</sup> After being taken back to the Borike hotel, where they were held for a couple of days, Torlak and Imamović were taken with Hajrić, whom they learned was also being kept separately at the hotel, to a prison in Rogatica.<sup>1154</sup> Meho Đebo recalled seeing Torlak, Imamović and Hajrić at the Rogatica prison.<sup>1155</sup> In mid-August 1995, Hajrić and Imamović were taken out of the room they shared in the Rogatica prison and were never seen alive again.<sup>1156</sup> [REDACTED].<sup>1157</sup>

### 29 July

448. On 29 July, Tolimir passed instructions to ensure that combat operations continued against the 1<sup>st</sup> Žepa Brigade until the Bosnian Muslims abided by the 24 July agreement and that any Bosnian Muslims captured should not be registered or reported to international organizations before the ceasefire takes effect.<sup>1158</sup> Tolimir also monitored the exfiltration of Žepa males across the Drina River to Serbia.<sup>1159</sup>

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<sup>1150</sup> DIBB, T.16288, 16291 (transfer spanned four days, 25 July through 28 July 1995).

<sup>1151</sup> FORTIN, T.18289-T.18290; Exh. P02969, Notes of Meeting between Generals Gobillard and Tolimir, 28 July 1995; DIBB, T.16291.

<sup>1152</sup> JOSEPH, T.14261, 14295 (Ukrainians "completely ineffectual").

<sup>1153</sup> TORLAK, T.9750-9751.

<sup>1154</sup> TORLAK, T.9751.

<sup>1155</sup> Exh. P02486, OTP Witness Statement of Meho ĐEBO, admitted pursuant to Rule 92ter, p.5, para.14 (English).

<sup>1156</sup> TORLAK, T.9752.

<sup>1157</sup> [REDACTED].

<sup>1158</sup> Exh. 00186, Main Staff Strictly confidential no. 12/45-975, 29 July 1995, type-signed by Gen. Maj Zdravko Tolimir.

<sup>1159</sup> Exh. 02132, Command of the 1<sup>st</sup> Plpbr, Strictly Confidential no: 18/250-2, Report of Capt. Dragomir Pećanac to Gen. Tolimir personally, 29 July 1995.



**31 July**

449. By 31 July, Mladić was receiving intelligence that Muslim men of Žepa were attempting to break out of the enclave.<sup>1160</sup> By this time the entire VRS high command (Mladić, **GVERO**, Milovanović, Tolimir) was at the Western front.<sup>1161</sup>

450. In the end, Žepa's fighting age men did not surrender, instead exfiltrating to the hills surrounding the enclave, or heading east to cross the Drina to Serbia. In fact, hundreds of mostly able-bodied Muslim men, fearing that they would be harmed or killed if they surrendered to the VRS, fled to the Drina River and swam to Serbia, where many of them were registered by the ICRC and eventually released.<sup>1162</sup> Like many other men from Žepa, [REDACTED] (PW-155) crossed the Drina river on makeshift rafts; in his case, inflated rubber tubes.<sup>1163</sup>

**August**

451. By 2 August, UNPROFOR evacuated all its personnel from Žepa. As noted by an UNPROFOR Civil Affairs Officer, "The village of Žepa is empty except for a few Serb soldiers."<sup>1164</sup> It has been looted by Serb soldiers (who were seen carting off refrigerators, domestic animals etc), and most of the houses have been burnt."<sup>1165</sup> Indeed, U.N. personnel during this time also observed VRS soldiers looting and burning homes under the apparent direction of the local VRS commander.<sup>1166</sup>

452. With the Muslim population removed, the mosque in Žepa was destroyed.<sup>1167</sup>

453. The VRS "mop up" operation in Žepa continued into August. According to a 10 August 1995 Daily Combat Report by Commander Kušić:

in the vicinity of Luke, an unarmed Ustasha, born in Srebrenica, 24 years old, was liquidated. Before he died he said that he fell behind the others and he was looking for a food.<sup>1168</sup>

<sup>1160</sup> SMITH, T.17560; Exh. P02947.

<sup>1161</sup> SMITH, T.17563; Exh. P02948.

<sup>1162</sup> [REDACTED] PW-155, T.6836-6837.

<sup>1163</sup> [REDACTED] PW-155, T.6836-6837.

<sup>1164</sup> DIBB, T.16292-16293 (civilian population gone), 16296; JOSEPH, T.14210 (no Muslims left)

<sup>1165</sup> Exh. P03251, Tab 16, "The situation in Žepa as of 2 August," UNPROFOR Civil Affairs Officer David Harland, 2 August 1995 (ERN: R002-4191). FORTIN, T.18285-18286. [REDACTED] (describing looting and burning houses); DIBB, T.16284 (homes, farm buildings burning before VRS entered town); T.16292 (describing looting and houses in Žepa itself being set on fire after transportations), 16342, 16347-16348 (Serb soldier told him "we burnt it because the fighting is over"), T.16350-16351 ("it's absolutely inconceivable that that (Muslims burning own homes) was happening; "the only occasion in my own experience of people leaving burning their houses was Serb population leaving Sarajevo sometime later). JOSEPH, T.14246-14247 (not aware of any Bosniak policy to burn own houses and didn't see it either; notes Baxter qualified with "apparently"); SMITH, T.17546 (sees farm houses burning on 25 July).

<sup>1166</sup> DIBB, T.16293-16295 (Rogatica Brigade Commander Rajko Kušić in charge of looting); FORTIN, T.18285-T.18286.

<sup>1167</sup> TORLAK, T.9867; DIBB, T.16297-16298.

**Forcible Nature of the Transfer**

454. Numerous witnesses testified about the forcible nature of the removal of the Bosnian Muslim population from Žepa. Following the extended shelling of the town and its environs,<sup>1169</sup> and having received reports concerning the missing men of Srebrenica,<sup>1170</sup> the inhabitants of Žepa were terrified of staying. Tom Dibb, a veteran of many war zone, made the following observation:

since then I've seen Grozny December 1999, I'd been in south Lebanon last year. And I think what strikes me as different between Žepa and those two is that in the first two the people, war always displaces people, and I think they try to leave at what they judge is the last safe moment to get out. Now, in Grozny and south Lebanon, the last safe moment was before the place was actually captured. They were leaving because loads of ordnance was piling into - - piling into their villages or into the town; whereas, here what was different is that the last safe moment to the population appeared to be the moment that the fighting had actually stopped, and the VRS were to some extent poised to enter the village or surrounding the village so they were scared. I've got no doubt about that.<sup>1171</sup>

455. To put it simply, "it was fear of what happened once the fighting stopped rather than fear of the fighting itself" that made the Žepa population leave.<sup>1172</sup>

456. Edward Joseph testified that:

The impression was clear, that they were - - this was their home, but that they were absolutely petrified to stay . . . these people wanted to stay, but, look, this was - - they were terrified as to their fate if they would stay.<sup>1173</sup>

My impression is that these people were afraid for their lives. That's my impression. When someone is afraid for their lives, they want to leave.<sup>1174</sup>

It was clear that the issue of volition was already well passed and that these people felt themselves under duress. That was the reason for their departure.<sup>1175</sup>

The question of volition to me was rather overtaken by the military situation there . . . If someone feels that if they stay at their home, they will be killed. Is that - - and then you come in and say, "get on the buses," is that willing or is that not willing?<sup>1176</sup>

457. Emma Sayer still has a clear recollection that:

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<sup>1168</sup> Exh. P00209, 1st Podrinje Light Infantry Brigade regular combat report to the Drina Corps Command, typesigned Lt Col Rajko Kušić, 8 August 1995.

<sup>1169</sup> Exh. P02970, UNPROFOR Sector Sarajevo Weekly Situation Report of Civil Affairs Officer David Harland, 2 July 1995; Exh. P02875, UNPROFOR Sector Sarajevo Weekly Situation Report of Civil Affairs Officer David Harland, 15 July 1995; JOSEPH, T.16280-16281; PALIĆ, T.6911-6912, 6914, 6953 (civilian population left Žepa town because it was shelled); Exh. P02486, OTP Witness Statement of Meho DŽEBO, admitted pursuant to Rule 92ter, p.2, para.5 (English).

<sup>1170</sup> [REDACTED] PW-111, T. T.7023-7025; DIBB, 16310 ("It was a brutal civil war, and I think we have to view what happened in Žepa within that wider context. Taking into account it happened pretty much towards the end of it. My recollection is that people were aware of what had happened in Srebrenica shortly before, and that was influencing their thinking");

<sup>1171</sup> DIBB, T.16285-16286.

<sup>1172</sup> DIBB, T.16311.

<sup>1173</sup> JOSEPH, T.14184-14185

<sup>1174</sup> JOSEPH, T.14291.

<sup>1175</sup> JOSEPH, T.14290.

<sup>1176</sup> JOSEPH, T.14318.

during the conversation General Smith asked Mr. Torlak whether there was anybody that wished to remain within the enclave of Žepa, and I distinctly recall the look of shock or disbelief on Mr. Torlak's face, and he replied that, no, nobody was wanting to stay in the enclave because they were afraid.<sup>1177</sup>

458. Esma Palić put it perhaps in the most powerfully straightforward terms, mirroring the ultimatum delivered by General Tolimir on 13 July:

We had two options: One was to leave Žepa under very cruel and humiliating circumstances; the other option was to remain and then either be killed or be subjected to suffering. There were no other options.<sup>1178</sup>

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<sup>1177</sup> SAYER, T.21084.

<sup>1178</sup> PALIĆ, T.6923, 6958.

**(E) THE JOINT CRIMINAL ENTERPRISE TO MURDER THE ABLE-BODIED MEN FROM SREBRENICA.**

**(xxxiii) Overview**

459. The Srebrenica genocide was staggering in its dimensions. In just a few days, Bosnian Serb forces irreparably destroyed the lives of over 30,000 Bosnian Muslims in Srebrenica. The campaign of terrorisation designed to eliminate the Bosnian Muslims in Srebrenica led to the forcible transfer of thousands of Bosnian Muslims from their homes and included at least ten separate mass executions of over 7,000 men and boys and over 100 opportunistic killings.

460. The objective to eliminate the Bosnian Muslims in Srebrenica was realized between 11 July 1995 and 1 November 1995 through the killing of the men and boys and the forcible removal of women, young children and some elderly men from the Srebrenica enclave.

461. Gen. Ratko Mladić and his key subordinates began preparations to murder large numbers of Muslim men from Srebrenica sometime between the evening hours of 11 July and the morning of 12 July 1995. They knew on the evening of 11 July that between 1,000 and 2,000 able-bodied Muslim men were in Potočari and that these men would be under the Bosnian Serb forces' control on 12 July.

462. By the 10:00 a.m. meeting at the Hotel Fontana on 12 July, the preliminary plans and logistics for the killing operation of the Muslim men in Potočari had been concluded. Gen. Mladić announced to VRS representatives, RS civilian authorities, Dutchbat officers and Muslim representatives what became the first active step to implement the murder operation: the separation of Muslim men and boys from their families in Potočari.

463. Basic planning to implement their murder required Gen. Mladić to involve Gen. Krstić, his trusted operational commander for the *Krivaja-95* attack on the Srebrenica enclave, and Gen. Milenko Živanović, Commander of the Drina Corps. While Živanović was senior to Gen. Krstić in the Drina Corps command structure, Krstić was the person most responsible for the Drina Corps forces. Krstić became the lead commander of the murder operation at the Corps level when Mladić removed Živanović as the Commander of the Drina Corps on 13 July.

464. Generals Mladić, Krstić and Zivanović required logistical and operational advice from the ranking members of the Security Branch. Colonel Ljubiša **BEARA**, Chief of the

Main Staff Security Administration; Col. Radislav Janković, Intelligence officer from the Main Staff; Lt. Col. Vujadin **POPOVIĆ**, Assistant Commander for Security of the Drina Corps; and Lt. Col. Svetozar Kosorić, Chief of Intelligence of the Drina Corps were in Bratunac at the time. Gen. Mladić kept President Karadžić informed about the implementation of the plan.

465. Engagement in the separations and detentions required the commanders to be informed of the objective of an operation involving their troops. Vinko **PANDUREVIĆ**, Commander of the Zvornik Brigade, Ljubomir **BOROVČANIN**, Commander of the joint MUP forces, Col. Vidoje Blagojević from the Bratunac Brigade commanded units implementing the plan. Blagojević, **PANDUREVIĆ** and **BOROVČANIN** were members of the Joint Criminal Enterprise on 12 July.

466. The first phase of the plan -- to separate and detain the Muslim men and boys in Potočari as they attempted to get on vehicles transporting the women and children to BiH territory -- happened during the afternoon of 12 July and continued on 13 July. VRS and MUP forces separated and detained up to 2,000 Muslim men and boys. Ratko Mladić, Radislav Krstić, Vinko **PANDUREVIĆ**, Ljubomir **BOROVČANIN**, and Vidoje Blagojević, commanded and supervised their troops involved in the process. Officers Radoslav Janković, Vujadin **POPOVIĆ**, Svetozar Kosorić, and Momir Nikolić organized, oversaw and implemented their commanders orders to separate and detain the able-bodied men to be killed.

467. VRS and MUP forces placed the separated Muslim men and boys on vehicles for transfer from Potočari to the Vuk Karadžić School and the adjacent buildings in Bratunac. Soldiers from the Bratunac Brigade and other units guarded the Muslim men and boys at these locations.

468. More separations were conducted on 12 and 13 July at the confrontation line at Luke. There, Muslim men who had managed to get on vehicles in Potočari were separated from their families by members of the Vlasenica Brigade, including Brigade Chief-of-Staff Bosko Sargić. At least 20 men were transported to unknown killing sites on 12 and 13 July and murdered.

469. On 13 July, Gen. Milan **GVERO** issued VRS Main Staff Order 03/4-1629 to the Drina Corps engage, disarm and capture the Muslim men escaping from Srebrenica.<sup>1179</sup> On 13 July, at least 5,000 Muslim men from Srebrenica were captured or surrendered to

<sup>1179</sup> Exh. P00045, VRS Main Staff Order 03/4-1629 to the Drina Corps, entitled "Order to prevent the passage of Muslim groups towards Tuzla and Kladanj" type-signed by Milan **GVERO**, dated 13 July 1995.

MUP and VRS units along the Bratunac - Konjević Polje -Milići road. The MUP forces along the road were commanded by Ljubomir **BOROVČANIN**.

470. The VRS Security Branch supervised and co-ordinated all aspects of the separation, detention and transportation of the Muslim men and boys. Col. Ljubiša **BEARA**, Lt. Col. Vujadin **POPOVIĆ** and Momir Nikolić were in the Bratunac area on 13 July doing this job.

471. The first known organised murders in the Konjević Polje area occurred in the morning of 13 July. A VRS and/or MUP firing squad murdered approximately 15 Muslim men from Srebrenica along the banks of the Jadar River, near Konjević Polje. Between 13 and 17 July, 150 Muslim men from Srebrenica were murdered in the Cerska Valley by VRS and/or MUP soldiers.

472. From approximately 17:00 hours and throughout the evening of 13 July, over 1,000 Muslim men and boys from Srebrenica were murdered at the Kravica Warehouse by MUP soldiers commanded by **BOROVČANIN** and VRS soldiers commanded by Vidoje Blagojević. During the late afternoon or evening hours of 13 July, approximately 10 to 15 Muslim men from Srebrenica were murdered by members of the Jahorina Training Centre commanded by **BOROVČANIN**.

473. By the afternoon of 13 July, Gen. Zdravko Tolimir, Assistant Commander for Intelligence and Security of the Main Staff, advised Gen. Mladić and Generals **MILETIĆ** and **GVERO**, that the Muslims captured along the Bratunac - Konjević Polje – Milići road should be placed in buildings so they could not be seen from the ground or from the air. Later that day, Gen. Mladić accepted Gen. Tolimir's advice and issued an order consistent with it. This order required that thousands of Muslims prisoners be secreted in building or vehicles where they could not be seen by international forces, permitting the execution of the Muslim men and boys to be carried out in secret. Following Gen. Mladić's order, Muslim prisoners were placed in vehicles or buildings during the afternoon and evening hours of 13 July, out of the view of the many representatives of the international organisations such as UNPROFOR, ICRC, UNHCR, UNMO's, MSF and others in the area.

474. By the afternoon of 13 July, many thousands of Muslim men and boys were in VRS and MUP custody. Murdering them in the area around Bratunac was impossible due to the large presence of internationals. By late afternoon or evening on 13 July, Gen.

Mladić and President Karadžić decided to move the Muslim men and boys from detention sites in the Bratunac area to schools in the Zvornik area.

475. To implement this phase of the plan, Lt. Col. **POPOVIĆ** informed 2<sup>nd</sup> Lt. Drago **NIKOLIĆ**, the Zvornik Brigade Assistant Commander for Security, of the decision to transfer the Muslim men and boys from Bratunac to Zvornik to be killed. Drago **NIKOLIĆ** obtained authorization [REDACTED] to engage Zvornik Brigade resources in the murder operation in the Zvornik area. **BEARA**, **POPOVIĆ** and **NIKOLIĆ** were present in the Zvornik area and supervised the murder operation from 13 July through 17 July.

476. From at least 13 July, Gen. **MILETIĆ** was fully informed about the murder operation. In his position as Chief of Operations and Training in the VRS Main Staff and Standing in for the Chief of Staff, Gen. **MILETIĆ** would have received reports on the progress of the murder operation and assisted in its implementation.

477. General **GVERO** was also fully informed about the murder operation by 12 or 13 July and would have received reports on the progress of the murder operation and assisted in its implementation.

478. From the evening of 13 July through about November 1995, Zvornik Brigade units under the command of Vinko **PANDUREVIĆ** and Dragan Obrenović participated in all aspects of the murder operation. Zvornik Brigade soldiers guarded, transported, murdered, buried and re-buried about 6,000 Muslim men and boys from Srebrenica.

479. On 14 July, Drago **NIKOLIĆ** coordinated the murders of approximately 1,000 Muslims in isolated fields near Orahovac by members of the Zvornik Brigade. During the early morning hours of 15 July, unknown VRS soldiers and/or MUP murdered approximately 1,000 Muslims at the Dam near Petkovci.

480. At around 12:00 hours on 15 July, Vinko **PANDUREVIĆ** returned to the Zvornik Brigade HQ from Žepa and took over operational command of the Zvornik Brigade from Major Obrenović. From this time forward, **PANDUREVIĆ** commanded all soldiers, officers and units of the Zvornik Brigade participating in the murder operation.

481. During the afternoon and evening of 15 July, Zvornik Brigade Military Police and 2<sup>nd</sup> Battalion soldiers murdered at least 1,400 Muslims at a gravel pit near Kozluk. Also on 15 July, Zvornik Brigade Engineering Company members buried the bodies of the murdered Muslim men and boys at Orahovac and the Dam near Petkovci.

482. On 16 July, soldiers from the Main Staff 10<sup>th</sup> Sabotage Detachment and other units murdered at least 1,000 Muslims at Branjevo Farm and the Pilica Dom. The Zvornik Brigade Engineering Company buried the bodies of the Muslim men at murdered Kozluk. On 17 July, the Zvornik Brigade Engineering Company, the Zvornik Brigade 1<sup>st</sup> Battalion and the Zvornik Brigade “R” Battalion buried the bodies of the Muslims murdered at Branjevo Farm.

483. On 19 July, soldiers from the 16<sup>th</sup> Krajina Brigade, under the command of Vinko **PANDUREVIĆ**, murdered at least five Muslim men near Nezuk.

484. On or around 22 July, MUP forces in the Zvornik Brigade’s zone of responsibility murdered six Muslim men near Snagovo.

485. On or around 23 July, Vinko **PANDUREVIĆ** and Vujadin **POPOVIĆ** coordinated the murder of 11 wounded Muslim men who had been incarcerated at the Zvornik Brigade HQ.

486. On or around 26 July, Vinko **PANDUREVIĆ** and Drago **NIKOLIĆ** coordinated the murders of four Muslim victims, including a 14 year old boy, who had survived the murders at Branjevo Farm.

487. In late July or August 1995, a Serbian MUP unit, the “Scorpions,” murdered six Muslim men from Srebrenica.

488. From September to November 1995, soldiers from the Zvornik Brigade, Bratunac Brigade, 5<sup>th</sup> Engineering Battalion of the Drina Corps and other VRS units, together with MUP units and RS civilian authorities reburied bodies from the five primary mass graves in the area of Zvornik and Bratunac to at least 40 secondary graves in remote areas south of Zvornik and near Zelani Jadar. This concealment of the mass executions in the Zvornik Brigade and Bratunac Brigade zones was organized and supervised by security officers Ljubiša **BEARA**, Vujadin **POPOVIĆ**, Momir Nikolić, **Drago NIKOLIĆ** and Milorad Trbić, all acting under orders of their commanding officers, Ratko Mladić, Radislav Krstić, Vidoje Blagojević and **Vinko PANDUREVIĆ**, respectively.

489. The Accused achieved the goal to remove the Muslim population of Srebrenica, through a campaign of terrorism, fear and murder. The Bosnian Muslims in Srebrenica were eliminated. Nearly 30,000 were forcibly transferred from their homes and over 7,000 men and boys were murdered. As described in detail below, each Accused participated in and made significant contributions to the criminal common purpose of the JCE’s and shared the intent to commit the crimes with the other JCE members. On the



facts, each Accused also ordered, planned, instigated and/or aided and abetted the crimes committed in eliminating the Srebrenica Muslims.

**(xxxiv) The plan to murder the Muslim men was developed between the evening of 11 July and the morning of 12 July.**

**On the evening of 11 July, Gen. Mladić and his officers become aware of 1,000 – 2,000 Muslim men in Potočari.**

490. While the majority of Muslim able-bodied men assembled in Šušnjari and Jagličići on the evening of 11 July, up to 2000 Muslim men accompanied their families to the UNPROFOR base in Potočari on 10 and 11 July. The Muslim men who assembled in Potočari with their families on 10 and 11 July travelled to Potočari from Srebrenica along the main Srebrenica/Potočari road and were in plain view of the VRS and MUP forces surrounding the enclave. Many of these Muslim men and their families were camped out in the open on the afternoon and evening of 11 July and visible to VRS and MUP forces in the area of Yellow Bridge (Žuti Most).

491. Momir Nikolić explained in his Statement of Facts that he became aware of approximately 1,000 to 2,000 Muslim men in the crowd of people in Potočari on 11 July and reported this fact to his superiors.<sup>1180</sup> In his interview with the OTP, Ljubomir **BOROVČANIN** also admitted that he had information that there were military-age Muslim men in the crowd of civilians in Potočari on the evening of the 11 July.<sup>1181</sup> [REDACTED] PW-160 testified that he received an order from **BOROVČANIN** on the evening of 11 July to reconnoitre the area of Potočari and report back to him. [REDACTED] PW-160 testified that he followed this order and was able to see a large number of Muslim civilians assembled in Potočari. Neither [REDACTED] PW-160 at trial nor **BOROVČANIN** in his OTP interview were willing to acknowledge the estimates of Muslim men they must have had that evening. From their observation of the crowd alone, the VRS and MUP commanders would have deduced that there would be Muslim men among such a large crowd of civilians and obviously did so.

492. The presence of approximately 1,000 to 2,000 Muslim men in Potočari on 11 July was important militarily because these men posed a potential threat to the Bosnian Serb forces who were planning to enter Potočari on 12 July. The Muslim men in Potočari also represented a valuable source of information and, if detained, could later be exchanged for captured Bosnian Serb soldiers. The opportunity to summarily execute these men as a

<sup>1180</sup> Exh. C00001, Momir Nikolić Statement of Facts.

<sup>1181</sup> Exh. P02852, **BOROVČANIN** February Interview, p.55-56.

means of eliminating a large number of potential Muslim soldiers was a further reason for the Bosnian Serb leaders to be interested in the number of Muslim men in Potočari that night.

493. Generals Mladić, Krstić and Živanović and their staff officers Col. Janković (Main Staff Intelligence officer), Lt. Col. Vujadin **POPOVIĆ** and Lt. Col. Svetozar Kosić from the Drina Corps would have been informed of this important fact and incorporated it into their planning on the evening of 11 July in Bratunac. Gen. Mladić, Gen. Živanović and Col. Janković can be seen together with Colonel Karremans of the video of the first Hotel Fontana meeting on the evening of 11 July.<sup>1182</sup>

494. Gen. Mladić, Gen. Krstić, Col. Kosić and Col. Janković also can be seen sitting together with Col. Karremans and Nesib Mandžić at the second meeting at the Hotel Fontana on the evening of 11 July.<sup>1183</sup> It is clear from the video of the second Hotel Fontana meeting that General Mladić was obsessed with the whereabouts of the Muslim army, telling Nesib Mandžić that the Muslim army must lay down their weapons in order to save the Muslim people from “destruction.”<sup>1184</sup>

495. The VRS estimate of about 1,000 to 2,000 Muslim men among the crowd in Potočari was proven to be accurate as established by Bratunac Brigade MP Mile Janjić, who was ordered by Col. Janković to count the Muslim men separated from their families. On 12 July, Janjić counted approximately 10-15 buses, each fully loaded with approximately 70 men per bus.<sup>1185</sup> This approximates to between 700 and 1050 men who were separated on 12 July. On 13 July, Janjić counted two or three times as many separated Muslim men as there had been on 12 July.<sup>1186</sup> While these figures are obviously not an exact accounting of the numbers of Muslim men separated, they do provide a reasonable estimate and corroborate the original estimate noted by Momir Nikolić.

496. These numbers are further corroborated by an examination of the OTP’s “List of Persons Reported Missing after the Take-Over of the Srebrenica Enclave,” which shows that **2003** Muslim men reported missing after the fall of Srebrenica were last seen in

<sup>1182</sup> See Exh. P02047, Srebrenica Trial Video; Exh. P02048.

<sup>1183</sup> See Exh. P02047, Srebrenica Trial Video; Exh. P02048.

<sup>1184</sup> See Exh. P02047, Srebrenica Trial Video; Exh. P02048, p.47-48 (Eng).

<sup>1185</sup> Mile JANJIĆ, T. 17942-44.

<sup>1186</sup> Mile JANJIĆ, T. 17944-45.

Potočari on 10, 11, 12 or 13 July 1995.<sup>1187</sup> Significantly, **559** of the Muslim men reported missing from Potočari during this period were over 60 years of age.<sup>1188</sup>

497. Dragomir Vasić, Chief of the Zvornik CJB, also reported to his superiors on 12 July that the Muslims themselves had estimated that there were 25,000 Muslims in Potočari and that ten percent of those were “conscripts from 17 to 60 years old.”<sup>1189</sup>

**The plan to murder the Muslim men and boys from Potočari was developed prior to the meeting at the Hotel Fontana at 10:00 hours on 12 July 1995.**

498. At the third meeting at the Hotel Fontana at 10:00 hours on 12 July, attended by representatives from DutchBat, the Muslims, the VRS and Bratunac civilian authorities, Gen. Mladić announced that Serb forces would be “screening” or “inspecting” the Muslim men at Potočari to determine if there were war criminals among them.<sup>1190</sup>

499. As noted by Col. Boering in his testimony, the edited transcript of the Third Hotel Fontana meeting does not contain Mladić’s announcement that he would screen the Muslim men from Potočari.<sup>1191</sup> This portion of the transcript was obviously deliberately edited out by the VRS prior to their selling the video tape to media sources or releasing it to others outside the VRS. Editing out this portion of tape is particularly revealing in that screening the Muslim men for possible criminals among them was a perfectly legitimate activity under the circumstances, and had that been the true intention of the VRS, that portion of the video would not have been cut out. The only reason to cut out that section of the tape would have been to hide the true intentions of Gen. Mladić, that is, the separation and murder of the men and boys of Srebrenica.

500. Gen. Mladić’s decision to separate the Muslim men and boys and to murder them must have been discussed and decided upon sometime between the evening of 11 July, when he became aware of the large number of Muslim men in Potočari, and the meeting at the Hotel Fontana at 10:00 hours on 12 July with DutchBat and Muslim representatives. It would have been logical for Mladić to consult with the Drina Corps Generals, Živanović and Krstić, and his senior Intelligence and Security Officers, Col. Janković, Lt. Col. Kosorić and Vujadin **POPOVIĆ**, all of whom were clearly present and

<sup>1187</sup> See Exh. P00566, ICTY Report - “Srebrenica Missing - Persons Reported Missing after the Take-Over of the Srebrenica Enclave by the Bosnian Serb Army on 11 July 1995.” **22** men were reported as missing on 10 July; **494** on 11 July; **660** on 12 July; and **827** on 13 July.

<sup>1188</sup> Exh. P00566.

<sup>1189</sup> Exh. P03040, Zvornik CJB dispatch No. 278/95, re meeting at Hotel Fontana, dated 12 July 1995.

<sup>1190</sup> Exh. P00686, Richard Butler’s Revised Srebrenica Narrative at para. 4.14; BOERING, T.1969 -1975; Exh. P03040, particularly paras. 1 and 4 (“able-bodied men may be allowed to go in order to have the others from the woods to surrender”).

<sup>1191</sup> BOERING, T.1974-1975.

seen on video at the Hotel Fontana on the night of 11 July and the morning of 12 July (with the exception of Gen. Živanović, who does not appear on the 12 July Hotel Fontana video). General Mladić would also have consulted with President Karadžić and received his approval before implementing the plan.

501. Momir Nikolić, the Intelligence and Security Officer of the Bratunac Brigade, has testified that Vujadin **POPOVIĆ** and Lt. Col. Kosić approached him on 12 July outside the Hotel Fontana, prior to the meeting at 10:00 hours, and informed him that the Muslim men of Potočari would be separated and murdered.<sup>1192</sup> **POPOVIĆ** and Kosić requested that Nikolić suggest appropriate locations for detention and execution of the Muslims.<sup>1193</sup> Momir Nikolić testified he responded by suggesting the “Ciglane” factory (the brickworks) and the Sase mine for executions and the Vuk Karadžić School, the Old Engineering School and the Hangar for detention sites.<sup>1194</sup>

502. The Prosecution acknowledges that Momir Nikolić has credibility problems, as highlighted by his initial confession to ordering the Kravica Warehouse murders, and will only ask the Trial Chamber to consider his testimony where it is corroborated by other reliable evidence and all the attendant circumstances surrounding any given claim. In this particular case, there is significant evidence supporting the conclusion from Momir Nikolić that the decision to murder the Muslim men in Potočari had been reached prior to the meeting at Hotel Fontana at 10:00 hours on 12 July.

503. Momir Nikolić, Vujadin **POPOVIĆ** and Lt. Col. Kosić were together outside the Hotel Fontana prior to the meeting at 10:00 hours on 12 July. All three men were videotaped together and can be seen standing in front of the entrance of the Hotel as the Muslim representatives enter the Hotel for the meeting.<sup>1195</sup> It is normal and appropriate that the Drina Corps Security and Intelligence officers would pass down Gen. Mladić’s order to Momir Nikolić. It is also normal that **POPOVIĆ** and Kosić would request Nikolić’s assistance in carrying out the orders of Gen. Mladić. As the Brigade Security and Intelligence Officer in whose zone of responsibility the murder operation would be carried out, Momir Nikolić *had to know* of the operation and had certain responsibilities to make sure Mladić’s orders were carried out. This kind of communication between the Intelligence and Security organs is part of the “Professional Chain” of reporting within superior and subordinate security organs. The same information could have been passed

<sup>1192</sup> Exh. C00001, Momir Nikolić Statement of Facts, dated 6 May 2003, p.4.

<sup>1193</sup> Exh. C00001, p.4.

<sup>1194</sup> Exh. C00001, p.4.

<sup>1195</sup> Exh. P02047, Srebrenica Trial Video.

from Col. Vidoje Blagojević to Momir Nikolić along the “Command Chain” but it was perfectly appropriate, given the fact that the VRS commanders were involved in multiple tasks at the time, that the Security and Intelligence officers spoke directly with each other to organize the job they were ordered to carry out by their superior officers and had principal responsibility for implementing.

504. Miroslav Deronjić also testified that **BEARA** was intent on using the Ciglana factory to carry out executions on the morning of 14 July, thus corroborating in part Momir Nikolić’s testimony that he (Nikolić) suggested the Ciglana factory as an execution site.

505. As an admission against his own interest, Momir Nikolić’s testimony placing himself in the direct chain of orders implementing the murder operation is reliable. Momir Nikolić made this important admission knowing that he would be sentenced for his actions in support of the murder operation, and willingly acknowledged that he was a significant participant working directly with **POPOVIĆ** and Kosorić in support of the murder operation. Momir Nikolić had nothing to gain by placing himself in this position or putting **POPOVIĆ** and Kosorić in these key roles and had no reason to falsely implicate **POPOVIĆ** and Kosorić; indeed, he had every reason to tell the truth on this critical matter because he would have known that should he be shown to have not told the truth on this point, he would have been violating his agreement with the Prosecution to tell the truth and would not have the support of the Prosecution during his sentencing.

506. Gen. Mladić had also indicated his intent to kill the Muslim men of Srebrenica during his walk through of Srebrenica on 11 July. During his famous walk through Srebrenica immediately after the town had fallen on the afternoon of 11 July, Mladić turned to the camera and stated, “Finally, after the Rebellion against the Dahis, the time has come to take revenge on the Turks in this region.”<sup>1196</sup> While this comment was clearly meant for the camera and a larger audience, the comment cannot be disregarded as mere rhetoric because, as the Trial Chamber is fully aware, Gen. Mladić and others murdered thousands of Muslim men and boys from 12 through 16 July and beyond.

507. Mladić also indicated his intent to kill the Muslim men of Srebrenica in his comments to Nesib Mandžić during the second meeting at the Hotel Fontana on 11 July:

Please write down the following: Number one, you need to lay down your weapons and I guarantee that all those who lay down their weapons will **live**...I need to have a clear position of the representatives, on whether you want to **survive, stay or** vanish. I am prepared to receive here tomorrow at 10am hrs a delegation of officials from the Muslim side with whom I can discuss the

<sup>1196</sup> Exh. P02048 at p.11 (Eng).

**salvation of your people from the enclave**, the former enclave of Srebrenica. I shall order a cessation of operations until 10 am tomorrow. If your...fighters, your fighters who lay down their arms we shall treat in accordance with international conventions and we guarantee that everyone will **live**, even those who committed crimes against our people. Have I made myself clear? Nesib, **the future of your people is in your hands...**bring the people who can secure the surrender of weapons and **save your people from destruction.**<sup>1197</sup>

508. At the third meeting at the Hotel Fontana at 10:00 hours on 12 July, Mladić repeated his threat to the Muslim representatives:

As I told this gentleman last night, **you can either survive or disappear.** For your survival, I demand that all your armed men, even those who committed crimes – and many did – against our people, surrender their weapons to the VRS.<sup>1198</sup>

509. At the time Gen. Mladić made these statements, he had become aware that the ABiH 28<sup>th</sup> Division had no intention of surrendering and was in fact moving out of the enclave through the woods, attempting to flee, thus depriving him of an enormous historical Muslim surrender. Mladić was also aware that the Muslim soldiers greatly outnumbered the VRS and MUP soldiers and that with the winding down of the war, the next few battles were extremely important for the geographical outcome of the war. Mladić would have been aware that by murdering hundreds of Muslim men he would be preventing them from fighting and killing Serb soldiers. Mladić was also clearly furious at the perceived war crimes committed by the Muslim forces from Srebrenica, and in these comments indicated his intent that they be punished for their crimes. Again, given the fact that Karadžić and Mladić ordered the summary execution of thousands of Srebrenica Muslims during the following days, the comments at the Hotel Fontana were shown to reflect the mind and intent of Gen. Mladić. Nowhere do we see any indication that Mladić considered exchanging, or transporting to safety, the Muslim men and boys of Srebrenica.

***The separation and detention of the Muslim men and boys on 12 July clearly shows the intent to murder them.***

510. Shortly after the third meeting at the Hotel Fontana ended, busses and trucks began arriving in Potočari. Later that afternoon, the separation of men from their families began as women, children and some elderly men were allowed on to the vehicles. The MUP and the VRS, from their actions in separating and detaining the Muslim men and boys, made it absolutely clear that they had no intention whatsoever to take the Muslim men and boys as POWs or for exchange. Instead, they intended to summarily execute the

<sup>1197</sup> Exh. P02047, Srebrenica Trial Video; Exh. P02048, p.47-48 (Eng).

<sup>1198</sup> Exh. P02047, Srebrenica Trial Video; Exh. P02048, p.51-52 (Eng).

Muslim men. The following evidence elicited during this trial clearly proves the Bosnian Serbs' intention to murder the Muslims separated at Potočari.

511. First, there was no record kept or listing of Muslim prisoners as they were taken into Bosnian Serb custody in Potočari. If the Bosnian Serb forces had intended to incarcerate or exchange the Muslim men they would have made a list of their names and kept a running count of the number of men taken into custody. The names and numbers of Muslim prisoners was key information in determining the number and names of Serb soldiers to be exchanged and would be used to identify Muslims suspected of war crimes. However, it is clear from the Muslim witnesses that there was never any attempt in Potočari to register their names. In fact, the personal identification documents of Muslim detainees were confiscated and destroyed by the Serb forces. By confiscating and destroying the Muslims' identification documents, the Serbs inadvertently showed that they had no intention to interview, exchange or incarcerate the Muslim men of Srebrenica as the names of those prisoners, and the documentation confirming their identity, was central to any legitimate holding of the Muslim men.

512. Second, there was no system of screening or interrogation of the Muslim men. If the MUP and VRS had truly intended to screen the Muslim men of Potočari for war criminals they would have not only listed their names and kept their identifications but they would have also interviewed them to determine basic background facts to determine possible criminal conduct. None of the survivors from Potočari or anyone else in Potočari has suggested any formalised system of interviews or interrogation of Muslim prisoners in Potočari on 12 and 13 July. The importance of listing Muslim names and checking them was highlighted by General Tolimir in his 12 July communication to the Main Staff where he stressed the need to make lists of the Muslim men to be checked as possible war criminals. It was obvious from the very beginning of the separations that no such list was ever made or even contemplated. General Tolimir's report clearly indicates that he was not aware of the murder operation at the time he wrote the report, but confirms that had the VRS meant to save the men for exchange, they would have done a comprehensive listing and screening of the men.

513. Third, the Muslim men separated in Potočari on 12 and 13 July were not provided with any food, first aid, medical care or even the slightest physical comfort, but were thrown together inside the cramped quarters of the White House and the White House balcony in extreme summer heat of over 30 degrees centigrade. They were only given enough water to survive the heat. The Muslim men were treated less humanely than farm

animals. Had there been any intention by the VRS and MUP commanders to save these men for incarceration or exchange, they would have provided them with some basic human care. Such care was available through DutchBat personnel; however, the Muslim men in the White House were never allowed any help from any source, either in Potočari or later in 12 July in the Schools and other detention sites in Bratunac.

514. Fourth, the meagre belongings of the Muslim men, carried in small bags, were confiscated by Serb forces and discarded in heaps around the White House and burned on 13 and/or 14 July. Again, if the Serb forces had any intention of incarcerating or exchanging the Muslim men, they would have been allowed to take basic essentials with them as there would have been no pressing need to take everything from them. Instead, the Muslim men were, in almost all cases, literally left with only the clothes on their backs. The need to move as many Muslim men as possible to execution sites dictated how the men were treated and what they were allowed to take with them.

515. Fifth, the men separated in Potočari and taken to detention sites in Bratunac were treated even worse than they were in Potočari. They were jammed into buildings and provided with no food, very little water, no first aid or medical help or means of basic hygiene. In addition, they were treated brutally by their captors; many were beaten or taken out and killed. They were all housed indoors and thus unable to be viewed from the air or by persons travelling nearby. None of this treatment was necessary or called for if the Muslims were to be sent for incarceration or exchange.

516. On the morning of 12 July, the VRS and MUP forces were just beginning to receive information on the whereabouts of the Muslim forces from Srebrenica. These Muslim forces were very clearly on Gen. Mladić's mind as he met with DutchBat and Muslim representatives at the Hotel Fontana. As he had done the night before, Mladić stressed to DutchBat and the Muslim representatives that the Muslim army should lay down their arms. However, by 10:00 hours, the VRS had not had significant contact with the Muslim column and had no way of knowing at that time how many Muslim prisoners from the column they could anticipate receiving that day and the next.

517. On the evening of 12 July, Gen. Mladić, Gen. Krstić and the Drina Corps Brigade Commanders, including Vinko **PANDUREVIĆ**, met at the Bratunac Brigade HQ and discussed plans for the upcoming attack on Žepa. At this meeting all the commanders would have been fully informed of the number of prisoners separated in Potočari and the plan to execute them. Several hundred prisoners were incarcerated in deplorable conditions within a few hundred meters of the Bratunac Brigade HQ where the



commanders were meeting and the military resources required to complete the separation, detention and execution process must have been incorporated into any decision to move the VRS units to Žepa the next morning.<sup>1199</sup>

**(xxxv) 13 July: Bosnian Serb forces captured at least 5,000 Muslim men along the Bratunac – Konjević Polje – Milići Road.**

518. While the Muslim women, children and elderly men went to Potočari on 11 and 12 July, a large number of Muslim men and boys gathered together to attempt to break through to Muslim-held territory near Tuzla. On the evening of 11 July, approximately 15,000<sup>1200</sup> Muslim civilians and ABiH 28<sup>th</sup> Division members gathered near the villages of Jaglici and Šušnjari and set out in a column towards Muslim-held territory.<sup>1201</sup>

519. The column was mostly comprised of Muslim men and boys aged between 16 and 65 years old.<sup>1202</sup> There were also a small number of women, children, and elderly.<sup>1203</sup> Around one-third were soldiers from the 28<sup>th</sup> Division.<sup>1204</sup> Not all of these soldiers were armed.<sup>1205</sup> The 28<sup>th</sup> Division soldiers headed the column and were mixed through the remaining sections, as well as bringing up the rear.<sup>1206</sup>

520. On 12 July, Bosnian Serb forces attacked the column at several points including near Ravni Buljim,<sup>1207</sup> Kamenica,<sup>1208</sup> Kravica,<sup>1209</sup> and between the area of Konjević Polje and Nova Kasaba.<sup>1210</sup> [REDACTED].<sup>1211</sup> <sup>1212</sup> <sup>1213</sup> [REDACTED] PW-113 (Petkovci survivor) also testified that the column was shelled throughout the day on 12 July and throughout the next night.<sup>1214</sup>

<sup>1199</sup> See paras. 1355-1388.

<sup>1200</sup> ORIĆ, T.872; [REDACTED]; [REDACTED] PW-113, Exh. P02280 at T.1382; [REDACTED] PW-113, T.3381; [REDACTED] PW-110, T. 645-646.

<sup>1201</sup> Prosecution Adjudicated Facts 245-247 and 257. See also [REDACTED] PW-139, T.3702 (testified that he set out in the late evening of 11 July); [REDACTED] PW-111, T.6972; [REDACTED] PW-156, T.7083; ORIĆ, T.875 (all three testified that they set out on 12 July).

<sup>1202</sup> Prosecution Adjudicated Facts 248. Lt. Van Duijn of DutchBat saw a boy of around 11 to 12 years old in a group of Muslims heading to Šušnjari to join the column. T.2271-2272.

<sup>1203</sup> Prosecution Adjudicated Fact 249.

<sup>1204</sup> Prosecution Adjudicated Fact 256.

<sup>1205</sup> Prosecution Adjudicated Fact 256.

<sup>1206</sup> Prosecution Adjudicated Fact 256.

<sup>1207</sup> [REDACTED]; Exh. P02203, OTP Witness Statement of Ramiz Husić, dated 9 June 1999, 0613-9632; [REDACTED] PW-111, T.7083.

<sup>1208</sup> [REDACTED] PW-139, T.3728-3729.

<sup>1209</sup> [REDACTED] PW-111, T.7040.

<sup>1210</sup> Prosecution Adjudicated Fact 260.

<sup>1211</sup> [REDACTED].

<sup>1212</sup> [REDACTED].

<sup>1213</sup> [REDACTED].

<sup>1214</sup> [REDACTED] PW-113, Exh. P02280 at T.1383.

521. Only about one third of the column made it successfully across the Bratunac – Konjević Polje – Milići asphalt road and the column was split into two parts.<sup>1215</sup>

522. By the morning of 13 July, there were many wounded Muslims.<sup>1216</sup> [REDACTED] PW-113 could see at least five or six dead people near him.<sup>1217</sup> Several Muslims also committed suicide.<sup>1218</sup> [REDACTED].<sup>1219</sup>

523. At around 10:00 hours, the Serbs started calling over loudspeakers: “Surrender or we’ll shell you. You’ll be taken according to all the Geneva Conventions.”<sup>1220</sup> Large numbers of the Muslim men then started surrendering. At around 14:00 or 15:00 hours, the Serb soldiers gave a final ultimatum that the Muslims should surrender or be killed.<sup>1221</sup> Large numbers of additional Muslim men surrendered at this point.<sup>1222</sup>

524. An intercepted conversation at 17:30 hours on 13 July shows that the Bosnian Serbs had captured approximately 6,000 Muslim men along the Bratunac - Konjević Polje – Milići road that day.<sup>1223</sup> Approximately 1,500 to 2,000 men were detained at three major sites;<sup>1224</sup> Nova Kasaba, Konjević Polje and Sandići Meadow. From the moment of their surrender / capture, these men were marked for death.

### **Sandići Meadow**

525. When [REDACTED] PW-113 (Petkovci survivor) surrendered, he passed over a bridge and onto the road.<sup>1225</sup> There were five or six Serb soldiers on the bridge<sup>1226</sup> and more nearby.<sup>1227</sup> The Serb soldiers were dressed in olive drab camouflage uniforms.<sup>1228</sup> The soldiers were heavily armed and some had machine guns.<sup>1229</sup> The Serb soldiers asked the Muslims to hand over any weapons, bags and money that they had.<sup>1230</sup> There was a tank by the road, and the Muslims left their possessions by the tank.<sup>1231</sup>

<sup>1215</sup> Prosecution Adjudicated Fact 261.

<sup>1216</sup> [REDACTED] PW-113, Exh. P02280 at T.1383-1384.

<sup>1217</sup> [REDACTED] PW-113, Exh. P02280 at T.1383-1384.

<sup>1218</sup> [REDACTED]; [REDACTED] PW-113, T.3342, 3345, 3346; [REDACTED] PW-110, T.798.

<sup>1219</sup> [REDACTED].

<sup>1220</sup> [REDACTED] PW-113, Exh. P02280 at T.1384; [REDACTED] PW-110, T.650. [REDACTED].

<sup>1221</sup> [REDACTED] PW-113, Exh. P02280 at T.1384; [REDACTED] PW-110, T.650.

<sup>1222</sup> [REDACTED] PW-113, Exh. P02280 at T.1384; [REDACTED] PW-110, T.650.

<sup>1223</sup> Exh. P01143a, intercept dated 13 July 1995 at 17:30 hours.

<sup>1224</sup> Exh. P01143a.

<sup>1225</sup> [REDACTED] PW-113, Exh. P02280 at T.1384; [REDACTED] PW-113, T.3366.

<sup>1226</sup> [REDACTED] PW-113, Exh. P02280 at T.1385.

<sup>1227</sup> [REDACTED] PW-113, T.3366.

<sup>1228</sup> [REDACTED] PW-113, Exh. P02280 at T.1386.

<sup>1229</sup> [REDACTED] PW-113, Exh. P02280 at T.1387.

<sup>1230</sup> [REDACTED] PW-113, Exh. P02280 at T.1385.

<sup>1231</sup> [REDACTED] PW-113, Exh. P02280 at T.1385.

526. The prisoners lined up along the road in five lines approximately 100 metres long.<sup>1232</sup> [REDACTED] PW-113 estimated that there were 1,000 to 2,000 prisoners in total.<sup>1233</sup> The Serb soldiers started to mistreat the prisoners; asking for more money and insulting the Muslims with phrases such as “Fuck your balija’s mother.”<sup>1234</sup>

527. [REDACTED] PW-113 stated that after a while, two cars containing soldiers wearing blue camouflage uniforms arrived.<sup>1235</sup> These soldiers also asked the prisoners for money and cursed them.<sup>1236</sup> The prisoners were then told to run along the road with their hands up in the air.<sup>1237</sup> Some of the Muslims carried the wounded and Serb soldiers ran alongside.<sup>1238</sup> At one point, one of the Serb soldiers made the Muslim prisoners do a three-fingered Serb greeting/sign to Muslim women and children who were passing by in buses.<sup>1239</sup> One of the Serb soldiers beat a prisoner as they ran down the road.<sup>1240</sup>

528. The prisoners reached a meadow which was surrounded by destroyed houses and high grass.<sup>1241</sup> [REDACTED] PW-113 identified the meadow on a map as Sandići.<sup>1242</sup> [REDACTED] PW-113 testified that there were approximately 2,000 prisoners in the Meadow.<sup>1243</sup>

529. [REDACTED] PW-110 (Orahovac survivor) also surrendered in Sandići.<sup>1244</sup> [REDACTED] PW-110 stated that as the Muslims came down to surrender, they were stripped of their money and threatened that if they did not hand it over: “we would suffer the same fate as those before us.”<sup>1245</sup> At the Meadow, the prisoners were lined up in rows, about 20 metres long, and every row was guarded by two soldiers at each end.<sup>1246</sup> The prisoners were given water but no food.<sup>1247</sup> No medical attention was provided for the wounded.<sup>1248</sup>

530. [REDACTED] PW-110 also testified that a woman and child; two young girls; and around ten to twelve young boys, aged under 15, were allowed to leave the

<sup>1232</sup> [REDACTED] PW-113, Exh. P02280 at T.1386.

<sup>1233</sup> [REDACTED] PW-113, Exh. P02280 at T.1386.

<sup>1234</sup> [REDACTED] PW-113, Exh. P02280 at T.1386.

<sup>1235</sup> [REDACTED] PW-113, Exh. P02280 at T.1387.

<sup>1236</sup> [REDACTED] PW-113, Exh. P02280 at T.1387.

<sup>1237</sup> [REDACTED] PW-113, Exh. P02280 at T.1387.

<sup>1238</sup> [REDACTED] PW-113, Exh. P02280 at T.1387-1388.

<sup>1239</sup> [REDACTED] PW-113, Exh. P02280 at T.1388.

<sup>1240</sup> [REDACTED] PW-113, Exh. P02280 at T.1389.

<sup>1241</sup> [REDACTED] PW-113, Exh. P02280 at T.1389.

<sup>1242</sup> [REDACTED] PW-113, Exh. P02280 at T.1390.

<sup>1243</sup> [REDACTED] PW-113, Exh. P02280 at T.1391.

<sup>1244</sup> [REDACTED] PW-110, T.649.

<sup>1245</sup> [REDACTED] PW-110, T.651.

<sup>1246</sup> [REDACTED] PW-110, T.658.

<sup>1247</sup> [REDACTED] PW-110, T.660.

<sup>1248</sup> [REDACTED] PW-110, T.660.

meadow.<sup>1249</sup> Similarly, [REDACTED] PW-113 stated that three young boys were allowed to leave the meadow and get on a passing bus.<sup>1250</sup> Another boy who looked around 12 or 13 years old was denied permission to leave.<sup>1251</sup> This was around 17:00 hours.<sup>1252</sup> As with the separations in Potočari, the separations at Sandići Meadow were an integral part of the murder operation and show that the Muslim men detained there, as well as at Konjević Polje and at Nova Kasaba, were to be murdered.

531. At around dusk, Gen. Mladić arrived and told the prisoners that their governments were negotiating and that they would be exchanged “all for all” the following day.<sup>1253</sup> Mladić’s promise that the Muslim men would be exchanged was a lie. The decision to murder the Muslim men had already been made.

532. During the afternoon hours, approximately 1,000 of these prisoners were bused and marched 1.2 kilometres to the Kravica Warehouse.

533. [REDACTED] PW-113 testified that the prisoners who were detained in the Meadow in the late afternoon hours were ordered to lie on their stomachs with their hands above their necks, applauding and saying “Long live the king, long live Serbia.”<sup>1254</sup> They lay there for about three hours, during which time shooting started nearby.<sup>1255</sup> This was during the period of the Kravica Warehouse executions.

534. Later that day, the remaining prisoners were transported to Bratunac on the same buses and trucks which transported the women and children, which had returned empty.<sup>1256</sup> [REDACTED] PW-113 stated that the trucks were so crowded that people could not sit down.<sup>1257</sup> There were approximately 100 to 200 people in each lorry.<sup>1258</sup> They were escorted to Bratunac by a Golf vehicle containing soldiers.<sup>1259</sup> The prisoners spent the night in appalling conditions in and around Bratunac. The following morning, they were transported to the Zvornik area<sup>1260</sup> where they were executed.

<sup>1249</sup> [REDACTED] PW-110, T.659.

<sup>1250</sup> [REDACTED] PW-113, Exh. P02280 at T.1393.

<sup>1251</sup> [REDACTED] PW-113, Exh. P02280 at T.1393.

<sup>1252</sup> [REDACTED] PW-113, Exh. P02280 at T.1395.

<sup>1253</sup> [REDACTED] PW-110, T.662.

<sup>1254</sup> [REDACTED] PW-113, Exh. P02280 at T.1397.

<sup>1255</sup> [REDACTED] PW-113, Exh. P02280 at T.1397.

<sup>1256</sup> [REDACTED] PW-110, T.663; [REDACTED] PW-113, Exh. P02280 at T.1397.

<sup>1257</sup> [REDACTED] PW-113, Exh. P02280 at T.1398.

<sup>1258</sup> [REDACTED] PW-113, Exh. P02280 at T.1398.

<sup>1259</sup> [REDACTED] PW-113, Exh. P02280 at T.1398.

<sup>1260</sup> See paras. 661-666.

**Nova Kasaba**

535. [REDACTED].<sup>1261 1262 1263 1264 1265 1266</sup>

536. [REDACTED].<sup>1267 1268 1269 1270</sup>

537. [REDACTED].<sup>1271 1272 1273</sup>

538. [REDACTED] an intercepted conversation at 10:09 hours that morning, in which **BEARA** instructed Major Zoran Malinić, Commander of the 65<sup>th</sup> Protection Regiment's MP Battalion, to put the Muslim prisoners on the football field in 4-5 rows.<sup>1274</sup> Aerial imagery also shows rows of people lined up on the Nova Kasaba sports field at around 14:00 hours that day.<sup>1275</sup>

539. The presence of prisoners at Nova Kasaba is also further confirmed by the testimony of DutchBat soldiers who passed by and were later detained in Nova Kasaba.<sup>1276</sup>

540. [REDACTED].<sup>1277 1278</sup> As with his speech at Sandići Meadow,<sup>1279</sup> Mladić's speech at Nova Kasaba was a lie. The decision to murder these men had already been made.

541. [REDACTED].<sup>1280 1281 1282 1283 1284</sup> The following morning, these prisoners were transported to the Zvornik area<sup>1285</sup> where they were executed.

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<sup>1261</sup> [REDACTED].

<sup>1262</sup> [REDACTED].

<sup>1263</sup> [REDACTED].

<sup>1264</sup> [REDACTED].

<sup>1265</sup> [REDACTED].

<sup>1266</sup> [REDACTED].

<sup>1267</sup> [REDACTED].

<sup>1268</sup> [REDACTED].

<sup>1269</sup> [REDACTED].

<sup>1270</sup> [REDACTED].

<sup>1271</sup> [REDACTED].

<sup>1272</sup> [REDACTED].

<sup>1273</sup> [REDACTED].

<sup>1274</sup> Exh. P01130a, intercept dated 13 July 1995 at 10:09 hours.

<sup>1275</sup> Exh. P02103, p. 28.

<sup>1276</sup> EGBERS, T.2724-2735, 2748-2749 (on 12 July, on road near Nova Kasaba to and from Kladanj, Lt. Egbers saw 100-200 men on a football field in civilian clothes sitting on their knees with their hand behind their necks); 2755-2756 (on 13 July, Lt. Egbers saw men walking by road with hands behind their necks, escorted by Serb soldiers and he also saw a few hundred men on the football field). *See also* FRANKEN, T.2509-2510; MULDER, P02199, 12 May 2000 Witness Statement, pp.4-5 ENG and 24 and 25 October 1995 Witness Statement, p.4 ENG.

<sup>1277</sup> [REDACTED].

<sup>1278</sup> [REDACTED].

<sup>1279</sup> *See* para. 531.

<sup>1280</sup> [REDACTED].

<sup>1281</sup> [REDACTED].

<sup>1282</sup> [REDACTED].

**Konjević Polje**

542. Mevludin Orić (Orahovac survivor) spent the day of 13 July near Konjević Polje.<sup>1286</sup> Orić could see the Bratunac – Konjević Polje – Milići road from his vantage point and could see tanks and pragas firing at them.<sup>1287</sup> He could also see an “UNPROFOR carrier” from which Serbs were calling for the Muslims to surrender.<sup>1288</sup>

543. At around 19:30 hours, Orić and approximately eight other Muslims surrendered to uniformed Serb soldiers with automatic weapons and an M-84 machine gun.<sup>1289</sup> They were taken to a room in a former agricultural warehouse in Konjević Polje and detained there.<sup>1290</sup> While they were in detention, a Serb officer came and told the prisoners that they would be put on buses and sent to Bratunac.<sup>1291</sup> The officer said that when the buses which transported the Muslim women and children to Kladanj returned, those same buses would transport the men to Bratunac.<sup>1292</sup>

544. At approximately 21:00 or 22:00 hours, two buses arrived from Milići and transported the captured Muslim men to Bratunac.<sup>1293</sup> They were accompanied by three VRS MPs who were wearing blue flak jackets, the same as those worn by UNPROFOR.<sup>1294</sup> As with the other Muslim prisoners who were detained at Sandići and Nova Kasaba, Mevludin Orić and the prisoners with whom he was detained were transported to the Zvornik area the following day<sup>1295</sup> where they were executed.

**(xxxvi) 13 July: Murder of approximately 16 Muslim prisoners at Jadar River**

545. The first known organised and systematic execution of the Muslim men from Srebrenica occurred on the morning of 13 July when a squad of Serb soldiers captured approximately 16 Muslim men from the column along the Bratunac-Konjević Polje road, 21 km west of Bratunac. After being stripped of their identification, clothing and money, interrogated and beaten by their captors,<sup>1296</sup> the prisoners were transported to an isolated

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<sup>1283</sup> [REDACTED].

<sup>1284</sup> [REDACTED].

<sup>1285</sup> See paras. 661-666.

<sup>1286</sup> ORIĆ, T.884.

<sup>1287</sup> ORIĆ, T.884.

<sup>1288</sup> ORIĆ, T.885-886.

<sup>1289</sup> ORIĆ, T.885-886.

<sup>1290</sup> ORIĆ, T.887.

<sup>1291</sup> ORIĆ, T.889.

<sup>1292</sup> ORIĆ, T.889.

<sup>1293</sup> ORIĆ, T.891-892.

<sup>1294</sup> ORIĆ, T.891-892.

<sup>1295</sup> See paras. 661-666.

<sup>1296</sup> See , T.3199-3292.

area on the bank of the Jadar River and summarily executed.<sup>1297</sup> [REDACTED] (PW-112) was the sole survivor. This execution could not have been carried out without a high degree of coordination. Individuals were present to interrogate the prisoners, buses were used to transport them to the execution site and an execution squad was already in place.

546. The area of Jadar River falls within the zone of the 5<sup>th</sup> Engineering Battalion of the Drina Corps,<sup>1298</sup> with responsibility for broader military operations in the area falling to the Bratunac Brigade.<sup>1299</sup> Despite the presence of the military, RS MUP forces secured the Konjević Polje-Bratunac Road<sup>1300</sup> and were performing this function during the late afternoon of 12 July and through 13 July.<sup>1301</sup>

### **The executions**

547. In the early morning hours of 13 July, [REDACTED] PW-112 was captured near the intersection of Konjević Polje<sup>1302</sup> [REDACTED].<sup>1303</sup> Testimony from Momir Nikolić and [REDACTED] PW-138 indicates that there was a civilian police checkpoint at the Konjević Polje intersection.<sup>1304</sup> Momir Nikolić confirmed that on 12 July and the early morning hours of 13 July, through intelligence reports and other information, he was made aware that VRS and MUP forces were capturing Muslim men in the areas of Ravni Buljim, Nova Kasaba and Konjević Polje.<sup>1305</sup>

548. [REDACTED].<sup>1306</sup> <sup>1307</sup> [REDACTED] various locations in and around a group of buildings, primarily used by the 5<sup>th</sup> Engineering Battalion of the Drina Corps.<sup>1308</sup>

<sup>1297</sup> [REDACTED] PW-112, T.3199-3292.

<sup>1298</sup> Exh. P00686 at p.51; BUTLER, T.20486:2-6; RUEZ, T.1433; Exh. P02103, p.71; RUEZ, T.1433:16-18.

<sup>1299</sup> Exh. P00686 at p.50.

<sup>1300</sup> Responsibility for securing the Konjević Polje - Bratunac Road was assigned to the RS MUP as early as 21 March 1995 (Exh. 4DP00031, VRS Main Staff (Intelligence and Security Sector) report 12/46-2211/95; Exh. 4DP00006, Republika Srpska Presidential Order 01-509-1/95; Exh. 4DP00007, Republika Srpska Ministry of the Interior Order K/P 273-95).

<sup>1301</sup> Exh. P00060, CJB Zvornik Report No. 281/95, type-signed Dragomir Vasić, dated 12 July 1995; Exh. P00062, CJB Zvornik Report No. 282/95, type-signed Dragomir Vasić, dated 13 July 1995; Exh. P00886, CJB Zvornik Report No. 283/95, type-signed Dragomir Vasić, dated 13 July 1995. *See also* Slaviša SIMIĆ, T.27534-36. *See also* Exh. C00001, Momir Nikolić Statement of Facts, dated 6 May 2003, p.4.

<sup>1302</sup> [REDACTED]; Exh. P01470; RUEZ, T.1433; Exh. P02103, p.71.

<sup>1303</sup> [REDACTED].

<sup>1304</sup> Exh. C00001, Momir Nikolić Statement of Facts, dated 6 May 2003, p.4; [REDACTED] PW-138, T.3824-3825.

<sup>1305</sup> Exh. C00001, Momir Nikolić Statement of Facts, dated 6 May 2003, p.4.

<sup>1306</sup> [REDACTED].

<sup>1307</sup> [REDACTED].

<sup>1308</sup> Exh. P00686, Srebrenica Military Narrative, p.51. BUTLER, T.20486. *See also* RUEZ, T.1378; Exh. P02103, p.31-32.

549. [REDACTED] a small building at a former school [REDACTED].<sup>1309</sup>  
[REDACTED].<sup>1310</sup> Jean-René Ruez testified that this small building was a guard hut  
located at the base of the 5<sup>th</sup> Engineering Battalion.<sup>1311</sup> [REDACTED].<sup>1312 1313 1314</sup>

550. [REDACTED]<sup>1315</sup> to a warehouse on the banks of the River Jadar  
[REDACTED].<sup>1316</sup> At the warehouse, four Serb soldiers including Nenad Deronjić, a  
member of the 2nd PJP Company from the Zvornik CJB,<sup>1317</sup> were waiting. Nenad  
Deronjić's presence in Konjević Polje on 13 July is corroborated by Momir Nikolić.<sup>1318</sup>  
In addition, in his 12 July dispatch, Dragomir Vasić reported that one platoon of the 2<sup>nd</sup>  
PJP Company was deployed in the Ravni Buljim area, close to Konjević Polje.<sup>1319</sup>

551. [REDACTED].<sup>1320 1321 1322 1323</sup> The 16 prisoners [REDACTED].<sup>1324</sup> were  
[REDACTED].<sup>1325</sup> [REDACTED] taken to the Jadar River.<sup>1326</sup> [REDACTED].<sup>1327 1328</sup>

552. [REDACTED].<sup>1329</sup> A bullet hit and passed through the shirt of the man in front of  
[REDACTED] PW-112, eventually hitting [REDACTED] PW-112 in the left hip.<sup>1330</sup>  
[REDACTED] PW-112 threw himself into the river. [REDACTED].<sup>1331</sup> but he was  
carried away by the current and managed to escape.<sup>1332</sup>

553. [REDACTED].<sup>1333</sup> The testimony of the sole survivor of the execution,  
[REDACTED] PW-112, in conjunction with other witness testimony, Richard Butler's

<sup>1309</sup> [REDACTED]; Exh. P01921, A4-size photo of a small brick shed with a red fence around it.

<sup>1310</sup> [REDACTED].

<sup>1311</sup> RUEZ, T.1378; Exhibit P02103, p.31-32.

<sup>1312</sup> [REDACTED].

<sup>1313</sup> [REDACTED].

<sup>1314</sup> [REDACTED].

<sup>1315</sup> [REDACTED].

<sup>1316</sup> [REDACTED]; Exh. P02275. *See also* RUEZ, T. 1378-1379; Exh. P02103, p.34-35.

<sup>1317</sup> Butler, T.19829:17-20; S.SIMIC, T.27535:5-7.

<sup>1318</sup> Exh. C00001, Momir Nikolić Statement of Facts and Acceptance of Responsibility, dated 6 May 2003, p.4; M.NIKOLIĆ, T.32931.

<sup>1319</sup> Exh. P03040, Zvornik CJB Dispatch No. 278/95 dated 12 July 1995.

<sup>1320</sup> [REDACTED].

<sup>1321</sup> [REDACTED].

<sup>1322</sup> [REDACTED].

<sup>1323</sup> [REDACTED].

<sup>1324</sup> [REDACTED].

<sup>1325</sup> [REDACTED].

<sup>1326</sup> [REDACTED]. *See also* RUEZ, T.1432-1433; Exh. P02130, p.70-76.

<sup>1327</sup> [REDACTED].

<sup>1328</sup> [REDACTED].

<sup>1329</sup> [REDACTED].

<sup>1330</sup> [REDACTED]; Exh. P01924, Polaroid photo of entry and exit wound of witness, shows the entry and exit point for the gunshot wound received by [REDACTED] PW-112 in his hip during the course of his attempted execution at Jadar River.

<sup>1331</sup> [REDACTED].

<sup>1332</sup> [REDACTED]; Exh. P01923, photo of the edge of a river, shows the rocky area by the river bank where this execution took place. [REDACTED].

<sup>1333</sup> [REDACTED].



military analysis and radio intercept evidence illustrates the VRS', Drina Corps' and MUP's involvement in the Jadar River execution.

554. First, [REDACTED] PW-112's capture at the Konjević Polje intersection, a civilian police checkpoint secured by MUP forces, demonstrates the MUP's knowledge and involvement in the events. The location where [REDACTED] PW-112 at the other prisoners were assembled, detained and interrogated, at Konjević Polje, the garrison of the 5<sup>th</sup> Engineer Battalion, demonstrates Drina Corps knowledge of the events.

555. Momir Nikolić confirmed that around 12:30 hours on 13 July 1995 he saw five to six Muslim prisoners in a burnt out house used by the 5<sup>th</sup> Engineering Battalion of the Drina Corps at Konjević Polje.<sup>1334</sup> [REDACTED] PW-138 verified the existence of a ruined building at the Konjević Polje intersection, which was used as a facility. A gas station now stands where this ruined building once stood. [REDACTED] PW-138 testified that Muslims would gather at that intersection and were then directed by soldiers to the ruined building or to a large building on the right hand side of the road before the intersection.<sup>1335</sup>

556. The ruined building at the Konjević Polje intersection, referred to by Nikolić and [REDACTED] PW-138 as a facility under the control of the 5<sup>th</sup> Engineering Battalion, is one of the buildings where [REDACTED] PW-112 was detained. Jean-Rene Ruez and Richard Butler both identify the buildings in which [REDACTED] PW-112 was detained as being under the command of the 5<sup>th</sup> Engineering Battalion.<sup>1336</sup> Notably, both [REDACTED] PW-112<sup>1337</sup> and Jean-Rene Ruez<sup>1338</sup> testified that a gas station now stands in the place of the warehouse where [REDACTED] PW-112 was detained before being transported to the execution site on the bank of the Jadar River.

557. Second, the fact that buses were used to facilitate the movement to the execution site implies knowledge and approval by the Corps Staff of a diversion of buses from the forcible transfer of the women, children and elderly from Potočari. As buses were in very high demand on the morning of 13 July to transport the remaining civilian population out of Potočari, it is not possible that individual soldiers or police officers could have commandeered a bus, organised an execution squad and carried out an execution of 15 people without orders from superior command.

<sup>1334</sup> Exh. C00001, Momir Nikolić Statement of Facts, p.4; NIKOLIĆ, T.32931.

<sup>1335</sup> [REDACTED] PW-138, T. 3824-3825.

<sup>1336</sup> Exh. P00686, Srebrenica Military Narrative (Revised), p.51; Butler, T.20486:2-6; RUEZ, T.1433; Exh. P02103, p.71.

<sup>1337</sup> [REDACTED] (PW-112), T.3219.

<sup>1338</sup> RUEZ, T.1379.

558. Third, knowledge and planning is evident by the fact that individuals were present to interrogate prisoners and then an execution squad was ready to transport the prisoners to the banks of the Jadar River for execution.

559. Fourth, [REDACTED].<sup>1339</sup> Identity documents would have been crucial in identifying the prisoner as part of the interrogation process and the fact that the survivor's identity documents were taken from him immediately upon his capture clearly shows that the ultimate result of his capture was not a formal military interrogation, but an execution.

**(xxxvii) Execution of six Bosnian Muslim men interrogated at the Bratunac Brigade Headquarters on 13 July 1995**

560. On 13 July 1995, six Bosnian Muslim men from Srebrenica were captured by MUP forces and transported to the Bratunac Brigade Headquarters where they were interrogated by Bratunac Brigade security personnel. These men, identified as Rešid Sinanović, Nazif Avdić, Munib Dedić, Aziz Husić, Mujo Husić and Hasib Ibišević, were then detained at the Vuk Karadžić School in Bratunac and transported to Zvornik. Three of the prisoners were summarily executed at Kozluk on 15 July; one was executed at Branjevo Farm on 16 July and one is still missing.

561. Rešid Sinanović survived the Kozluk executions and, although wounded, escaped across the Drina River to Serbia where he was admitted to the Loznica Hospital. He was not seen again. It is likely that he was returned to the Zvornik area and executed.

**The Muslim men were captured in the Bratunac area.**

562. On 13 July, Rešid Sinanović, a Bosnian Muslim lawyer<sup>1340</sup> and the former Chief of the Public Security Station in Bratunac,<sup>1341</sup> was taken prisoner at Konjević Polje. Momir Nikolić arrived at the Konjević Polje checkpoint on the morning of 13 July and drove Sinanović, whom he knew, to the Bratunac Brigade HQ.<sup>1342</sup>

563. Once at the HQ, Momir Nikolić handed Sinanović over to Zlatan Čelanović, the Bratunac Brigade desk officer for moral, legal and religious affairs.<sup>1343</sup> Momir Nikolić asked Čelanović to investigate allegations of war crimes committed by Sinanović, whom

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<sup>1339</sup> [REDACTED].

<sup>1340</sup> ČELANOVIĆ, T.6634:17-18.

<sup>1341</sup> M.NIKOLIĆ, T.33351:9-14.

<sup>1342</sup> Exh. C00001, Statement of Facts and Acceptance of Responsibility by Momir Nikolić, at ERN 4D00-0194; ČELANOVIĆ, T.6633. See also M.NIKOLIĆ, T.32932, 33351; [REDACTED] (PW-138), T.3826-27.

<sup>1343</sup> ČELANOVIĆ, T.6627. See also M.NIKOLIĆ, T.32932 (Čelanović was a lawyer attached to the Bratunac Brigade Military Police).

Čelanović knew as a colleague from Bratunac.<sup>1344</sup> Čelanović spoke with Rešid Sinanović, for "roughly an hour".<sup>1345</sup>

564. Čelanović testified that on the morning of 13 July, five or six other Bosnian Muslim men arrived at the Bratunac Brigade Headquarters in a vehicle escorted by special police.<sup>1346</sup> Čelanović testified that he interviewed these men and took notes of the interviews. He identified these notes in court and they reflect that the men he interviewed were Nazif Avdić, Munib Dedić, Aziz Husić, Mujo Husić and Hasib Ibišević.<sup>1347</sup>

565. Čelanović testified that Sinanović and the other Muslim prisoners were then taken to the Vuk Karadžić School in Bratunac by the special police.<sup>1348</sup> All of these prisoners were then transported to Zvornik and executed. [REDACTED].<sup>1349</sup> <sup>1350</sup> The fifth prisoner, Hasib Ibišević, is still missing.

### **Rešid Sinanović**

566. According to Momir Nikolić, Rešid Sinanović was also transported from Bratunac to the Zvornik Brigade area of responsibility where he was wounded.<sup>1351</sup> Rešid Sinanović was not seen again.<sup>1352</sup>

567. Hospital records from the Banja Koviljaca unit of the Loznica Hospital in Serbia reveal that Sinanović was treated there on 15 July 1995.<sup>1353</sup> Banja Koviljaca lies on the right bank of the Drina River, across from Kozluk in Republika Srpska.<sup>1354</sup> Given the [REDACTED] proximity of the Banja Koviljaca hospital to the Kozluk execution site, it

<sup>1344</sup> ČELANOVIĆ, T.6634-6635; Exh. P00248, Handwritten document, notes regarding interrogation of Resid SINANOVIĆ; M.NIKOLIĆ, T.32932, 33073. *See also* ČELANOVIĆ, T.6628-32. On the evening of 12 July or the morning of 13 July, Čelanović had been tasked by **BEARA** at the Bratunac Brigade Headquarters, with screening people who were brought to the Military Police building, or otherwise taken into custody, as suspected war criminals who had committed crimes against the Serbs, and to inform one of the security organs of his findings. **BEARA** asked ČELANOVIĆ to check if people were listed in The Chronicle of Our Cemetery authored by Milivoje Ivanisević, as committing crimes against the Serbs.

<sup>1345</sup> ČELANOVIĆ, T.6633-6636.

<sup>1346</sup> ČELANOVIĆ, T.6632-33 ('soldiers who were referred to as members of special forces'), 6645-47 ('specials'; 'the policemen had represented themselves as special police').

<sup>1347</sup> ČELANOVIĆ, T.6637, 6655, 6658-59; Exh. P00247, Notes regarding interrogation of HUSIĆ, Mujo; Exh. P00250, Notes regarding interrogation of IBIŠEVIĆ, Hasib; Exh. P00249, Notes regarding interrogation of AVDIĆ, Nazif, DEDIĆ, Munib, HUSIĆ, Aziz, and BEGŽADIĆ, Hajrudin (*Note* Hajrudin Begžadić's name was mentioned by Aziz Husić during his interview. He was not present that day (ČELANOVIĆ, T. 6658-59).

<sup>1348</sup> ČELANOVIĆ, T.6645-6647, 6650, 6690. *See also* M.NIKOLIĆ, T.33073, 33352.

<sup>1349</sup> [REDACTED].

<sup>1350</sup> [REDACTED].

<sup>1351</sup> M.NIKOLIĆ, T.33073-74, 33352.

<sup>1352</sup> ČELANOVIĆ, T.6660-6661; TRISIĆ, T.27171; *See also* M.NIKOLIĆ, T.33074, 33352-33353.

<sup>1353</sup> Exh. P02407, Letter addressed to Veselin Londrovic attaching photocopy of medical register from Banja Koviljaca, signed by Dr. Zoran JOVIĆ, dated 5 March 2003; ČELANOVIĆ, T.6660-6661.

<sup>1354</sup> ČELANOVIĆ, T.6661.

is evident that Sinanović was wounded in the Kozluk executions and managed to escape to Banja Koviljaca.

568. In addition, an entry in the Zvornik Brigade Duty Operations Officer Notebook on 15 July 1995 states: “A Turk lawyer escaped to Loznica hospital; wounded and treated. (Siniša).”<sup>1355</sup> This entry reflects a message received by the Duty Officer from “Šiniša,” likely a reference to Šiniša Glogovac from the State Security Service in the Zvornik area.<sup>1356</sup> Considering that Sinanović was a “Turk lawyer”,<sup>1357</sup> and that the Loznica Hospital record of 15 July reflects that Sinanović was treated at the Loznica Hospital on that day, this entry in the Zvornik Brigade Duty Officer’s Notebook is clearly referring to Rešid Sinanović. Siniša Glogovac from the Zvornik State Security Service must have discovered that Sinanović was being treated at the Loznica Hospital and alerted the Zvornik Brigade.

569. Finally, as there is no evidence that Sinanović was alive after 15 July,<sup>1358</sup> or that he died in the Loznica Hospital, it is likely that he was returned to the Zvornik Brigade zone and executed.

### **Conclusion.**

570. The interrogation, capture, detention, transportation and murder of Rešid Sinanović, Nazif Avdić, Munib Dedić, Aziz Husić, Mujo Husić and Hasib Ibišević is significant because it demonstrates the extent to which the murder operation was coordinated and carried out between multiple elements and on multiple levels of the VRS and MUP, including the Drina Corps, Bratunac Brigade, RS MUP and, in the case of Rešid Sinanović, the Zvornik Brigade and the Zvornik State Security Service.

### **(xxxviii) 13 July: murder of Muslim prisoners at Cerska Valley.**

#### **Witness [REDACTED] PW-120**

571. On the afternoon of 13 July, from his vantage point on the Dolina hill, [REDACTED] PW-120 witnessed three buses of Muslim male prisoners<sup>1359</sup> travelling on the road from Konjević Polje in the direction of Cerska.<sup>1360</sup> The buses travelled from

<sup>1355</sup> Exh. P00377, Unofficial duty officers log book (Zvornik) extract for 12 July 1995, at ERN 02935761.

<sup>1356</sup> See e.g. VOJINOVIĆ, T.23739; BAJAGIĆ, T.26856, who testified that Siniša Glogovac worked for the State Security Service in the Zvornik area.

<sup>1357</sup> ČELANOVIĆ, T.6634:17-18.

<sup>1358</sup> ČELANOVIĆ, T.6660-6661; TRISIĆ, T.27171; See also M.NIKOLIĆ, T.33074, 33352-33353.

<sup>1359</sup> See para. 573 for witness’s explanation of why he assumed that male prisoners were on the buses.

<sup>1360</sup> [REDACTED] PW-120, Exh. P02220 at T.2737-2738; Exh. P02221, Exhibit P-120 in Case No. IT-98-33-T and part of Exhibit P-801 in Case No. IT-02-60-T - A3 size black and white map showing the Uvalics brothers’ houses, the mass grave site at Cerska Valley and excavator tracks.

Konjević Polje, turned left towards Kamenica, across the Jadar River and turned right towards Cerska.<sup>1361</sup> [REDACTED] PW-120 witnessed an APC with Bosnian Serb soldiers wearing camouflage uniforms on board, and two other trek vehicles following the buses. A yellow backhoe vehicle followed behind the other vehicles five or ten minutes later.<sup>1362</sup> [REDACTED] PW-120 observed these vehicles until they turned the road and then disappeared from his sight.

572. [REDACTED] PW-120 testified that “shooting started 10 minutes after that”.<sup>1363</sup> The shooting consisted of light arms and also “bursts of fire from a machine-gun. One could hear it echoing along the valley. It was very loud.”<sup>1364</sup> It lasted for approximately half an hour. After the shooting stopped, the three buses returned empty along the same road in the direction of Konjević Polje.<sup>1365</sup> The returning buses were followed by the APC, while the excavator remained “a little longer” before coming back in the same direction.<sup>1366</sup>

573. Notably, on the morning of 13 July, [REDACTED] PW-120 had witnessed buses transporting women and children to Nova Kasaba, and then on to free territory.<sup>1367</sup> For that reason, on the afternoon of 13 July, when [REDACTED] PW-120 saw the buses turn in the direction of Cerska and then heard the shooting, although he was too far away to see who was in the buses, he assumed the buses were full of the men who had surrendered from the column, rather than full of women and children like he had witnessed that morning.<sup>1368</sup>

**Witnesses Haso Hasanović and Azmir Jusufović**

574. The evidence of two Muslim boys who were captured by Serb soldiers near the village of Burnice between 15 and 17 July is also relevant to the Cerska Valley executions.<sup>1369</sup> One of the boys, Haso Hasanović, fled from his village in the Srebrenica municipality on 11 July with the column of Muslim men. After being separated from the

<sup>1361</sup> [REDACTED] PW-120, Exh. P02220 at T.2738.

<sup>1362</sup> [REDACTED] PW-120, Exh. P02220 at T.2738-2739.

<sup>1363</sup> [REDACTED] PW-120, Exh. P02220 at T.2741.

<sup>1364</sup> Exh. P02220, Witness M, T.2739, 2781.

<sup>1365</sup> [REDACTED] PW-120, Exh. P02220 at T.2739, 2779-2880.

<sup>1366</sup> [REDACTED] PW-120, Exh. P02220 at T.2739. Further corroboration was provided by other escaping men who came across a pool of blood on the Cerska crossroad where the APC had travelled on 13 July ([REDACTED] PW-120, T. 2746). [REDACTED] PW-120 also subsequently discovered the area of the mass grave in September 1995, by the stench and saw caterpillar tracks of the loader and signs of excavation [REDACTED] PW-120, Exh. P02220 at T. 2751-2754; 2777).

<sup>1367</sup> [REDACTED] PW-120, Exh. P02220 at T.2785-86.

<sup>1368</sup> [REDACTED] (PW-120), T. 2771, 2773-74.

<sup>1369</sup> See Exh. P03787, OTP Witness Statement of Haso Hasanović, dated 18 August 1996; Exh. P03786, OTP Information Report re Azmir Jusufović, dated 22 February 2003.

group, he was eventually captured, along with other Muslim men, on 15 July 1995 near the village of Burnice by Bosnian Serb soldiers with dogs.

575. The Serb soldiers then tied the prisoners' hands with lengths of wire. After being threatened by a soldier with a knife, Haso Hasanović was separated from the adult prisoners and taken with three other boys to Bratunac on a bus, where he was later released. Haso Hasanović recalled that the other prisoners were loaded on to the buses and trucks and also taken to Bratunac. Haso Hasanović heard the commander say the prisoners were to be taken to the Vuk Karadžić school.<sup>1370</sup> Haso Hasanović recognised six of the men on the buses and trucks: Sejdalija Orić, Music and Semir Cvrk, Ramiz and Mirso Snu and Fahrudin Ademović.<sup>1371</sup> [REDACTED].<sup>1372</sup>

576. Haso Hasanović's account is corroborated by Azmir Jusufović, who was captured on 17/18 July 1995 by Bosnian Serb soldiers near the village of Burnice.<sup>1373</sup> Azmir Jusufović witnessed Muslim prisoners being escorted to the asphalt road by Serb soldiers and having their hands tied with silver wire. He recalled that the adult Muslim prisoners were made to march in the direction of Konjević Polje and Azmir Jusufović was taken to Bratunac on a bus with three other Muslim boys and later released.<sup>1374</sup>

577. The evidence of the two Muslim boys is corroborated by [REDACTED] (PW-160), Special Police Brigade, and Mićo Gavrić, Chief of Artillery, Bratunac Brigade. Mićo Gavrić testified that on the afternoon of 17 July 1995, he was involved in searching the terrain for Muslim soldiers between Sandići, Kamenica, Krajinovići and Mratinci towards Konjević Polje to the west.<sup>1375</sup> Gavrić captured 38 people in the Burnice area,<sup>1376</sup> three of whom were children. [REDACTED] PW-160 confirmed that in the evening hours of 17 July, a total of approximately 200 Muslim prisoners and 4 children had surrendered as a result of the sweep operation through the terrain.<sup>1377</sup> Gavrić testified that

<sup>1370</sup> Exh. P03787, OTP Witness Statement of Haso Hasanović, dated 18 August 1996.

<sup>1371</sup> Exh. P03787, OTP Witness Statement of Haso Hasanović, dated 18 August 1996.

<sup>1372</sup> [REDACTED].

<sup>1373</sup> It is likely that Azmir Jusufović's statement that he was captured on 18 July 1995 is incorrect by one day and that he was captured on 17 July 1995 when Mićo Gavrić was conducting the sweep operation in the area (Mićo GAVRIĆ, T. 26611).

<sup>1374</sup> Exh. P03786, OTP Information Report re Azmir Jusufović, dated 22 February 2003.

<sup>1375</sup> Mićo GAVRIĆ, T. 26488.

<sup>1376</sup> Mićo GAVRIĆ, T. 26598.

<sup>1377</sup> Exhs 4DIC00074 and 4DIC00075, Map 4D97 marked by [REDACTED] (PW-160) to identify the area where he searched the terrain on 17 July 1995; PW-160, T. 8702-8703. [REDACTED] (PW-160) was unable to confirm neither who issued the final order to commence the search operation at the meeting on 17 July 1995 at the Bratunac Brigade nor whether the order came from a VRS officer or a MUP officer ([REDACTED] (PW-160), T. 8633).

the adult prisoners' hands were tied with rope<sup>1378</sup> and they were then transported in the direction of Konjević Polje by Duško Jević.<sup>1379</sup>

578. Mićo Gavrić testified that he took the children in his vehicle to the Bratunac Brigade Command,<sup>1380</sup> where they were later released. He stated that he was not aware of any other group of boys being captured near Burnice as a result of the sweep operation and being taken to the Bratunac Brigade.<sup>1381</sup> Mićo Gavrić also stated that Azmir Jusuović's recollection that he was captured on 18 July, may be incorrect by one day, and that he was captured in the sweep operation on 17 July.<sup>1382</sup>

### **The Cerska Valley mass grave**

579. In September 1995, [REDACTED] PW-120 discovered the area of the Cerska mass grave by the stench and saw caterpillar tracks of the loader and signs of excavation.<sup>1383</sup> In 1996, OTP investigators discovered a mass grave in the general area described by [REDACTED] PW-120.<sup>1384</sup> Aerial images show that there was no disturbance of the site on 7 July 1995, but disturbance is visible at the site on 27 July 1995.<sup>1385</sup> These images corroborate [REDACTED] PW-120's testimony and assist to

<sup>1378</sup> Mićo GAVRIĆ, T. 26494.

<sup>1379</sup> Mićo GAVRIĆ, T. 26493, 26495; [REDACTED].

<sup>1380</sup> Mićo GAVRIĆ, T. 26493-94; [REDACTED].

<sup>1381</sup> Mićo GAVRIĆ, T. 26611.

<sup>1382</sup> Mićo GAVRIĆ, T. 26611.

<sup>1383</sup> [REDACTED] PW-120, Exh. P02220 at T. 2751-2754; 2777. Exh. P02222: Exhibit P-121 in Case No. IT-98-33-T and part of Exhibit P-801 in Case No. IT-02-60-T - Collage of photographs showing site of mass graves at Cerska Valley, houses belonging to Uvalic and road to Macesi; Exh. P02221: Exh. P-120 in Case No. IT-98-33-T and part of Exhibit P-801 in Case No. IT-02-60-T - A3 size black and white map showing the Uvalics brothers' houses, the mass grave site at Cerska Valley and excavator tracks.

<sup>1384</sup> [REDACTED] PW-120, Exh. P02220 at T. 2752-54; Exh. P02221, A3 size black and white map showing the Uvalics brothers' houses, the mass grave site at Cerska Valley and excavator tracks: [REDACTED] (PW-120) identified the area where he discovered the mass grave as the rectangle on the map. RUEZ: p. 47, Photograph with black arrow marking gravel road that leads towards Cerska Valley (RUEZ, T. 1391-92); p.48, Photograph showing the access to the Cerska Valley from the gravel road (RUEZ, 1393); p. 49, Photograph showing approach to the Cerska Valley (RUEZ, T. 1393); p. 50, Photograph showing the entrance to the Cerska Valley at the narrowing of the road (RUEZ, T. 1418); p. 51, Photograph showing the believed execution site, 3km inside the Cerska Valley (RUEZ, T. 1418-19); p. 52, Photograph of the site believed to be the execution site, taken from the direction of approach (RUEZ, T. 1419); p. 53, Photograph taken in June 1996 showing the slope at the edge of the dirt road, part of the slope covered with soil and not vegetation (RUEZ, T. 1419-20); p. 54, Photograph showing the probing of the sites with a long thin metal bar (prick) to identify dead bodies (RUEZ, T. 1420); p. 55, Photograph showing a close up of one of the pits with a human leg (RUEZ, T. 1420); p. 56, Photograph showing a close up of one of the pits with the top of a human skull with hair attached (RUEZ, T. 1420); p. 57, Photograph showing the top of a skull of the skeleton of a man wrapped in a civilian jacket (RUEZ, T. 1420-21).

<sup>1385</sup> Exhibit P02103, Documents tendered with statement of witness Jean-Rene Ruez, p. 58, Aerial image showing a comparison of disturbed earth in Cerska on 5 and 27 July 1995 (RUEZ, T. 1421); p. 59, Photograph showing the piece of soil missing from the steep hill at the left hand side of the road and two team members are collecting shell casings alongside the road (RUEZ, T. 1423-24).

identify the location of the Cerska mass grave.<sup>1386</sup> Evidence at the grave shows that an excavator was used to bury the victims.<sup>1387</sup>

580. Upon exhumation in 1996, the grave was found to contain 150 male victims,<sup>1388</sup> 147 of whom wore civilian clothes, and 149 of whom died as a result of gunshot wounds.<sup>1389</sup> The number of victims found corroborates the account of the witness. Forty-eight ligatures were recovered from the grave, including 24 binding the arms of the victims behind their backs.<sup>1390</sup> To date there have been 142 positive identifications of victims listed as missing from Srebrenica.<sup>1391</sup> Evidence at the grave shows an excavator was used to bury the victims of the executions.<sup>1392</sup>

### **Conclusion**

581. The Muslim victims identified by Hasanović and Jusufović were placed in the same grave in the Cerska area identified by [REDACTED] PW-120. Thus, it appears that the grave created on 13 July was also used for the victims of 17 July sweep operation in which Hasanović and Jusufović were captured along with the six Muslim men who were found in the Cerska grave.

### **(xxxix) 13 July: Murder of over 1,000 Muslim prisoners at the Kravica Warehouse**

582. During the morning and afternoon hours of 13 July, over 1,000 Muslim men and boys were taken into custody and detained in the Sandići Meadow by MUP forces under the command of **BOROVČANIN**.<sup>1393</sup> During the afternoon hours, the MUP units escorted at least 1,000 of these Muslim men and boys approximately one kilometre along the Bratunac-Konjević Polje road to the Kravica Warehouse.

583. By about 17:00 hours that day, at least 1,000 Muslim men and boys had been transferred from the Sandići Meadow to the Kravica Warehouse. The prisoners were

<sup>1386</sup> Exh. P01640, Split aerial of area showing area on 5 and 27 July 1995..

<sup>1387</sup> William HAGLUND, T. 3733-3737. Witness Haglund who testified that the fact cartridge casings were included in the fill of the grave, their distribution within the grave and the magnitude of the soil removed from the side of the road suggested the use of heavy equipment to perform the burials.

<sup>1388</sup> HAGLUND, Exhibit P02150, T. 3734, "Their mean ages range from 14 to men in their 50s. Two of the youngest were between 11 and 15." See also Exh. P00611.

<sup>1389</sup> See Haglund, Exh. P02150, T. 3733-3735; and reports by William Haglund titled "Forensic Investigation of the Cerska Grave Site," Volumes I-V (P00611, P00612, P00613, P00614 and P00615).

<sup>1390</sup> *Id.*

<sup>1391</sup> [REDACTED]. For a breakdown of the most current number of bodies identified via DNA from Cerska, see Exh. P04490, pp. 2-5. [REDACTED].

<sup>1392</sup> Haglund testified that the fact cartridge casings were included in the fill of the grave, their distribution within the grave and the magnitude of the soil removed from the side of the road suggested the use of heavy equipment to perform the burials. HAGLUND, Exh. P02150, T. 3733-3737.

<sup>1393</sup> Muslim men surrendered or were captured in the Sandići area late in the afternoon and evening of 13 July and most of them were transported to detention sites in and around Bratunac. Exh. P01143(a), Intercept dated 13 July 1995, at 17:30 hours.



crowded into large rooms at either end of the Warehouse; the “West room” and the “East room.” A small “Centre room” was in between.<sup>1394</sup> There were at least 500 Muslim men crowded into the West room of the Warehouse and at least 500 Muslim men crowded into the East room of the Warehouse.<sup>1395</sup>

584. An analysis of the Petrović Video reveals that shortly before 17:00 hours on 13 July, **BOROVČANIN** called his Deputy Commander, Rade Čuturić of the 2<sup>nd</sup> Sekovići Detachment of the Special Police (codenamed “Oficir”). **BOROVČANIN** ordered Čuturić to stop the convoy of buses transporting the Muslim women and children from Potočari to Kladanj. The stopping point for the convoy of buses was a few hundred metres west of the Kravica Warehouse (*i.e.*, on the Bratunac side of the Warehouse).

585. **BOROVČANIN**’s order to close the road was to facilitate the murder of the Muslim prisoners in the Kravica Warehouse and ensure that the murders did not occur while buses carrying Muslim women and children from Potočari were driving past.

586. Shortly thereafter, these Muslim men were murdered by, *inter alia*, MUP forces under the command of **BOROVČANIN**. **BOROVČANIN** was present at the Warehouse during the executions, after the Muslim men in the West room and in the Centre room of the Warehouse had been executed and during the ongoing executions in the East room.

587. Later that night, the burial of the Muslim men murdered at the Kravica Warehouse was organised by Col. Ljubiša **BEARA**.<sup>1396</sup>

588. Two survivors from the Kravica Warehouse executions have testified in this case. [REDACTED] PW-111 was detained in the East room.<sup>1397</sup> [REDACTED] PW-156 was

<sup>1394</sup> The Kravica Warehouse is a long, single-storey building lying parallel to, and on the south side of, the Bratunac-Konjević Polje road (Exh. P01563, Aerial Image, still taken from aerial film of Kravica Warehouse; Exh. P04529, Declaration of Tomasz BLASZCZYK regarding Kravica warehouse measurements with 2 sketches and 1 photo attached, dated 4 May 2009, p. 4. Exh. 4D00137, Map of Udrc, Konjevic Polje, Kravica, Glogova. Looking from the road, the warehouse has two large rooms, one to the left (East room, Bratunac side of the building), and one to the right (West room, Sandići side of the building), separated by a smaller, central room (Centre room).

<sup>1395</sup> These estimates were determined by calculating the size of each room. The East room, a total of 327 sq. metres, with 1/3 of that space containing Muslim prisoners according to [REDACTED] PW-111 and the West room, a total of 262 sq. metres, all of which was crowded with Muslims according to [REDACTED] PW-156---factoring that at a minimum just over two men were placed in each square metre of space. In addition, 1,319 individuals were exhumed from Glogova related mass graves, over 1,000 individuals are believed to be from the Kravica Warehouse executions and the roughly 200 to 300 others related to the executions in and around the Vuk Karadžić School complex, and the area where Muslims were detained and murdered in Bratunac town on 12 and 13 July. The estimate of witnesses and survivors was also taken into account. See [REDACTED] PW-111, T.6989-6990, “It was full of people. Tightly packed, [...] People were tightly packed; they were literally sitting shoulder to shoulder, and it was so full that we were almost suffocating. Everything was full,”; [REDACTED].

<sup>1396</sup> See paras. 2225-2228.

<sup>1397</sup> Exh. PIC00063, Aerial image marked by witness PW-111, taken from P01563; [REDACTED] PW-111, T.6987-6988.

detained in the West room of the Kravica Warehouse.<sup>1398</sup> These survivors' accounts of the Kravica Warehouse executions are corroborated by video footage, admissions made by **BOROVČANIN** in his OTP interviews, aerial imagery, forensic evidence and Serb witnesses. The evidence of these survivors supports the conclusion that the executions were not the result of a sudden act by a Muslim prisoner who managed to grab a rifle from a Serb soldier, as asserted by **BOROVČANIN**. Instead, the executions were planned in advance; conducted pursuant to orders; and, as such, formed part of the large scale and systematic operation to murder the Muslim men and boys of Srebrenica.

**From early in the morning on 13 July, Muslims who surrendered or were captured were held at the Sandići Meadow and then moved to the Kravica Warehouse.**

589. [REDACTED] PW-111 testified that he left Jaglići on 12 July<sup>1399</sup> and surrendered to Serb forces near Kravica on 13 July.<sup>1400</sup> From there, he walked in a column with other captured Muslims prisoners to Sandići Meadow.<sup>1401</sup> [REDACTED] PW-111 arrived at Sandići Meadow early in the morning, when the sun was up, but there was still fog.<sup>1402</sup> [REDACTED] PW-111 was in the first group of Muslims to arrive in the Meadow.<sup>1403</sup> During the time he was in the Meadow, [REDACTED] PW-111 saw that women and children were separated from the captured Muslim men and put on vehicles that were passing by from Potočari on the way to Kladanj.<sup>1404</sup> The separation of the men in the Sandići Meadow was part of the same separation process occurring simultaneously in Potočari. Both procedures were centrally controlled by the VRS and formed part of the overall operation to separate the Muslim men for summary execution and to forcibly transport the women and children to Kladanj.<sup>1405</sup>

590. [REDACTED] PW-156 testified that he also set out from Jaglići on 12 July and walked through the night.<sup>1406</sup> He surrendered the next day,<sup>1407</sup> ending up in a Meadow across the asphalt road where there was a huge crowd of around 2,000 people.<sup>1408</sup> [REDACTED] PW-156 must have arrived at the Meadow after [REDACTED] PW-111, as there was already a large crowd of prisoners there when he arrived.

<sup>1398</sup> Exh. PIC00065, Photograph 01565 marked by PW-156; [REDACTED] PW-156, T.7101-71703.

<sup>1399</sup> [REDACTED] PW-111, T.6972.

<sup>1400</sup> [REDACTED] PW-111, T.6973-6974.

<sup>1401</sup> [REDACTED] PW-111, T.6973.

<sup>1402</sup> [REDACTED] PW-111, T.6974.

<sup>1403</sup> [REDACTED] PW-111, T.7052.

<sup>1404</sup> [REDACTED] PW-111, T.6976-6977.

<sup>1405</sup> Exh. C00001, Statement of Facts and Acceptance of Responsibility by Momir Nikolić, p. 4.

<sup>1406</sup> [REDACTED] PW-156, T.7083.

<sup>1407</sup> [REDACTED] PW-156, T.7085.

<sup>1408</sup> [REDACTED] PW-156, T.7085-86.

**General Mladić visited Sandići Meadow and addressed the Muslim prisoners, telling them they would be moved from the Meadow to “cooler accommodation”**

591. That afternoon, General Mladić arrived at the Sandići Meadow and addressed the crowd.<sup>1409</sup> [REDACTED] PW-156 testified that near the beginning of his speech, Gen. Mladić stated:

We have almost evacuated your families. They are accommodated in Tuzla, Kladanj, and another place. Most likely, within a day or two, you will follow and all of you will be able to find your families. Nobody will beat you, nobody will provoke you. We will provide food to you. It's very hot where you are. We will find cooler accommodation for you.<sup>1410</sup>

592. This speech by Mladić contained the same false message he gave to the Muslims in Potočari when he spoke to them in front of the TV cameras on 12 July and formed part of the same procedure relating to the summary execution of the Muslim men and forcible transfer of the women and children.

593. At the time of Mladić's speech at Sandići on 13 July, the first of the organised summary executions had already occurred near the Jadar River with the murder of 15 Bosnian Muslim; many hundreds of Muslim men had been separated from their families in Potočari on both 12 and 13 July; the violence and abuse of those Muslim men had begun after their separation in Potočari and continued during their detention in Bratunac; violence and abuse against the civilian population in Potočari was ongoing; Muslim men had been separated at the drop off point at Luke school and were awaiting execution later that evening; and hundreds of the Muslim prisoners from the crowd listening to him in Sandići would soon be the victims of the organised summary executions at the Kravica Warehouse.

594. All of the VRS and MUP commanders in the area, including **BOROVČANIN**, would have been aware of the ongoing murder and forcible transfer operations and were fully involved in the implementation of these operations in the area. Tellingly, **BOROVČANIN** admitted that he met Radomir Pantić, Commander of the 1<sup>st</sup> Company of the Zvornik PJP, Miloš Stupar and Rade Čturić, the Commander and Deputy Commander of the 2<sup>nd</sup> Šekovići Detachment, respectively, as well as their platoon commanders, when he was at the Sandići Meadow at around noon.<sup>1411</sup> **BOROVČANIN**'s subordinates voiced concern over the numbers of Muslim prisoners gathering there.<sup>1412</sup>

<sup>1409</sup> [REDACTED] PW-156, T.7089-7090; [REDACTED] PW-111, T.6977.

<sup>1410</sup> [REDACTED] PW-156, T.7090.

<sup>1411</sup> Exh. P02853, **BOROVČANIN** March Interview, pp. 56-57.

<sup>1412</sup> Exh. P02853, **BOROVČANIN** March Interview, pp. 56-57.

595. Soon after that, **BOROVČANIN** was present when General Mladić spoke to the prisoners.<sup>1413</sup> In light of the events that followed (namely, the movement of around 1,000 or more prisoners to the Kravica Warehouse), the prisoners' transfer to the Kravica Warehouse was clearly planned, at the latest, by the time General Mladić was at the Sandići Meadow. Moreover, **BOROVČANIN** must have known of this plan to move the prisoners along the road into that building, with full knowledge and involvement of **BOROVČANIN** and his unit deployed there.

**After Gen. Mladić's speech, the first group of prisoners was bused from Sandići Meadow to the Kravica Warehouse.**

596. After Gen. Mladić left Sandići Meadow, the transport of the prisoners to the Kravica Warehouse began. [REDACTED] PW-111 was in the first large group of men to leave Sandići Meadow.<sup>1414</sup> Sometime during the afternoon,<sup>1415</sup> when it was still sunny and very hot,<sup>1416</sup> [REDACTED] PW-111 left by bus:

We were ordered, two buses arrived, and they awaited us on the asphalt road. They made a selection. They didn't get everybody at the same time. This officer came, the one who stood in front of us with a knife, and he said, "You, you, you, come out. Go down to the asphalt road and get on buses."<sup>1417</sup>

597. [REDACTED] PW-111 testified that the two buses carrying the first prisoners to leave Sandići Meadow turned off the road towards Bratunac and parked in front of the Kravica Warehouse.<sup>1418</sup> The men on [REDACTED] PW-111's bus were the first to enter the Warehouse.<sup>1419</sup> [REDACTED] PW-111 marked a photograph of the Kravica Warehouse to show where he entered the building.<sup>1420</sup> This entrance leads into the East room of the warehouse.<sup>1421</sup>

598. United States aerial imagery<sup>1422</sup> shows that at approximately 14:00 hours on 13 July, two buses were parked beside the entrance to the East room.<sup>1423</sup> It is not known whether the bus on which [REDACTED] PW-111 was travelling is depicted in this image; however, this is consistent with [REDACTED] PW-111's account that two buses

<sup>1413</sup> [REDACTED] PW-156, T.7089-90.

<sup>1414</sup> [REDACTED] PW-111, T.7052.

<sup>1415</sup> [REDACTED] PW-111, T.6981; 6987.

<sup>1416</sup> [REDACTED] PW-111, T.7056.

<sup>1417</sup> [REDACTED] PW-111, T.6978.

<sup>1418</sup> [REDACTED] PW-111, T.6981.

<sup>1419</sup> [REDACTED] PW-111, T.6989.

<sup>1420</sup> Exh. PIC00063, Aerial image marked by witness PW-111, taken from P01563; [REDACTED] PW-111, T.6987-6988.

<sup>1421</sup> Exh. P04529, pp.2, 4.

<sup>1422</sup> Exh. P02103, Documents tendered with statement of witness Jean-Rene RUEZ, p.92.

<sup>1423</sup> RUEZ testified that the times indicated on the US aerial images are approximate T.1370-1371; the times marked in white boxes on the US aerial images (such as on this image of the Kravica Warehouse) are US government markings. T.1654-1655.

took the first prisoners from Sandići to the Kravica Warehouse shortly after Gen. Mladić was at Sandići.<sup>1424</sup>

599. [REDACTED] PW-111 and his fellow prisoners were kept behind a wire fence which blocked-off end of the East room.<sup>1425</sup> Prisoners continued to enter until the room was completely full.<sup>1426</sup> [REDACTED] PW-111 estimated that it took 1 ½ to 2 hours for the East room to fill up with prisoners. [REDACTED] PW-111 stated that people were sitting “shoulder to shoulder, and it was so full that we were almost suffocating”.<sup>1427</sup>

**After the first group were bussed to the warehouse, [REDACTED] PW-156 and other Muslims from Sandići Meadow were made to walk along the road to the warehouse**

600. Not all of the Muslim men gathered in the Sandići Meadow left immediately after Gen. Mladić’s speech. Kravica Warehouse survivor, [REDACTED] PW-156, testified that about 15-20 minutes after Mladić’s speech, he and others were searched and their valuables taken. Then, the Muslim prisoners were told to line up in columns by fours and they walked to Kravica.<sup>1428</sup> [REDACTED] PW-156 testified that at this time, all of the remaining prisoners at Sandići Meadow went to Kravica in the column.<sup>1429</sup>

601. [REDACTED] PW-156 estimated that he arrived in the Warehouse some time between 16:00 and 17:00 hours.<sup>1430</sup> This estimate by [REDACTED] PW-156 is consistent with the estimated time the murders began at the Warehouse, based upon the Bratunac Health Centre time logs and the time stamps on the Petrović Video, which will be discussed in detail below.

602. The evidence of Predrag Čelić, a member of the Special Police Brigade’s 2<sup>nd</sup> Šekovići Detachment, corroborates Husejinović’s evidence that a column of prisoners walked along the road from Sandići Meadow to the Kravica Warehouse. Čelić testified that he saw a column of 600 to 800 male prisoners walking on one lane of the road from Sandići to Kravica, escorted by guards.<sup>1431</sup> This estimate of 600 to 800 individuals corresponds to the estimate of the numbers of Muslims who could fit in the West side of the warehouse, where these men were taken.<sup>1432</sup> By walking in only one lane of the roadway, it would have still been possible for buses transporting women and children

<sup>1424</sup> RUEZ, T.1443.

<sup>1425</sup> Exh. PIC00063, Aerial image marked by witness PW-111, taken from P01563; [REDACTED] PW-111, T.6988-6989.

<sup>1426</sup> [REDACTED] PW-111, T.6989-6990.

<sup>1427</sup> [REDACTED] PW-111, T.6990.

<sup>1428</sup> [REDACTED] PW-156, T.7090-7091; 7094; 7116-7117.

<sup>1429</sup> [REDACTED] PW-156, T.7112.

<sup>1430</sup> [REDACTED] PW-156, T.7106.

<sup>1431</sup> ČELIĆ, T.13477-13478.

<sup>1432</sup> (See fn. 1395 re footnote explaining square footage analysis)

from Potočari to pass along the roadway. Thus, the movement of the prisoners from Sandići to Kravica Warehouse, by itself, did not require that the road be closed to traffic.

603. [REDACTED] PW-156 described the arrival of his group to the Kravica Warehouse:

When we were approaching Kravica, there was an UNPROFOR APC on the right-hand side. Some soldiers were standing around there. Nobody reacted in any way. We were passing by. We came in front of the warehouse. There was a bus parked in front of the warehouse, and we were passing between the bus and the warehouse. I passed the first entrance, and I came to the second entrance. And that's where I went in, through the second entrance door.<sup>1433</sup>

604. During his testimony, [REDACTED] PW-156 marked a photograph of the Kravica Warehouse to show where he entered the building.<sup>1434</sup> This door leads into the West room.<sup>1435</sup> [REDACTED] PW-156 also marked the position of the bus behind which he had to pass.<sup>1436</sup> The position he indicated for the bus is approximately the same as where the bus is seen in Petrović Video and **BOROVČANIN**'s arrival at the Warehouse.<sup>1437</sup>

**At approximately 17:00 hours, BOROVČANIN stopped the traffic on the road to facilitate the summary execution of the Muslim prisoners at the Kravica Warehouse**

605. Shortly before 17:00 hours on the afternoon of 13 July, **BOROVČANIN** and Petrović can be seen on the Petrović Video driving along the Kravica-Konjević Polje road in the direction of Sandići,<sup>1438</sup>

606. At a point between Pervani and Lolići, the following exchange on the radio in the car can be heard between **BOROVČANIN**, code name "Bor," and Deputy Commander Rade Čuturić, code name "Oficir":

**BOROVČANIN:** ... column...on the road.

Unknown Male 1 The column is moving (unintelligible)

...[no significant time between voices]

Čuturić Yes, yes, but to avoid any surprises.

Unknown Male 1 There won't be any.

Čuturić Bring this cistern to the building and leave it there, I need it there.

Unknown Male 1 The cistern is here, it's waiting here.

**BOROVČANIN** Oficir, Bor.

<sup>1433</sup> [REDACTED] PW-156, T.7094.

<sup>1434</sup> Exh. PIC00065; [REDACTED] PW-156, T.7101-71703.

<sup>1435</sup> Exh. P04529, Declaration of Tomasz BLASZCZYK regarding Kravica warehouse measurements with 2 sketches and 1 photo attached, dated 4 May 2009, .pp.2, 4.

<sup>1436</sup> Exh. PIC00066, Photograph P01565 marked by PW-156; [REDACTED] PW-156, T.7104.

<sup>1437</sup> Exh. P02011, Video by Journalist Zoran Petrović, Studio B version at 18'07" – 18'09"; P02047 at 2 H 54'58" – 2 H 55'27".

<sup>1438</sup> Exh. P02986, Road Book – Still frames from the Petrović Video and images of locations found in the Petrović Video, pp.38-53.

Čuturić I'm listening  
**BOROVČANIN** Stop the traffic behind you.  
 Čuturić Todor took that on himself...  
**BOROVČANIN** I know.<sup>1439</sup>

607. This radio exchange shows that the column of Muslim prisoners was already moving towards the Warehouse when **BOROVČANIN** orders his Deputy Commander Rade Čuturić to “stop the traffic behind you.” The traffic referred to can only be the convoys of buses and trucks transporting the Muslim women and children from Potočari on the afternoon of 13 July. There is no indication of any other need to stop the traffic for Muslim prisoners.

608. An analysis of the two known time parameters on either side of **BOROVČANIN**'s order to Čuturić to stop the traffic along the road - the last time stamp shown on the Petrović Video (**16:49 hours**) and the Bratunac Health Centre log (**17:30 hours**) - assists us to pinpoint the time that **BOROVČANIN** issued the order.<sup>1440</sup>

609. At 16:49 hours, a time stamp appears briefly on the Petrović Video at a point identified by the Prosecution as 2.8 kilometres west of Sandići towards Konjević Polje, where the Petrović Video shows a Praga and a BOV firing into the hills. Given the running time of the video and the time required to travel from the point where **BOROVČANIN** and Petrović are at 16:49 hours, to the point where **BOROVČANIN** is

<sup>1439</sup> Exh. P02000, Video footage shot by Zoran PETROVIĆ during July 1995 – provided by the BBC at 16'48" – 17'20".

<sup>1440</sup> Exh. P02011, Video by Journalist Zoran Petrović, Studio B version. Petrović testified that he relied upon the time stamp. Petrović, as a professional journalist, could be relied upon to have his camera set to the accurate time and the various time stamps appearing on his film throughout are generally consistent with the time of day known to be depicted in the video. As we watch the video following this sequence we can see that Petrović and **BOROVČANIN** turn around at some point and head back in the direction of Sandići and Kravica. If we add up the actual running time of the video from the time stamp and estimate the time it would take to drive the known distances between the time stamp and the place where **BOROVČANIN** can be heard calling to Rade Čuturić to stop the traffic, we can fairly conclude that the earliest **BOROVČANIN** could have called Čuturić to stop the traffic would have been 16:55 hours. Of course, there were four cuts in the filming between the 16:49 time stamp and the video where we can hear **BOROVČANIN** call out to Čuturić and the time between those cuts cannot be exactly determined; however, we know independently that Stanojević, a casualty of the “burned hands” incident, was the first to arrive at the Bratunac Health Centre at approximately 17:30 hours. It would have taken roughly 10 minutes to quickly place Stanojević in a vehicle and drive him quickly to the Bratunac Health Centre in downtown Bratunac. Thus, we can estimate that the “burned hands” incident happened at about 17:20 hours. **BOROVČANIN** and Petrović would have arrived at the warehouse within 5 minutes of the “burned hands” incident, arriving at approximately 17:15 to 17:20. So going back to 16:55, the earliest point that **BOROVČANIN** could have ordered the traffic to stop, we have roughly 20-25 minutes to account for. From this analysis, **BOROVČANIN** must have stopped the traffic sometime between 16:55 and 17:00, the executions began almost immediately thereafter and lasted about 15 to 20 minutes prior to **BOROVČANIN** arriving at about 17:15 to 17:20. The estimate that the executions began at about 17:00 hours, leaves about 5 minutes of unaccounted for time to take up the unknown four edits between the original 1649 time stamp on the Petrović Video and the 1654 time which accounts for video running time and time estimate based on distance travelled. These time estimates are all consistent with other evidence regarding the timing of the executions.

heard ordering Čuturić to stop the traffic, the earliest that **BOROVČANIN** could have ordered the traffic stopped is 16:55 hours.<sup>1441</sup>

610. At 17:30 hours, there is an entry in the Bratunac Health Centre log recording the arrival of Stanojević, who suffered a gunshot wound to his elbow during the Kravica Warehouse executions and was rushed to the Health Centre first.

611. As **BOROVČANIN**'s order to stop the traffic occurred only minutes before executions of the Muslim men in the Warehouse began, the executions at the Kravica Warehouse must have occurred between approximately 17:00 and 17:20. During this time, **BOROVČANIN** and Petrović had received Stupar's request for assistance and travelled to the Warehouse, arriving while the executions were still taking place.<sup>1442</sup>

612. Milenko Pepić, a soldier with the 2<sup>nd</sup> Sekovići Detachment, testified that he was deployed along the road near Sandići on 13 July and that in the afternoon he received an order from his commander, Rade Čuturić, to stop the convoys from Potočari:

Well, over the Motorola, he told me to hold up the convoy so that the Muslims who had surrendered to pass through to the agricultural cooperative in Kravica from the direction of Sandići.<sup>1443</sup>

613. Pepić's explanation that the traffic was stopped in order to allow the Muslims to walk to the Warehouse is not consistent with the radio traffic that suggests the column was moving along the road prior to **BOROVČANIN**'s order to stop the traffic.

614. In addition, the Muslims walking along one side of the road to the Warehouse did not preclude the convoy of buses from driving along the other lane on that same road. In any event, it would have taken at least 20 to 30 minutes for the Muslims to walk the 1.2 kilometres to the Warehouse. If the order had truly been given to allow the Muslim men to walk to the Warehouse, it would have had to been issued at least 30 minutes prior to

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<sup>1441</sup> After the 16:49:09 time stamp, Petrović filmed for a further 2'23" before **BOROVČANIN** is heard to say, "Oficir, Bor." There are four "cuts" between sequences during this time. During the cuts, **BOROVČANIN** and Petrović changed location twice: First, from a position near Pervani around 2.8 kilometres from Sandići meadow, they moved to a position around 3.1 kilometres from the meadow. It is reasonable to estimate that this move took a minimum of 1 minute to complete, taking place while the video camera was not running; Second, they traveled around 1.1 kilometres towards Sandići, when Petrović started filming again while driving along the road, at which point **BOROVČANIN** says, "Oficir, Bor." The car does not appear to be traveling at high speed, and it is reasonable to assume that it was traveling at an average speed of 50 km/h (Petrović testified that "the driver was speeding in between the stops that we made, because everybody is convinced – everybody who is in a war is that if you drive over 120 kilometres an hour that you would survive or manage to avoid getting shot." PETROVIĆ, T.18782-3. However, this appears to be hyperbole, as they are clearly traveling at a much slower speed during the sequences where Petrović is filming from inside the car). At 50 km/h, it would have taken around 1'30" to travel 1.1 kilometres. Accordingly, it is reasonable to conclude that **BOROVČANIN** gave the order to stop the traffic no earlier than around 16:55 hours.

<sup>1442</sup> See paras. 2149-2150.

<sup>1443</sup> PEPIĆ, T. T.13559; 20-22. See also PEPIĆ, T.13556-13557, 13569.



the arrival of the Muslims at the Warehouse. Moreover, the convoys would have been stopped at the Warehouse itself and not at a distance from the Warehouse at the Kravica village. They were clearly stopped at the village so as to prevent the executions from being witnessed or heard by the convoys of Muslim women and children.

615. Pepić testified that after he stopped the traffic upon Čuturić's order, he heard "more intense" firing from the direction of the Warehouse which "seemed as if fire was being opened from one side alone" and that he also heard hand grenade detonations. Pepić was somewhat vague about the timing between the stopping of the traffic and the sound of intense gunfire.<sup>1444</sup> Pepić testified that the shooting stopped in the late afternoon or perhaps dusk and he was told to allow the traffic to pass later that evening. He also said later that evening when he drove past the Warehouse he noticed several bullet holes in the wall of the Warehouse and hay in front of the Warehouse that he had not seen before.<sup>1445</sup> The hay noticed by Pepić was placed in the same area where bodies can be seen in a pile in front of the Warehouse in the Petrović Video.

616. Thus, in light of the above, **BOROVČANIN**'s order to stop the traffic was part of a planned operation to summarily execute the Muslim men and boys.

**The executions started in the West room.**

617. Kravica survivor [REDACTED] PW-156 was forced to walk to the Warehouse after the group containing survivor [REDACTED] PW-111 was bused to the Warehouse. [REDACTED] PW-156 testified that when he arrived at the Kravica Warehouse the West room was practically full.<sup>1446</sup>

618. [REDACTED] PW-156 testified that the shooting started when the last Muslim came into the Warehouse and had no place to sit down. This last Muslim man was shot by the Serbs. This was followed immediately by bursts of fire from all kinds of weapons.<sup>1447</sup> [REDACTED] PW-156 testified that the shooting continued, with pauses, until the night.<sup>1448</sup>

619. [REDACTED] PW-111 testified that after he had been in the Warehouse for some time, he heard shooting start outside, which lasted for about half an hour.<sup>1449</sup> He testified that he was not sure where the shooting came from but that it was outside the Warehouse,

<sup>1444</sup> PEPIĆ, T.13560-13566.

<sup>1445</sup> PEPIĆ, T.13573, Exh. PIC00138 (aerial of Kravica Warehouse marked by Pepić marked with location of bullet holes and hay, T.13574).

<sup>1446</sup> [REDACTED] PW-156, T.7094-7095.

<sup>1447</sup> [REDACTED] PW-156, T.7095.

<sup>1448</sup> [REDACTED] PW-156, T.7123.

<sup>1449</sup> [REDACTED] PW-111, T.6992; 6995-6996.

not inside.<sup>1450</sup> [REDACTED] PW-111 described hearing different weapons, including an “84” machine gun, automatic rifles, a tank, a 23-millimetre anti-aircraft weapon, a Praga, and grenades.<sup>1451</sup> [REDACTED] PW-111 also saw soldiers standing in front of the Warehouse, firing from automatic rifles.<sup>1452</sup>

620. [REDACTED] PW-111 testified that during the firing outside the Warehouse, the Serb guards told the prisoners:

“Well, look, we let you pass through peacefully. We opened a corridor for you, for you to go quietly and peacefully to Tuzla and you don’t want to do that. They are attacking us. Look at what they’re doing to us.” That’s all I heard.<sup>1453</sup>

621. The shooting that [REDACTED] PW-111 heard outside the Warehouse could only have been the executions occurring in the West room of the Warehouse where Husenjinović was detained. The soldiers guarding [REDACTED] PW-111 told him a false story that the shooting was the Muslims “attacking us”.<sup>1454</sup> By telling [REDACTED] PW-111 and the other prisoners that the shooting was the result of an attack by the Muslims, the guards were disguising the fact that their fellow Serbs were executing the Muslims in the other half of the Warehouse and thus making an effort to keep the Muslims in the East room of the Warehouse calm.

622. Had the shooting begun spontaneously as the result of some sudden incident, like a Muslim suddenly taking a gun from a Serb, the Serb soldiers guarding [REDACTED] PW-111 would have been in a panic and would not have had time to speak to their prisoners and make up false stories about what the shooting outside was all about. Instead, the soldiers guarding the East room were clearly aware of the executions being conducted on the other side of the Warehouse and made up false stories about the shooting to keep their captives from becoming alarmed and trying to escape.

**The executions then moved to the East room.**

623. After the shooting in the West room stopped, the soldiers started shooting the prisoners in the East room:

After the shooting everything became quiet, we were quite afraid, we were in a panic, we didn’t know what was going on outside. Then things quieted down. After some time they came inside and two of them, the one with the black glasses and long, shoulder-length, curly hair, back hair, and the other one who had a blue UN helmet, and he was also wearing a bullet-proof vest and a camouflage shirt. They were the first to open fire at us. Behind them more soldiers came in, five

<sup>1450</sup> [REDACTED] PW-111, T.6992.

<sup>1451</sup> [REDACTED] PW-111, T.6996.

<sup>1452</sup> [REDACTED] PW-111, T.6997; Exh. PIC00063, Aerial image marked by witness PW-111, taken from P01563 – marked as “F”, with an arrow indicating the direction of fire.

<sup>1453</sup> [REDACTED] PW-111, T.6997.

<sup>1454</sup> [REDACTED] PW-111, T.6997.

to 10 of them, but these two were in front, they were the first. I've already described them. And the two of them, the first two, opened fire at us. So I could see when the first one opened fire, the one in the black glasses. At the same time, the one in the blue helmet opened fire too. At that moment I immediately lay down on the ground. I saw that they would kill us all. And as I was lying down, I don't know what was happening, there was a lot of noise, smoke and shooting.<sup>1455</sup>

624. Neither [REDACTED] PW-156's nor [REDACTED] PW-111's accounts of the beginning of the shooting suggest the executions began as a result of a sudden incident involving a Muslim prisoner. Of course, once the shooting erupted, neither witness would have been in any kind of position to see a fellow Muslim reach out and take a gun from a Serb soldier, but from both accounts it is clear the executions were part of an organised plan to summarily execute all the prisoners in the Kravica Warehouse.

**BOROVČANIN arrived at the Warehouse during the executions in the East room.**

625. It is evident from footage showing the arrival of **BOROVČANIN** and Petrović at the Warehouse that the executions had begun in the West room and carried on to the Centre room of the Warehouse and then to the East room of the Warehouse.

626. The video shows Petrović and **BOROVČANIN** arriving at the Warehouse from the Sandići area driving in an easterly direction towards Kravica village. They drove first in front of the West room of the Warehouse, where the footage shows several Muslim corpses piled up. Corpses are also shown on the ground in front of the Centre room of the Warehouse. The video then shuts off as the vehicle filming the event continues in an easterly direction, but just prior to the end of the segment, automatic gunfire can clearly be heard occurring in the area.

627. Notably, the Petrović video shows two Serb soldiers standing in front of the two open doors of the West room of the Warehouse with their backs to the Warehouse. This provides a clear indication that there was no reason to guard or be threatened by any of the 500 Muslims in that room; meaning all the Muslims in the West room of the Warehouse were dead or incapacitated at the time **BOROVČANIN** and Petrović drove by the Warehouse. Moreover, the automatic gunfire that can be heard on the video provides a clear indication that executions were in progress in the East room when **BOROVČANIN** and Petrović arrived at the Warehouse.

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<sup>1455</sup> [REDACTED] PW-111, T.6999.

**On 14 July, more prisoners were executed at the Warehouse and the clean-up operation began.**

628. Both [REDACTED] PW-111 and [REDACTED] PW-156<sup>1456</sup> witnessed further killings at the Kravica Warehouse on 14 July<sup>1457</sup> and testified that a loader or excavator was at the Warehouse,<sup>1458</sup> signifying the start of the clean-up operation. On 14 July, **BOROVČANIN** was still in control of the area including the Kravica Warehouse.

629. Corroborating [REDACTED] PW-111's and [REDACTED] PW-156's evidence that the shooting continued into the night of 13 July and on 14 July, a comparison of the video footage from the late afternoon of 13 July<sup>1459</sup> and photographs of the Kravica Warehouse shows that further shooting occurred after **BOROVČANIN** and Petrović passed by and filmed the Warehouse.<sup>1460</sup>

**Forensic evidence corroborates the witness testimony concerning the murders at the Kravica Warehouse**

630. Forensic investigations conducted at the Warehouse have revealed that small arms, machine guns and grenades inflicted substantial damage;<sup>1461</sup> indeed, such damage is readily apparent to the naked eye and is depicted in photographic evidence.<sup>1462</sup> These investigations yielded samples of human tissue and blood, samples of explosive residue,

<sup>1456</sup> In his testimony, [REDACTED] PW-1156 described being in the Kravica Warehouse from 13 July, all day on 14 July, and leaving at around 00:30 hours on 15 July. On 14 July, [REDACTED] PW-156 saw one of his neighbours who was in the West room with him stand up as he wanted to drink, only to be shot. [REDACTED] PW-156 pulled two dead bodies over himself and spent the entire day there. During the morning of the 14th, he heard a truck engine. Then, he heard the Serbs asking the wounded to come out. Those who went out were shot. Later, another Muslim man was calling out, and was shot. After dark on 14 July, [REDACTED] PW-156 heard a command, "park the loader. Wash the asphalt. Cover the dead with hay." The bodies in the West room were covered with hay. That night, [REDACTED] PW-156 did not hear any voices or machinery, only occasional vehicles passing by. In the night, he spoke to two other men who had survived in the West room, and escaped from the same door as he had entered on 13 July. As he left, he saw a loader parked in front of the warehouse. He heard somebody shouting "Stop" and then, "Get up", but managed to escape across the road ([REDACTED] PW-156, T.7096-98).

<sup>1457</sup> In the morning, [REDACTED] PW-111 heard a man shouting that the Red Cross had arrived to help the wounded. Some prisoners came out, and were ordered to sing for about half an hour. [REDACTED] PW-111 heard a burst of fire, and the singing stopped ([REDACTED] PW-111, T.7005-7006).

<sup>1458</sup> [REDACTED] PW-156, T. 7106.

<sup>1459</sup> Exh. P02047, Srebrenica Trial Video, at 2:56:15-2:56:52.

<sup>1460</sup> Exh. P02103, Documents Tendered with Statement of Witness Jean-Rene RUEZ at ERN: 0604-4730-0604-4731.

<sup>1461</sup> See RUEZ, T.1468:10-20, 1469:6-1371:14 (describing the evidence found in and around the Kravica warehouse, including a number of grenade handles and shell casings). See also Exh. P00678, US Naval Criminal Investigative Service report Kravica Warehouse, dated 16 January 1998.

<sup>1462</sup> See Exh. P01575, Video of Kravica Warehouse investigation; Exh. 4DIC00081, Photo of view of front of warehouse with circle made on west entrance and arrow indicating east; Exh. P01565, panoramic photo of Kravica Warehouse; Exh. P001568, image of inside west part of warehouse with blood stains on wall; Exh. P00678 (photos of interior and exterior of the Kravica Warehouse); Exh. P02103, Documents tendered with statement of witness Jean-Rene Ruez, at pages 90 to 118 (including photos of blood stains on the wall at pages 94-95, 105-106; photos of bullet and/or explosive damage 94-95, 98-99, 101, 104-107; photos of grenades or grenade handles found at the site at page 96-97).

shell cases, bullets, hand grenade handles and personal identification and belongings of victims.<sup>1463</sup>

### **Conclusion**

631. From the evidence set out above, it is clear that the executions were timed to occur after all the Warehouse was completely full of Muslim prisoners and after the convoy traffic from Potočari had been stopped. It is equally clear that the executions were organised to take place in two waves, beginning at the West room and finishing with the victims in the East room. The executions were obviously extremely well-timed, and, as such, were clearly conducted pursuant to orders from superior command. With **BOROVČANIN**, Pepić, Čuturić and Milos Stupar<sup>1464</sup> present in the area and playing major roles in the coordination of the movement of Muslims to the Warehouse, and the stopping the traffic for the duration of the murders, there can be no question they were all deeply involved in assisting to carry out those executions.

### **(xl) 13 July: Murder of approximately 10-15 Muslim prisoners at Sandići**

632. Muslims were detained at the Sandići Meadow throughout the day on 13 July.<sup>1465</sup> During the course of the day, individuals were robbed.<sup>1466</sup> Some were physically abused or killed.<sup>1467</sup> Their treatment mirrors the treatment of the men who had gone with the crowd of refugees to Potočari: the Muslims were ordered to leave their belongings behind;<sup>1468</sup> women and young boys were separated and put on passing buses carrying women, children and the elderly towards Kladanj;<sup>1469</sup> while the remaining men were transferred to the Kravica Warehouse or elsewhere, before being killed.<sup>1470</sup>

<sup>1463</sup> Exh. P00636, A.D.Kloosterman, Statement and Report on Detection of Human Blood in Samples Collected from Grbavci School, Kravica Warehouse, and Pilica Dom, 20 December 1999; Exh. P00649, Dean Manning, Summary of Forensic Evidence - Execution Points and Mass Graves, 15 May 2000, Annex A at ERN 0095-0931; Exh. P00678; Exh. P02103 at page 102 (for a photo of a collection of personal belongings, bones and shell casings).

<sup>1464</sup> Exh. P02852, **BOROVČANIN** February Interview, pp.65, 68-69.

<sup>1465</sup> [REDACTED] PW-111, T.6974-6975; 7052.

<sup>1466</sup> [REDACTED] PW-156, T.7090; [REDACTED] PW-127, T.3517-3518; 3532-3533; 3545-3546. [REDACTED] (PW-127) testified that 1<sup>st</sup> Company, Zvornik PJP member Miloško "Dugi" Milanović and 2<sup>nd</sup> Šekovići Detachment member Mirko "Dugi" Milanović were robbing the Muslims as they came down out of the forest, and also once they were at the Sandići Meadow.

<sup>1467</sup> [REDACTED] PW-156, T.7088-7089; [REDACTED] PW-127, T.3518; 3530-3532; R.HUSIĆ, Exh. P02203, p.7 in eCourt.

<sup>1468</sup> Prosecution Adjudicated Fact 270; [REDACTED].

<sup>1469</sup> R.HUSIĆ, Exh. P02203, p.7 in eCourt. [REDACTED] PW-127 climbed onto a bus and hid among some women, as he was sure the Serbs would not have let him board the bus. [REDACTED] PW-127, T.3535. [REDACTED] PW-111, T.6976-6977.

<sup>1470</sup> [REDACTED] PW-111 testified that the fittest, strongest men were separated and were the first to be taken to the Kravica Warehouse. [REDACTED] PW-111, T.6979-6980. See also section on Kravica Warehouse killings.

633. While the vast majority of the prisoners who had been held at the Sandići Meadow on 13 July were taken away either to the Kravica Warehouse or to Bratunac, by the evening there were ten to fifteen prisoners left there.<sup>1471</sup> RS MUP soldier [REDACTED] PW-100 from the 1<sup>st</sup> Company, Jahorina Training Centre, testified that the deputy commander of the 1st Platoon, “Aleksa,” informed his unit that no more buses would be arriving.<sup>1472</sup>

634. Aleksa then ordered five of the MUP soldiers to execute the remaining prisoners. [REDACTED] PW-100 recalls that the order was “to get rid of them, shoot them.”<sup>1473</sup> Three members of [REDACTED] PW-100’s unit refused to follow this order, while the other two volunteered to assist in the execution.<sup>1474</sup> These MUP soldiers were under the command of **BOROVČANIN**. [REDACTED] PW-100, who refused to carry out the order, testified that he heard gunshots from the road near the Meadow.<sup>1475</sup> Upon their return, one of the soldiers who had volunteered to perform the executions informed [REDACTED] PW-100 that some of the prisoners were “executed just coming in, with a shot in the head, and some have been executed with a burst of fire.”<sup>1476</sup>

635. [REDACTED] PW-100 testified that a platoon commander would not have the authority to order an execution on his own.<sup>1477</sup> These executions would have required the knowledge and authorization of Ljubomir **BOROVČANIN**.

636. The execution of ten to fifteen Muslims at Sandići Meadow is consistent with data from the ICMP which confirms that ten of seventeen individuals exhumed from a grave near the Sandići Meadow went missing on or immediately prior to 13 July 1995.<sup>1478</sup>

**(xli) 13 July: Murder of approximately 22 Muslim men detained at the Luke School near Tišća**

637. DutchBat officer Col. Boering testified that on 12 July, buses containing Muslim from Srebrenica arrived near Tišća.<sup>1479</sup> A number of Muslim men and boys were on

<sup>1471</sup> [REDACTED] PW-100, T.14830, 14883.

<sup>1472</sup> [REDACTED] PW-100, T.14830-14831 ([REDACTED] PW-100 identified the deputy commander of the First Platoon of the 1<sup>st</sup> Company of the Jahorina unit as a man named “Aleksa.”)

<sup>1473</sup> [REDACTED] PW-100, T.14830, 14832-14833.

<sup>1474</sup> [REDACTED] PW-100, T.14833.

<sup>1475</sup> [REDACTED] PW-100, T.14832:4-7.

<sup>1476</sup> [REDACTED] PW-100, T.14834:14-15.

<sup>1477</sup> [REDACTED] PW-100, T.14833:18-24.

<sup>1478</sup> Exh. P04490, Report titled, “Update to the Summary of Forensic Evidence – Exhumation on the Graves Related to Srebrenica – March 2009,” with public annexes A-C, by Dusan JANC, dated 13 March 2009, at ERN X019-4263-X019-4264.

<sup>1479</sup> BOERING, T.2022-2023.

these buses.<sup>1480</sup> VRS soldiers from the Milići Brigade separated 10 to 15 Muslim men and boys from their families and took them away in the direction of the forest.<sup>1481</sup> The rest of the Muslims walked the remaining few kilometres to ABiH-held territory.<sup>1482</sup> Col. Boering identified Major Sarkić of the Milići Brigade as being in charge of the soldiers who separated the men at Tišća on 12 July.<sup>1483</sup> Major Sarkić told Boering that he was doing so upon orders from the Drina Corps.<sup>1484</sup>

638. On 13 July, Serb soldiers continued to search the buses as they reached Tišća and separate any Muslim men. [REDACTED].<sup>1485</sup> [REDACTED].<sup>1486</sup> [REDACTED] PW-118 was then transported by these soldiers to the Luke School,<sup>1487</sup> [REDACTED].<sup>1488</sup> 1489

639. Throughout the day of 13 July, more Muslim were brought to the school in the same manner, amounting to a total of approximately 22 men by the end of the day.<sup>1490</sup> [REDACTED].<sup>1491</sup> 1492 The men were held outside [REDACTED]<sup>1493</sup> [REDACTED].<sup>1494</sup> 1495 1496

640. [REDACTED].<sup>1497</sup> 1498 1499 1500

641. [REDACTED].<sup>1501</sup> 1502 1503

642. [REDACTED].<sup>1504</sup> 1505 1506 1507 [REDACTED].

<sup>1480</sup> BOERING, T.2022-2023.

<sup>1481</sup> Major Boering testified that on 12 July, when the first convoy disembarked near Tišća, he saw 10-15 men being selected and taken away separately towards the forest; he tried to investigate, but was blocked and taken to the location where the other refugees were assembled. BOERING, T.2022-2023.

<sup>1482</sup> BOERING, T.2022-2023.

<sup>1483</sup> BOERING, T.2023. (Boering knew Sarkić as the Liaison Officer for the Milići Brigade.)

<sup>1484</sup> BOERING, T.2023. (Boering knew Sarkić as the Liaison Officer for the Milići Brigade.)

<sup>1485</sup> [REDACTED].

<sup>1486</sup> [REDACTED].

<sup>1487</sup> [REDACTED]; [REDACTED] PW-118, T.3426-3427 and exh. P02103, Documents tendered with statement of witness Jean-Rene RUEZ, p.21 (identifying the place he was taken as Luke School). *See also* Exh. P01765, Photo of Luke School.

<sup>1488</sup> [REDACTED].

<sup>1489</sup> [REDACTED].

<sup>1490</sup> [REDACTED] PW-118, T.3471-3472. [REDACTED].

<sup>1491</sup> [REDACTED].

<sup>1492</sup> [REDACTED].

<sup>1493</sup> [REDACTED]; Exh. P01766, Initial location where prisoners stayed, detention facility.

<sup>1494</sup> [REDACTED].

<sup>1495</sup> [REDACTED].

<sup>1496</sup> [REDACTED]. Exh. P01767, First classroom on right when entering, room where survivor stayed.

<sup>1497</sup> [REDACTED]. *See also* [REDACTED].

<sup>1498</sup> [REDACTED].

<sup>1499</sup> [REDACTED].

<sup>1500</sup> [REDACTED].

<sup>1501</sup> [REDACTED].

<sup>1502</sup> [REDACTED].

<sup>1503</sup> [REDACTED].

<sup>1504</sup> [REDACTED].

<sup>1505</sup> [REDACTED].

(xlii) Evening of 13 July: the RS and VRS leadership decided to move the thousands of Muslim prisoners detained in Bratunac to the Zvornik area and Drago NIKOLIĆ was relieved of duty at the Zvornik Brigade IKM to make preparations for the prisoners' arrival.

643. By the afternoon of 13 July 1995, the Bosnian Serb forces had in their custody thousands of Muslim men who had surrendered in the areas of Nova Kasaba, Konjević Polje and Sandići.<sup>1508</sup> As outlined above, hundreds of prisoners were taken from Sandići to the Kravica Warehouse and executed there. Others were executed at Jadar River, Cerska and Sandići. The remaining men were taken from Nova Kasaba, Konjević Polje and Sandići to Bratunac where, along with the Muslim men who had been brought to Bratunac after being separated from their families in Potočari, they were detained in deplorable conditions in buses, trucks, the Vuk Karadžić School, the Old Engineering School and the Hanger behind the Vuk Karadžić School.

644. In the late afternoon or evening of 13 July 1995, the VRS and RS leadership decided to transport these men to the Zvornik area, approximately 40 km to the north of Bratunac, for mass execution. An intercepted conversation between President Karadžić and Miroslav Deronjić, President of the Bratunac SDS, on the evening of 13 July dealt specifically with the subject of ensuring that the thousands of Bosnian Muslim prisoners in Bratunac were moved to areas outside Bratunac.<sup>1509</sup> The decision to execute the Muslim prisoners in the Zvornik area was likely taken due to the difficulty of concealing such large executions in the Bratunac area which had a large international presence including UNMO's, UNPROFOR troops and staff from UNHCR and MSF.

645. After this decision had been made, Vujadin **POPOVIĆ** called Drago **NIKOLIĆ**, who at the time was the Duty Officer at the Zvornik Brigade's Kitovnice IKM, and told **NIKOLIĆ** to make preparations for the thousands of prisoners who were being sent to Zvornik. Drago **NIKOLIĆ** obtained authorisation [REDACTED] to be relieved of duty at the IKM and to take Lt. Jasikovac, the Commander of the Zvornik Brigade MP Company, and a number of Zvornik Brigade MPs to secure the prisoners.<sup>1510</sup> Lt. Jasikovac and the MPs were deployed to the Orahovac School that night and the first group of prisoners arrived from Bratunac later that night.<sup>1511</sup> The rest of the prisoners

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<sup>1506</sup> [REDACTED].

<sup>1507</sup> [REDACTED].

<sup>1508</sup> See paras. 518-544.

<sup>1509</sup> Exh. P01149a, intercept dated 13 July 1995 at 20:10 hours.

<sup>1510</sup> See paras. 2615-2646.

<sup>1511</sup> See paras. 646-653.



remained detained in Bratunac on the night of 13/14 July in appalling conditions. They were transferred to Zvornik in a huge convoy on the morning of 14 July.<sup>1512</sup>

**(xliii) On the evening of 13 July, Lt. Jasikovac and a number of Zvornik Brigade MPs were deployed to Orahovac and the first prisoners arrived from Bratunac.**

646. After [REDACTED] placed Lt. Jasikovac and some MPs at Drago NIKOLIĆ's disposal on the night of 13 July, approximately 10-15 Zvornik Brigade MPs<sup>1513</sup> including Stanoje Birčaković,<sup>1514</sup> [REDACTED] PW-143,<sup>1515</sup> Dragoje Ivanović,<sup>1516</sup> Goran Bogdanović<sup>1517</sup> and Ćedo Jović<sup>1518</sup> were ordered by Lt. Jasikovac to go to the Orahovac School to guard prisoners from Srebrenica who were arriving there.<sup>1519</sup> The MPs, who were in full military attire,<sup>1520</sup> left for Orahovac in a minivan assigned to the MP Company.<sup>1521</sup> There were no prisoners at the School when they arrived.<sup>1522</sup>

647. Later that night, approximately between midnight and 02:00 hours,<sup>1523</sup> a convoy of approximately six buses containing Muslim prisoners, including [REDACTED] PW-169, arrived at the Orahovac School.<sup>1524</sup> The convoy of buses was led by at least one UN

<sup>1512</sup> See paras. 661-666.

<sup>1513</sup> [REDACTED], PW-143 T.6529, [REDACTED]; S.BIRČAKOVIĆ, T.10744.

<sup>1514</sup> S.BIRČAKOVIĆ, T.10744; D.IVANOVIĆ, T.14540.

<sup>1515</sup> [REDACTED] PW-143, T.6527-6529.

<sup>1516</sup> D. IVANOVIĆ, T.14539; S.BIRČAKOVIĆ, T.10744.

<sup>1517</sup> S.BIRČAKOVIĆ, T.10744; D.IVANOVIĆ, T.14540.

<sup>1518</sup> S.BIRČAKOVIĆ, T.10744; D.IVANOVIĆ, T.14540.

<sup>1519</sup> [REDACTED] PW-143, T.6527; S.BIRČAKOVIĆ, T.10742-10743. Dragoje Ivanović testified that he actually received the order from Stevo Kostić, the MP Company clerk (T.14539). Stanoje BIRČAKOVIĆ (T.10741-10742), [REDACTED] PW-143 (T.6527) and Dragoje IVANOVIĆ (T.14539) could not recall the date when they were deployed to Orahovac; however, the evidence in this case demonstrates clearly that they were deployed on the night of 13 July 1995. These MPs each testified that they spent one full night at Orahovac, the entire subsequent day at Orahovac, and the following day at Ročević. The Zvornik Brigade Military Police Unit Attendance Roster for July 1995 (Exh.P00354), when read in conjunction with Exh. P00677, Dutch Forensic Analysis Report, dated 15 November 1999, confirms that S.Birčaković, [REDACTED] PW-143 and Ivanović were present at Orahovac on 14 July and Ročević on 15 July; thus, the night these MPs spent at Orahovac, prior to the full day they spent there, can only be the night of 13 July 1995. See also [REDACTED] PW-169, at T.17328, who testified that he arrived with the first group of prisoners at the Orahovac School on the night of 13 July.

<sup>1520</sup> S.BIRČAKOVIĆ, T.10744.

<sup>1521</sup> S.BIRČAKOVIĆ, T.10744.

<sup>1522</sup> S.BIRČAKOVIĆ, T.10744. At T.6530-6531, [REDACTED] PW-143 testified that the prisoners were already there and were in the process of going from the buses into the gym. However, Stanoje Birčaković and Dragoje Ivanović both described waiting for the buses to arrive; furthermore, both witnesses described the actual arrival of the convoy of buses with a UN APC escort. Accordingly, it is clear from Birčaković's and Ivanović's testimony that the MPs arrived before the prisoners.

<sup>1523</sup> [REDACTED] PW-169, T.17328. Note: at T.14541, Dragoje IVANOVIĆ testified that the buses arrived at approximately 21:00 hours, but [REDACTED] PW-169 testified that the convoy of buses did not leave Bratunac until it was dark and it therefore is unlikely that the buses would have arrived as early as Ivanović recalled.

<sup>1524</sup> [REDACTED] PW-169, T.17328. At T.17331, [REDACTED] PW-169 recognised Exh. P01691, Exh. P01693 and Exh. P01697 as the place he was detained. These three exhibits are all photographs of the Orahovac School. See also D. IVANOVIĆ, T.14541, who estimated that there were seven to nine buses.

APC,<sup>1525</sup> which earlier had been captured by the Bosnian Serbs,<sup>1526</sup> and at least one PUH military jeep containing a senior VRS officer who spoke with Lt. Jasikovac upon arrival.<sup>1527</sup>

648. The buses stopped on the road outside the School and prisoners began to disembark.<sup>1528</sup> Lt. Jasikovac addressed the prisoners as they left the buses and told them they were to enter the gym.<sup>1529</sup> Lt. Jasikovac also ordered the Zvornik Brigade MPs to remove a crowd of abusive Serb civilians which had gathered around the School.<sup>1530</sup>

649. The prisoners who arrived that night filled up approximately half of the gym.<sup>1531</sup> [REDACTED] PW-169 testified that the prisoners with whom he was detained in Bratunac, and who were transported to Orahovac with him that night, were elderly and/or infirm.<sup>1532</sup> [REDACTED].<sup>1533</sup> The prisoners' identification, wallets, watches and money had been stripped from them earlier that day in Bratunac.<sup>1534</sup>

650. After the prisoners were all inside the gym, the Zvornik Brigade MPs were deployed; some at the door,<sup>1535</sup> some at the corners and some at the back of the gym.<sup>1536</sup>

651. Drago **NIKOLIĆ**, who had arrived at the School by that time,<sup>1537</sup> and Lt. Jasikovac,<sup>1538</sup> assigned the MPs to the places where they would spend the night guarding the prisoners. This is clear evidence that **NIKOLIĆ** oversaw and directed the work of Jasikovac and the MPs at the Orahovac School.

652. The arrival of hundreds of prisoners in the Zvornik Brigade's area of responsibility on the night of 13 July, with thousands more to arrive the following morning and in circumstances where the Zvornik Brigade resources were already stretched on account of their deployment to Srebrenica/Žepa and the presence of the

<sup>1525</sup> S.BIRČAKOVIĆ, T.10745 (one UN APC); D. IVANOVIĆ, T.14541 (several UN vehicles).

<sup>1526</sup> See, e.g., S.BIRČAKOVIĆ, T.10745, who testified that there were no UN soldiers on the APC and that he later heard that it was driven by a VRS soldier.

<sup>1527</sup> D. IVANOVIĆ, T.14542.

<sup>1528</sup> S.BIRČAKOVIĆ, T.10746.

<sup>1529</sup> D. IVANOVIĆ, T.14543. See also S.BIRČAKOVIĆ, T.10746; [REDACTED] PW-143, T.6531.

<sup>1530</sup> D. IVANOVIĆ, T.14542-14543.

<sup>1531</sup> D. IVANOVIĆ, T.14571-14572.

<sup>1532</sup> [REDACTED] PW-169, T.17316. [REDACTED] PW-110 also testified that when he arrived at the School the following morning, the people who were there were "elderly people; the average age was 70" (T.677); Dragoje IVANOVIĆ described the prisoners as "civilians" (T.14541:15); while Stanoje BIRČAKOVIĆ testified that they were all men who were dressed in predominantly civilian clothing (T.10746).

<sup>1533</sup> [REDACTED].

<sup>1534</sup> [REDACTED] PW-169, T.17326.

<sup>1535</sup> D. IVANOVIĆ, T.14543; S.BIRČAKOVIĆ, T.10746-10747.

<sup>1536</sup> S.BIRČAKOVIĆ, T.10746-10747.

<sup>1537</sup> [REDACTED] PW-143, T.6532-6533, [REDACTED].

<sup>1538</sup> D. IVANOVIĆ, T.14564.

Muslim column near Snagovo, was clearly a situation which necessitated Drago **NIKOLIĆ**'s personal involvement and presence at the Orahovac School.

653. The presence of Zvornik Brigade MPs and their commander, Lt. Jasikovac, at Orahovac on the night of 13 July is further confirmed by two pieces of documentary evidence. First, the Zvornik Brigade vehicle log for an Opel Rekord (license number P-4528) records two trips to Orahovac on 13 July.<sup>1539</sup> In July 1995, the only authorised drivers of this Opel Rekord were Zvornik Brigade MPs,<sup>1540</sup> one of whom, Milorad Birčaković, was the driver for **NIKOLIĆ**.<sup>1541</sup> Thus, not only does the presence of this Opel Rekord in Orahovac on 13 July corroborate the other evidence which places MPs at the School that night; it also supports [REDACTED] PW-143's testimony that Drago **NIKOLIĆ** was at the School that night.<sup>1542</sup> Second, a Zvornik Brigade dispatch log records a food shipment to police in Orahovac on 13 July.<sup>1543</sup> There was no combat activity in Orahovac at that time, nor was there any other legitimate military purpose justifying the presence of MPs in this small hamlet on this date.

**(xliv) On the morning of 14 July, BEARA, POPOVIĆ and NIKOLIĆ met at the Zvornik Brigade HQ.**

654. According to Milorad Birčaković, on the morning of 14 July, Drago **NIKOLIĆ**'s deputy, Milorad Trbić, ordered Birčaković to collect **NIKOLIĆ** from the IKM and bring him back to the Zvornik Brigade HQ to attend a meeting with **BEARA** and **POPOVIĆ**.<sup>1544</sup> Birčaković confirmed that he, and many other members of the Zvornik Brigade, saw **BEARA** and **POPOVIĆ** arrive that morning:

When Popović and **BEARA** arrived at the barracks, *everybody saw it*. It wasn't concealed. It wasn't being hidden. I was told.<sup>1545</sup>

In the morning, when I arrived, Popović and **BEARA** arrived as well, so they went into the barracks *and I saw them go in*.<sup>1546</sup>

655. Pursuant to Trbić's order, Birčaković left the Zvornik Brigade HQ at around 07:30 or 08:00 hours<sup>1547</sup> and returned with **NIKOLIĆ** approximately half an hour later.<sup>1548</sup>

<sup>1539</sup> Exh. P00296, Vehicle Log for Opel Rekord P-4528, 1-31 July 1995.

<sup>1540</sup> Exh. P00296 records Milorad Birčaković, Mirko Ristić and Miško Arapović as authorized drivers. All three are listed as members of the Zvornik Brigade MP Company in July 1995 (see Exh. P00354).

<sup>1541</sup> M.BIRČAKOVIĆ, T.11011.

<sup>1542</sup> [REDACTED] PW-143, T.6532-6533, [REDACTED]. **NIKOLIĆ**'s driver, Birčaković, could not recall going to Orahovac on 13 July (T.11054); however, the vehicle log entry for the trips to Orahovac on 13 July is clearly the same handwriting as the entry on 14 July, which Birčaković acknowledged was his (T.11051). Thus, Birčaković went to Orahovac in the Opel Rekord on the night of 13 July.

<sup>1543</sup> Exh. P00289, Log of transport service detailing vehicle movements, dated 2 December 1994 to 31 December 1995, at ERN 0092-2764; BUTLER, T.19957-19958.

<sup>1544</sup> M.BIRČAKOVIĆ, T.11014; 11089-11090; 11118.

<sup>1545</sup> M.BIRČAKOVIĆ, T.11097 (emphasis added).

<sup>1546</sup> M.BIRČAKOVIĆ, T.11102 (emphasis added).

**NIKOLIĆ** went to his office to attend the meeting with **BEARA** and **POPOVIĆ**,<sup>1549</sup> which lasted approximately 15-10 minutes.<sup>1550</sup>

656. At the time of this meeting, **BEARA**<sup>1551</sup> and **POPOVIĆ**<sup>1552</sup> and **NIKOLIĆ**<sup>1553</sup> all knew that the prisoners were to be murdered. **BEARA** had been organising the murder operation for much of the day on 13 July and he would have informed **POPOVIĆ** and **NIKOLIĆ** of the details of the operation at this time. Given their respective knowledge of the murder operation, the fact that thousands of additional prisoners were about to arrive in Zvornik, and the fact that each of these officers was engaged in facilitating the murder operation during the following days, there can be only one reason why **BEARA**, **POPOVIĆ** and **NIKOLIĆ** met on the morning of 14 July; to organise and coordinate the ongoing detention and murder of the prisoners.

657. First, they had to coordinate the arrival of the additional prisoners. As outlined at section 661-666, a convoy of vehicles, led by **POPOVIĆ**, transported the prisoners from Bratunac to the Zvornik area that morning. **NIKOLIĆ** went after the meeting with **BEARA** and **POPOVIĆ** to meet some of these vehicles near the Hotel Vidakovac and direct them onwards to the Orahovac School.<sup>1554</sup> **NIKOLIĆ** would have learned where and when to meet these prisoners at this meeting with **BEARA** and **POPOVIĆ**.

658. Second, these officers had to coordinate the detention for the additional prisoners. As outlined at paras. 871-874, the Zvornik Brigade's 1<sup>st</sup> Battalion received a telegram from the Zvornik Brigade Command between 07:00 and 09:00 hours on 14 July stating that prisoners from Srebrenica were going to arrive at the Kula School and ordering 1<sup>st</sup> Battalion personnel to secure the School.<sup>1555</sup> Approximately one hour after the telegram arrived, the 1<sup>st</sup> Battalion security officer received a telephone call from **NIKOLIĆ** in which **NIKOLIĆ** addressed matters similar in nature to the content of the telegram.<sup>1556</sup> **NIKOLIĆ** also directed Perić to go to the Kula School.<sup>1557</sup> **NIKOLIĆ** would have received the information about the arrival of those prisoners during this meeting.

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<sup>1547</sup> M.BIRČAKOVIĆ, T.11014. On cross-examination at T.11083, Birčaković said he could have received the order an hour earlier or later, but ultimately did not change his testimony.

<sup>1548</sup> M.BIRČAKOVIĆ, T.11014

<sup>1549</sup> M.BIRČAKOVIĆ, T.11015.

<sup>1550</sup> M.BIRČAKOVIĆ, T.11015.

<sup>1551</sup> **BEARA** knew of the plan by 13 July at the latest. See paras. 2223.

<sup>1552</sup> **POPOVIĆ** knew of the plan on the morning of 12 July. See paras. 2367-2368.

<sup>1553</sup> See paras. 2648-2666.

<sup>1554</sup> See para. 672.

<sup>1555</sup> R.BABIĆ, T.10216, 10221.

<sup>1556</sup> S.PERIĆ, T.11376:2-14.

<sup>1557</sup> S.PERIĆ, T.11376:11-18.

659. Third, the killings at Orahovac started in the early afternoon hours of 14 July, meaning that the preparations for blindfolding, providing water, transporting, executing and burying these prisoners were already underway when the prisoners arrived. This took considerable planning and preparation and these details would have been discussed at this meeting. In particular, the first excavator arrived at the Orahovac execution site around midday;<sup>1558</sup> meaning that the necessary orders were given by Dragan Jokić, the Chief of Engineering, earlier that morning. Major Jokić was also the Zvornik Brigade Duty Operations Officer on the morning of 14 July<sup>1559</sup> and the provision of engineering equipment for Orahovac would have been arranged while Jokić, **BEARA**, **POPOVIĆ** and **NIKOLIĆ** were all in the same place. Jokić also would have been fully informed about the murder operation at this time.

660. The occurrence of this meeting is further corroborated by the Zvornik Brigade Duty Operations Officer Notebook, which shows that **BEARA** was in the Zvornik area working with **NIKOLIĆ** before 10:00 hours on 14 July: “Col. SALAPURA called – **Drago** and **BEARA** are to report to **GOLIĆ**.”<sup>1560</sup> Another entry later that day records that **BEARA** sought a report from **NIKOLIĆ** on the progress of his work: “From **BEARA Drago** to report.”<sup>1561</sup> These entries support Birčaković’s testimony that **NIKOLIĆ** met **BEARA** and **POPOVIĆ** on the morning of 14 July and show that these officers were communicating and working together in the Zvornik area on this date.

(xlv) **On the morning of 14 July, POPOVIĆ led a convoy of vehicles containing thousands of prisoners from Bratunac to the Zvornik area.**

661. On the morning of 14 July, the Muslim men detained at various locations around Bratunac were moved in a huge convoy to the Zvornik area. Mevludin Orić (Orahovac survivor) testified that in the morning, the bus he was on moved from near the Vuk Karadžić School to the parking lot of the Vihor Company, where the prisoners were told that they were waiting for UNPROFOR.<sup>1562</sup> Orić could see another two buses (six in total) plus four trucks with canvas covers.<sup>1563</sup> [REDACTED] PW-110 (Orahovac survivor) testified that in the morning, the vehicle he was on left Bratunac but stopped shortly afterwards and he could hear the Serbs shouting that they were waiting for

<sup>1558</sup> Exh. P02256, at T.5371.

<sup>1559</sup> See Exh. P00377 at ERN 0293-5744-0293-5747.

<sup>1560</sup> Exh. P00377 at ERN 0293-5744. This entry must have been made prior to 10:00 hours because a later entry (at ERN 0293-5746) records a message that was received from Palma 1 at 10:00 hours.

<sup>1561</sup> Exh. P00377 at ERN 0293-5752.

<sup>1562</sup> ORIC, T. T.934.

<sup>1563</sup> ORIC, T. T.934.

UNPROFOR.<sup>1564</sup> [REDACTED] PW-110 stated that it was extremely hot in the metal truck, but he was given water.<sup>1565</sup> [REDACTED] PW-113 (Petkovci survivor) also testified that the truck he was on stopped near the exit of Bratunac that morning for two or three hours, during which time the prisoners received a small amount of water.<sup>1566</sup>

662. An hour or two before noon,<sup>1567</sup> [REDACTED],<sup>1568</sup> [REDACTED].<sup>1569 1570</sup>

663. [REDACTED].<sup>1571 1572</sup> Mevludin Orić testified that the soldiers he saw on the UN APC were wearing blue UNPROFOR flak jackets and camouflage uniforms.<sup>1573</sup>

664. [REDACTED].<sup>1574 1575 1576 1577 1578</sup>

665. [REDACTED].<sup>1579 1580</sup> Between Konjević Polje and Drinjača, the prisoners were told to cover their eyes so they could not see where they were being taken, and that is how they proceeded through Zvornik and Karakaj.<sup>1581</sup> At one point, when the convoy was going up a hill, [REDACTED] PW-110 was able to see that there were 20 or 30 vehicles in the convoy.<sup>1582</sup>

666. After passing through Karakaj, some vehicles turned off and went to the Petkovci School.<sup>1583</sup> Another part of the convoy turned right on a narrower road, crossed over a bridge and arrived at the Orahovac School.<sup>1584</sup> It is also known that prisoners arrived at the Ročević School on 14 July and that Mirko Janković and a UN APC were seen at the Ročević School either that day or the next.<sup>1585</sup> Thus, part of this convoy also went to the Ročević School on 14 July.

<sup>1564</sup> [REDACTED] PW-110, T.674.

<sup>1565</sup> [REDACTED] PW-110, T.674.

<sup>1566</sup> [REDACTED] PW-113, Exh. P02280 at T.1399-1400.

<sup>1567</sup> [REDACTED]. [REDACTED].

<sup>1568</sup> [REDACTED].

<sup>1569</sup> [REDACTED].

<sup>1570</sup> [REDACTED].

<sup>1571</sup> [REDACTED].

<sup>1572</sup> [REDACTED].

<sup>1573</sup> ORIĆ, T.935.

<sup>1574</sup> [REDACTED].

<sup>1575</sup> [REDACTED].

<sup>1576</sup> [REDACTED].

<sup>1577</sup> [REDACTED].

<sup>1578</sup> [REDACTED].

<sup>1579</sup> [REDACTED].

<sup>1580</sup> [REDACTED].

<sup>1581</sup> ORIĆ, T.937.

<sup>1582</sup> [REDACTED] PW-110, T.676.

<sup>1583</sup> [REDACTED] PW-113, Exh. P02280 at T.1401; [REDACTED].

<sup>1584</sup> [REDACTED]. *See also* Exh.P01691, View of playground and gymnasium of Grbacvi School, which [REDACTED] PW-138 identified as the School at which he arrived that morning (see T.3851). *See also* para. 675.

<sup>1585</sup> *See* para. 820.

(xlvi) **14 July 1995: Detention of approximately 1,000 Muslim prisoners at the Orahovac School and their murder and burial at two sites nearby.**

667. The area of Orahovac falls within the zone of the 4<sup>th</sup> Battalion of the Zvornik Brigade<sup>1586</sup> and was used as a detention, execution and primary burial site from the night of 13 July through 14 July. The evidence adduced at trial has proven that elements of the Zvornik Brigade's MP Company, Security Organ (including Drago **NIKOLIĆ**), Command, Engineering Company, Logistics Organ and the 4<sup>th</sup> Battalion, as well as **BEARA** and **POPOVIĆ**, were involved in the planning, detention, transport, execution and burial of the prisoners at this site.

**At approximately 08:00 hours, NIKOLIĆ coordinated the changeover of security and deployment of additional Zvornik Brigade MPs.**

668. At approximately 08:00 hours on 14 July, Drago **NIKOLIĆ** arrived at the Orahovac School<sup>1587</sup> with his driver.<sup>1588</sup> Shortly afterwards, 20-40 soldiers arrived as replacements for the MPs who had guarded the prisoners overnight.<sup>1589</sup> **NIKOLIĆ** told Lt. Jasikovac that the soldiers were there to take over the prisoners<sup>1590</sup> and that the MPs who guarded the prisoners overnight were free to go,<sup>1591</sup> but instructed Jasikovac that those MPs should "be ready and close by with the minibus."<sup>1592</sup> MP Stanoje Birčaković testified that Jasikovac passed on **NIKOLIĆ**'s instruction to the MPs, ordering them to stay around and "to be at the ready."<sup>1593</sup>

669. This evidence shows that **NIKOLIĆ** coordinated the changeover of security from the MPs who guarded the prisoners overnight to the soldiers who replaced them. It also shows that **NIKOLIĆ** provided instructions to Jasikovac on how the MPs should be deployed and that Jasikovac was passing on those instructions to the MPs. As such, this evidence establishes that **NIKOLIĆ** was coordinating and overseeing the ongoing detention of the prisoners at the School; both with MPs and other soldiers.

670. [REDACTED].<sup>1594 1595 1596</sup>

<sup>1586</sup> Prosecution Adjudicated Fact 376; Exh. P00686, Revised Narrative Report by Richard Butler, at ERN 0113-4358.

<sup>1587</sup> D.IVANOVIĆ, T.14544.

<sup>1588</sup> D.IVANOVIĆ, T.14551, 14564.

<sup>1589</sup> S.BIRČAKOVIĆ, T.10747; D.IVANOVIĆ, T.14544.

<sup>1590</sup> D.IVANOVIĆ, T.14544-14545.

<sup>1591</sup> D.IVANOVIĆ, T.14544:10-14.

<sup>1592</sup> D.IVANOVIĆ, T.14544:12-13.

<sup>1593</sup> S.BIRČAKOVIĆ, T.10747. *See also* D.IVANOVIĆ, T.14545:9-11.

<sup>1594</sup> [REDACTED].

<sup>1595</sup> [REDACTED].

<sup>1596</sup> [REDACTED].

671. The Zvornik Brigade MP Company attendance roster confirms that at least ten MPs were present in Orahovac on 14 July 1995,<sup>1597</sup> including their commander Lt. Jasikovac, and was subsequently altered in an attempt to conceal the presence of these MPs at Orahovac.<sup>1598</sup> These clumsy alterations are visible to the naked eye and were done in an attempt to cover up the MPs' involvement in the murder operation at Orahovac. The engagement of the MPs in the murder operation required the knowledge and authorisation of their superior officers, Lt. Jasikovac and Drago **NIKOLIĆ**.

**At approximately 10:00 hours, additional prisoners arrived from Bratunac.**

672. As outlined at paras. 654-660, at approximately 08:00 or 08:30 hours, **NIKOLIĆ** met with **BEARA** and **POPOVIĆ** at the Zvornik Brigade HQ. Immediately after this meeting, **NIKOLIĆ** and M.Birčaković drove to the Vidikovac Hotel,<sup>1599</sup> about two kilometres from Zvornik.<sup>1600</sup> Approximately five minutes after **NIKOLIĆ** and M.Birčaković arrived,<sup>1601</sup> at least five to ten buses arrived at the Hotel<sup>1602</sup> with Muslim prisoners on board.<sup>1603</sup> This was the same convoy of buses and trucks which transported prisoners from Bratunac that morning. **NIKOLIĆ** would have learned where and when to meet these buses at his meeting with **BEARA** and **POPOVIĆ** earlier that morning. **NIKOLIĆ** told Birčaković to get on the first bus<sup>1604</sup> and go to Orahovac,<sup>1605</sup> then drove away in the Opel Rekord.<sup>1606</sup>

673. The convoy of vehicles then left the Hotel Vidikovac,<sup>1607</sup> passing through Divić, Zvornik and then Karakaj.<sup>1608</sup> [REDACTED] PW-110 testified that as the convoy passed through Karakaj, he was still hopeful of being exchanged.<sup>1609</sup> However, [REDACTED] PW-110's hope was soon extinguished, because some five minutes after passing through

<sup>1597</sup> Miomir Jasikovac, Nada Stojanović, Goran Bogdanović, Ćedo Jović, Dragoje Ivanović, Predrag Ristić, Želko Stevanović, Milomir Simić, Stanoje Birčaković and Sladan Jokić.

<sup>1598</sup> See Exh. P00354 and Exh.P00677, Dutch Forensic Analysis Report, dated 15 November 1999. In the entries for 14 July 1995, it is visible to the naked eye that the names Miomir Jasikovac, Nada Stojanović, Goran Bogdanović, Ćedo Jović, Dragoje Ivanović, Predrag Ristić, Želko Stevanović, Milomir Simić, Stanoje Birčaković and Sladan Jokić had "O" recorded next to their name to designate their location at Orahovac, which was subsequently erased and remarked with a "T" to designate "in the terrain." See also Exh. P00686 at para. 7.16-7.17.

<sup>1599</sup> M.BIRČAKOVIĆ, T.11017.

<sup>1600</sup> M.BIRČAKOVIĆ, T.11017.

<sup>1601</sup> M.BIRČAKOVIĆ, T.11018.

<sup>1602</sup> M.BIRČAKOVIĆ, T.11018.

<sup>1603</sup> M.BIRČAKOVIĆ, T.11019.

<sup>1604</sup> M.BIRČAKOVIĆ, T.11018.

<sup>1605</sup> M.BIRČAKOVIĆ, T.11055.

<sup>1606</sup> M.BIRČAKOVIĆ, T.11018.

<sup>1607</sup> M.BIRČAKOVIĆ, T.11018.

<sup>1608</sup> [REDACTED] PW-110, T.676.

<sup>1609</sup> [REDACTED] PW-110, T.676-677 (emphasis added).



Karakaj, the vehicles turned off the road to Tuzla and headed towards Križevići and Orahovac.<sup>1610</sup>

674. At approximately 10:00 hours,<sup>1611</sup> the additional prisoners arrived at the Orahovac School on buses<sup>1612</sup> and trucks,<sup>1613</sup> escorted by civilian police in blue combat overalls,<sup>1614</sup> some of who were armed and some who wore flak jackets.<sup>1615</sup> There were between two<sup>1616</sup> and five<sup>1617</sup> civilian police on each bus. MP Milorad Birčaković, who was on the first bus, confirmed that when he arrived at the Orahovac School on the first bus, there were Zvornik Brigade MPs positioned around the School providing security.<sup>1618</sup>

675. [REDACTED] PW-142 testified that up to a dozen, or possibly more, buses arrived at the school.<sup>1619</sup> The convoy had been led by a UN APC which had been captured by the Bosnian Serbs<sup>1620</sup>, [REDACTED].<sup>1621</sup> As the convoy arrived, **POPOVIĆ** turned left into a private residence<sup>1622</sup> [REDACTED].<sup>1623</sup> The prisoners exited the buses and the Zvornik Brigade MPs, assisted by the civilian police who arrived on the buses,<sup>1624</sup> escorted them into the gym.<sup>1625</sup>

676. [REDACTED] PW-138 left after approximately ten buses had been emptied of prisoners.<sup>1626</sup> According to [REDACTED] PW-138, **POPOVIĆ** told him to stay but [REDACTED] PW-138 told **POPOVIĆ** that he could not stay because of orders he had from Momir Nikolić.<sup>1627</sup> After the prisoners had disembarked, the civilian police left with the buses and did not return.<sup>1628</sup>

<sup>1610</sup> [REDACTED] PW-110, T.676-677. At T.694-695, [REDACTED] PW-110 recognised Exh. P01697, a photograph of the Orahovac School gym, as the place he was detained.

<sup>1611</sup> [REDACTED] PW-169, T.17333. This also corresponds with Milorad BIRČAKOVIĆ's testimony that **BEARA**, **NIKOLIĆ** and **POPOVIĆ** met at the Zvornik Brigade HQ between 08:00 and 08:30 hours, after which they went to meet the buses at the Hotel Vidikovac which then proceeded to the Orahovac School.

<sup>1612</sup> [REDACTED] PW-142, T.6446.

<sup>1613</sup> [REDACTED] PW-110, T.674.

<sup>1614</sup> [REDACTED] PW-142, T.6446, 6475.

<sup>1615</sup> [REDACTED] PW-142, T.6475.

<sup>1616</sup> [REDACTED] PW-142, T.6475.

<sup>1617</sup> M.BIRČAKOVIĆ, T.11087.

<sup>1618</sup> M.BIRČAKOVIĆ, T.11123.

<sup>1619</sup> [REDACTED] PW-142, T.6449. *See also* ORIĆ, at T.934, who testified that there were six buses and four trucks in the convoy when they stopped before Konjević Polje to wait for the captured UN APC to arrive.

<sup>1620</sup> [REDACTED] PW-110, T.677; ORIĆ, T.938.

<sup>1621</sup> *See paras.* 661-666.

<sup>1622</sup> [REDACTED] PW -138, T.3849:14-15.

<sup>1623</sup> [REDACTED].

<sup>1624</sup> [REDACTED] PW-142, T.6476, [REDACTED]; M.BIRČAKOVIĆ, T.11086.

<sup>1625</sup> [REDACTED]; M.BIRČAKOVIĆ, T.11020. The entrance to the gym is depicted in Exh. P2103, Exhibits of Jean-Rene Ruez, at p.125.

<sup>1626</sup> [REDACTED] PW-138, T.3850:2-3.

<sup>1627</sup> T.3850-3851.

<sup>1628</sup> [REDACTED] PW-142, T.6476.

**After the arrival of the additional prisoners, the conditions of detention deteriorated and two prisoners were murdered at the School.**

677. As the prisoners got off the buses, they were told to run to the School.<sup>1629</sup> The prisoners were also told to leave their personal belongings in the schoolyard.<sup>1630</sup> There were already some other items there.<sup>1631</sup> Mevludin Orić testified that the prisoners left their coats, sweaters and berets in the schoolyard.<sup>1632</sup> [REDACTED] PW-110 was wearing a leather jacket which he was told to take off and throw on the ground.<sup>1633</sup> Other prisoners were told to take off their shirts.<sup>1634</sup>

678. Forcing the prisoners to discard their personal belongings at this juncture constitutes clear evidence that the VRS had no intention of exchanging them, which at this time would have been clear to everyone at the Orahovac School, especially those in superior positions such as Lt. Jasikovac and Drago **NIKOLIĆ**.

679. The newly-arrived prisoners then had to run through a corridor,<sup>1635</sup> through a small locker room<sup>1636</sup> and then into the gym,<sup>1637</sup> where the prisoners who had arrived the previous night had been told to stand up and move backwards to make more room.<sup>1638</sup> [REDACTED] PW-169 described how the conditions became cramped and suffocating as the prisoners who had arrived the night before made room for the newly-arrived prisoners.

ŠWCwhen the warehouse got full and when the last trucks and buses had brought people in, and when no more could enter the gym, then we were told to stand up, to face the door, and to step backwards, and then we were stepping backwards, and they were firing over our heads and saying, "Back, back, back, we will shoot you." And that's what we kept doing until we made room for even the last ones to enter, and then when they entered we were told to sit down. And then when we sat down, those who managed to sit down first were able to sit down. The others could only sit in our lap. There was no more floor space for others to sit and that's when it got very stuffy, tight, and we wanted to suffocate.<sup>1639</sup>

680. Mevludin Orić also described how the prisoners were ordered to squeeze closer with each other or they would be shot;<sup>1640</sup> while [REDACTED] PW-110 similarly described the overcrowded conditions in the gym.<sup>1641</sup>

<sup>1629</sup> ORIĆ, T.937.

<sup>1630</sup> M.BIRČAKOVIĆ, T.11029; ORIĆ, T.938; [REDACTED] PW-110, T.677, 696.

<sup>1631</sup> ORIĆ, T.939.

<sup>1632</sup> ORIĆ, T.938.

<sup>1633</sup> [REDACTED] PW-110, T.677.

<sup>1634</sup> [REDACTED] PW-110, T.696.

<sup>1635</sup> [REDACTED] PW-110, T.677; ORIĆ, T.941.

<sup>1636</sup> ORIĆ, T.941.

<sup>1637</sup> [REDACTED] PW-110, T.677; ORIĆ, T.941.

<sup>1638</sup> [REDACTED] PW-169, T.17332. At T.942, Mevludin Orić also testified that when he arrived at the gym, a substantial group of people was already present (T.942).

<sup>1639</sup> [REDACTED] PW-169, T.17332-17333.

<sup>1640</sup> ORIĆ, T.942-943.

681. There were approximately 1,000 prisoners in the gym,<sup>1642</sup> which was full aside from an area two to four metres from the entrance which the Zvornik Brigade MPs left vacant in order to control the prisoners more effectively.<sup>1643</sup> As of March 2009, the remains of **807** of these individuals have been identified in Orahovac-related graves.<sup>1644</sup>

682. [REDACTED] PW-110 testified that among the prisoners were four children, two of whom were approximately 10 and 14 years old, respectively.<sup>1645</sup> Zvornik Brigade member Tanacko Tanić also saw two boys aged approximately 10 or 12 years old carrying water,<sup>1646</sup> and Tanić testified that as soon as the first truck arrived, it became obvious that the prisoners, including the children, were going to be executed.<sup>1647</sup> [REDACTED].<sup>1648</sup> [REDACTED] PW-105, who was seven years old at the time and who testified in this trial, was shot and wounded at Orahovac.<sup>1649</sup>

683. In order to control the prisoners, the guards would occasionally shoot at the walls and ceiling.<sup>1650</sup> This evidence is corroborated by the presence of bullet holes found subsequently in the gym.<sup>1651</sup>

684. [REDACTED] PW-110 also testified that after the removal of prisoners had started, a prisoner stood up and protested that: “these people should not be killed.”<sup>1652</sup> That prisoner was taken outside the gym and rifle shots and a scream were heard;<sup>1653</sup> then another prisoner was taken outside, another rifle shot heard and that prisoner did not

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<sup>1641</sup> [REDACTED] PW-110, T.696.

<sup>1642</sup> [REDACTED]. See also [REDACTED] PW-110, T.697 (500-1,000 prisoners); ORIĆ, T.943 (over 2,000 prisoners); [REDACTED] PW-169, T.17338 (said that other people in the gym were estimating no less than 2,500 prisoners).

<sup>1643</sup> [REDACTED] PW-142, T.6450.

<sup>1644</sup> See Exh. P04490, Report titled, “Update to the Summary of Forensic Evidence – Exhumation on the Graves Related to Srebrenica – March 2009,” with public annexes A-C, by Dusan Janc, dated 13 March 2009, which shows that the remains of **117** individuals have been identified from the Orahovac 1 grave; **166** from Orahovac 2; **88** from Hodžići Road 1; **99** from Hodžići Road 2; **39** from Hodžići Road 3; **69** from Hodžići Road 4; **54** from Hodžići Road 5; **64** from Hodžići Road 6; and **88** from Hodžići Road 111. [REDACTED]. See also Exh. P00648, Dean Manning’s report titled “Summary of Forensic Evidence, Mass Graves Exhumed in 2000 – Lazete 1, Lazete 2C, Ravnice, Glogova 1;” and Exh. P00649, Dean Manning’s report titled “Summary of Forensic Evidence - Execution Points and Mass Graves,” which show that the Orahovac 1 and 2 primary graves are linked with the execution of prisoners detained at the Orahovac School.

<sup>1645</sup> [REDACTED] PW-110, T.698.

<sup>1646</sup> TANIĆ, T.10339.

<sup>1647</sup> TANIĆ, T.10346.

<sup>1648</sup> [REDACTED].

<sup>1649</sup> [REDACTED] PW-105, T.7746-7747; [REDACTED] PW-101, T.7581.

<sup>1650</sup> [REDACTED] PW-110, T.698-699.

<sup>1651</sup> Exh. P2103, Exhibits of Jean-Rene Ruez, at pp.126, 127 and 129.

<sup>1652</sup> [REDACTED] PW-110, T.703.

<sup>1653</sup> [REDACTED] PW-110, T.703, 765. See also TANIĆ, T.10336, who saw two dead bodies when he arrived at the Orahovac School.

return.<sup>1654</sup> This is corroborated by the evidence of Tanacko Tanić, who saw two dead bodies in the School yard when he arrived sometime after 12:00 hours.<sup>1655</sup>

685. [REDACTED] PW-169 also testified that a prisoner who complained that he was suffocating was taken out and seemingly executed.<sup>1656</sup> Mevludin Orić similarly testified that he saw one prisoner murdered:

I saw one man who had lost it from the heat and from the – from people being squeezed. He stood up, although they had told us, “Don’t stand up, we’ll shoot.” And he still stood up and shouted, “Don’t be afraid, people. There is enough of us.” The commander came, said, “Who said that?” He wouldn’t do that. And the commander said, “Push him out or we’ll shoot at you.” So people pushed him out, and at the very exit from the sports hall the guards shot at him and killed him, and they dragged his body away. And then they shouted at us asking us, “Is there anybody else who wants to say something like that?” And we all kept quiet. We didn’t dare say anything.<sup>1657</sup>

686. Such murders could not have been carried out without the knowledge and authorisation of the officers in charge, including Lt. Jasikovac and Drago NIKOLIĆ.

687. During this period, the prisoners were given no food.<sup>1658</sup> Moreover, despite the fact that it was the middle of July and temperatures were extremely hot,<sup>1659</sup> only a few prisoners were allowed out to fetch water<sup>1660</sup> under guard from Zvornik Brigade MPs.<sup>1661</sup> During the latter part of the prisoners’ detention, four boys brought some water in buckets but they could only reach the prisoners in the front of the gym.<sup>1662</sup> [REDACTED] PW-110 and [REDACTED] PW-169 testified that most prisoners received little or no water.<sup>1663</sup>

688. The only toilet facilities the prisoners were provided with was a bucket.<sup>1664</sup>

689. None of the prisoners were offered or received medical attention during the time they were in the gym.<sup>1665</sup> Instead, when prisoners complained about feeling faint, or sick, the only attention they received was to be moved so they could receive a little more

<sup>1654</sup> [REDACTED] PW-110, T.703, 765.

<sup>1655</sup> TANIĆ, T.10336.

<sup>1656</sup> [REDACTED] PW-169, T.17333-17334.

<sup>1657</sup> ORIĆ, T.945-946.

<sup>1658</sup> [REDACTED] PW-169, T.17333; [REDACTED] PW-110, T.700; ORIĆ, T.945.

<sup>1659</sup> [REDACTED] PW-110, T.700.

<sup>1660</sup> [REDACTED] PW-142, T.6452, 6485; [REDACTED] PW-110, T.700. *See also* [REDACTED] PW-143, T.6534.

<sup>1661</sup> [REDACTED] PW-142, T.6452, 6485. *See also* [REDACTED] PW-143, T.6534.

<sup>1662</sup> ORIĆ, T.944-945. *See also* TANIĆ, T.10339.

<sup>1663</sup> [REDACTED] PW-110, T.700; [REDACTED] PW-169, T.17333.

<sup>1664</sup> [REDACTED] PW-110, T.701.

<sup>1665</sup> ORIĆ, T.945.

water.<sup>1666</sup> Mevludin Orić testified that many of the elderly prisoners actually did faint due to the extreme heat.<sup>1667</sup>

690. The prisoners remained in the gym for a few hours<sup>1668</sup> under these conditions, during which time they were secured by the Zvornik Brigade MPs.<sup>1669</sup> In addition to the MPs, there were approximately 50 other soldiers present at the School.<sup>1670</sup>

691. At this point in time, it would have been absolutely clear to anyone present in and around the Orahovac School that the Muslim men -- barely surviving in these deplorable conditions -- would not be exchanged and were instead awaiting execution.

**At approximately 12:00 hours, a “Rovokopač” backhoe excavator arrives.**

692. On the morning of 14 July, Major Dragan Jokić, the Zvornik Brigade Chief of Engineering, ordered Zvornik Brigade excavator operator Cvijetin Ristanović to go to Orahovac.<sup>1671</sup> Pursuant to Major Jokić’s order, Ristanović went to Orahovac with fellow Zvornik Brigade members Milan Maksimović, Risto Lazić and Slavko Bogičević, the Deputy Commander of the Engineering Company;<sup>1672</sup> and a “G-700” excavator, which was located inside the Engineering Company compound<sup>1673</sup> and which was loaded onto a lorry at the Engineering Company compound.<sup>1674</sup> This excavator, taken from the Engineering Company compound on the orders of Dragan Jokić and operated at Orahovac by Zvornik Brigade members Ristanović and Milovan Miladinović,<sup>1675</sup> was under the control of the Zvornik Brigade.

693. Ristanović described this excavator as having caterpillar tread and only one grab,<sup>1676</sup> and identified two pictures of an excavator similar to the one he operated.<sup>1677</sup> Ristanović’s description, and both of these pictures, also match Mevludin Orić’s sketch of

<sup>1666</sup> [REDACTED] PW-110, T.700-701.

<sup>1667</sup> ORIĆ, T.944.

<sup>1668</sup> [REDACTED] PW-142, T.6453; [REDACTED] PW-110, T.764.

<sup>1669</sup> [REDACTED] PW -142, T.6453.

<sup>1670</sup> [REDACTED] PW-143, T.6535.

<sup>1671</sup> C.RISTANOVIĆ, Exh. P02256, Rule 92<sup>ter</sup> testimony, at T.5363-5364, 5406-5407.

<sup>1672</sup> Exh. P02256, at T.5365. See also D.LAZAREVIĆ, at T.14435, who testified that Bogičević was the Deputy Commander of the Engineering Company.

<sup>1673</sup> C.RISTANOVIĆ, Exh. P02256, at T.5365.

<sup>1674</sup> C.RISTANOVIĆ, Exh. P02256, at T.5367.

<sup>1675</sup> See Exh. P02851, Zvornik Brigade Engineering Company attendance roster for the month of July 1995, at ERN 0074-3386, which shows that Ristanović and Miladinović were both members of the Engineering Company of the Zvornik Brigade.

<sup>1676</sup> C.RISTANOVIĆ, Exh. P02256, at T.5398.

<sup>1677</sup> Exh. P02068, Exhibit P-62 - Case No. IT-02-60-T - Photocopy of brochure for BGH-600, identified by Ristanović in his Rule 92<sup>ter</sup> testimony (C.RISTANOVIĆ, Exh. P02256 at T.5366). See also Exh. 4D00610, where Ristanović identified the middle picture in the top row as a similar machine to the one he drove at Orahovac (C.RISTANOVIĆ, Exh. P02256, at T.5366).

the “Rovokopač” excavator which operated at Orahovac and illuminated the execution site with its headlights after nightfall.<sup>1678</sup>

694. Ristanović’s testimony is further corroborated by two vehicle logs: first, the vehicle log for a Mercedes 2626 truck, which towed an excavator to Križevici on 14 July;<sup>1679</sup> and second, the vehicle log for a “Rovokopač” backhoe excavator, which was assigned to Ristanović and worked for six hours at Orahovac that day.<sup>1680</sup> The excavator vehicle log states that this work was done for the VRS.<sup>1681</sup> Ristanović stated that this excavator vehicle log related to a self-propelled machine with rubber wheels and two grabs, and thus concluded that this was not the machine he operated;<sup>1682</sup> however, as shown clearly in Exh. 4D00610, a “Rovokopač” backhoe excavator is a large excavator with caterpillar tread and only one grab; thus, Ristanović was mistaken on this point and this excavator actually *was* the one he operated on 14 July at Orahovac.

695. Ristanović testified that he was held up outside the Orahovac School for about five minutes by civilian trucks which were turning around.<sup>1683</sup> The only known civilian trucks at the School that day were those which transported prisoners from Bratunac; thus, Ristanović must have arrived at the School soon after the additional prisoners had arrived.

696. Ristanović also testified that he saw MPs and other soldiers outside the School.<sup>1684</sup> These MPs and soldiers would have seen the lorry with the huge “Rovokopač” backhoe excavator in tow parked outside the School. The arrival of an excavator at Orahovac, which sat outside the School for five minutes just metres away from the MPs and others present, when there was no plausible military or engineering need for such machinery in the area at that time,<sup>1685</sup> constitutes clear and unmistakable evidence that these prisoners were to be murdered and buried nearby.

697. The decision to murder the Muslim men had been made more than 24 hours earlier and everyone who saw the excavator outside the School would have known that the prisoners were to be murdered. Thus, by 12:00 hours, when the excavator arrived in Orahovac, Drago **NIKOLIĆ** had to have known that the prisoners would all be murdered.

<sup>1678</sup> Exh. P02093, which is a sketch of the excavator and the ULT which Orić saw at the execution site. *See also* ORIĆ, T.964, 966.

<sup>1679</sup> Exh. P00299, Zvornik Brigade Vehicle Log for Mercedes Mercedes 2626.

<sup>1680</sup> Exh. P00300, Zvornik Brigade Vehicle Log for Rovakopač (C-3117).

<sup>1681</sup> Exh. P00300, at 0087-6044.

<sup>1682</sup> C.RISTANOVIĆ, Exh. P02256, at T.5397-5398; and at T.13627.

<sup>1683</sup> Exh. P02256, at T.5368.

<sup>1684</sup> Exh. P02256, at T.5369.

<sup>1685</sup> Exh. P00686, Revised Narrative Report by Richard Butler, at para.7.69.

698. Ristanović and the excavator arrived at the Orahovac execution site at approximately 12:00 hours.<sup>1686</sup> Ristanović unloaded the excavator near the “water point,” and Slavko Bogičević ordered him to take it through the railway underpass to the first execution site.<sup>1687</sup> Bogičević then told Ristanović to dig the grave in an area marked out by four wooden poles.<sup>1688</sup> The dimensions of the grave were approximately 2-3 metres wide, 15 metres long and 1.5-2 metres deep.<sup>1689</sup>

**At around 12:00 hours, reinforcements were sent from the Zvornik Brigade Command to assist with the prisoners.**

699. Sgt. Tanacko Tanić, a member of the Zvornik Brigade Command,<sup>1690</sup> was at the Zvornik Brigade HQ on the morning of 14 July.<sup>1691</sup> Tanić had already heard that prisoners had been placed in schools in the area and he had also seen prisoners on a bus outside the Zvornik Brigade HQ that morning.<sup>1692</sup> Around 12:00 hours,<sup>1693</sup> Tanić was told by Capt. 1<sup>st</sup> Class Miladin Mijatović<sup>1694</sup> that some of the prisoners were escaping and that Tanić was to get his rifle and go.<sup>1695</sup> Tanić stated that this was not an order, but he understood it to be an emergency so he got his rifle and boarded a truck which was waiting outside the Zvornik Brigade HQ.<sup>1696</sup> Other Zvornik Brigade members were on the truck,<sup>1697</sup> which then proceeded to the Orahovac School and arrived sometime after 12:00 hours.<sup>1698</sup>

700. Upon arrival, Tanacko Tanić saw MPs and soldiers who he assumed were from the Zvornik Brigade,<sup>1699</sup> as well as two dead bodies and the pile of clothing in the School yard.<sup>1700</sup> These were clearly the bodies of those prisoners who were taken out of the gym and murdered just outside (*see* para. 682-685). Tanić also saw Drago **NIKOLIĆ** and the Zvornik Brigade’s Assistant Commander for Logistics, Capt. 1<sup>st</sup> Class Sreten Milošević,

<sup>1686</sup> C.RISTANOVIĆ, Exh. P02256, at T.5369.

<sup>1687</sup> C.RISTANOVIĆ, Exh. P02256, at T.5371.

<sup>1688</sup> C.RISTANOVIĆ, Exh. P02256, at T.5371-5372.

<sup>1689</sup> C.RISTANOVIĆ, Exh. P02256, at T.5371-5372.

<sup>1690</sup> *See* Exh. P00311, Roster of the “Command of the 1st Zvornik Infantry Brigade Headquarters.

<sup>1691</sup> TANIĆ, T.10329.

<sup>1692</sup> TANIĆ, T.10330:15-22.

<sup>1693</sup> TANIĆ, T.10384:4.

<sup>1694</sup> At T.10330-10331, Tanić described Mijatović as a Captain in the commercial purchases section of the Logistics Organ. At T. 10411, Tanić confirmed that Mijatović’s first name was Miladin. Accordingly, Tanić was clearly referring to Capt. 1<sup>st</sup> Class Miladin Mijatović, who was a member of the Zvornik Brigade Command in July 1995 (*see* Exh. P00311).

<sup>1695</sup> TANIĆ, T.10329-10330.

<sup>1696</sup> TANIĆ, T.103331-10333.

<sup>1697</sup> TANIĆ, T.10383:17-18.

<sup>1698</sup> TANIĆ, T.10334.

<sup>1699</sup> TANIĆ, T.10335. In response to a question regarding what brigade the soldiers were from, Tanić answered: “The Zvornik Brigade, I assume. I don’t know of any others there.”

<sup>1700</sup> TANIĆ, T.10336.

in the School yard.<sup>1701</sup> Given that Tanić saw the two bodies in the School yard, Drago **NIKOLIĆ** also would have seen them and been fully aware of the circumstances in which these murders occurred and the fact that they portended the massive murder operation that was about to take place.

701. Tanić then went to secure the road with Zvornik Brigade MPs Goran Bogdanović and Ćedo Jović and prevent civilians from approaching the School.<sup>1702</sup> Sometime later, Tanić saw an unfamiliar officer in the School yard and was told by one of the MPs that this was “a security officer from the corps, Vujadin **POPOVIĆ**.”<sup>1703</sup> Tanić’s testimony on this point is corroborated by [REDACTED] PW-138, who testified that **POPOVIĆ** led the convoy of vehicles from Bratunac to the Orahovac School that morning;<sup>1704</sup> and Milorad Birčaković, who testified that he was “99 percent” sure he saw **POPOVIĆ** at the School about half an hour or an hour after the additional prisoners arrived that morning.<sup>1705</sup>

**During the late morning and early afternoon hours, final preparations for the executions were made.**

702. Before the removal of prisoners commenced, all the preparations for the executions had been completed. The execution site was scouted out, either that morning or the previous night and, as outlined at para. 698, the grave started to be dug around midday. Military TAM trucks and drivers were then obtained to transport the prisoners to the execution site along with the necessary fuel for the trucks and engineering equipment. At least one driver from the Zvornik Brigade’s 4<sup>th</sup> Battalion and one driver from the Zvornik Brigade Logistics Organ were sent to transport prisoners to the Orahovac execution site.<sup>1706</sup>

703. Preparations were also undertaken at the School itself to facilitate the efficient removal of the prisoners to the execution site. A small table was set up near the exit to the gym, and buckets of water and a cup obtained so that the prisoners would be given a drink before they were placed on a truck.<sup>1707</sup> As described at para. 709, Zvornik Brigade MP Nada Stojanović provided this last cup of water to the prisoners.

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<sup>1701</sup> TANIĆ, T.10337.

<sup>1702</sup> TANIĆ, T.10337, 10407:5-6.

<sup>1703</sup> TANIĆ, T.10337.

<sup>1704</sup> [REDACTED] PW-138, T.3849-3851.

<sup>1705</sup> M.BIRČAKOVIĆ, T.11024.

<sup>1706</sup> See para. 706.

<sup>1707</sup> [REDACTED] PW-169, T.17334-17335.



704. Blindfolds also needed to be prepared for the prisoners.<sup>1708</sup> There were approximately 1,000 prisoners in the gym;<sup>1709</sup> and obtaining sufficient cloth to blindfold those prisoners, then cutting the cloth into hundreds of appropriately-sized strips, would have taken a huge amount of preparation. ICTY investigators and forensic experts subsequently located some **594** of these blindfolds at the Orahovac School and in and around Orahovac-related graves,<sup>1710</sup> which were clearly cut from larger pieces of cloth and show that a significant amount of time and effort went into this process.

**By 13:30 hours, the transport of prisoners to the execution site began.**

705. Stanoje Birčaković testified that the removal of prisoners commenced sometime between 10:00 and 11:30 hours.<sup>1711</sup> [REDACTED] PW-142 and [REDACTED] PW-110 both testified that the prisoners who arrived that morning were in the gym for a few hours before they started to be removed.<sup>1712</sup> Mevludin Orić testified that after he survived execution, he lay on the ground for an hour and then passed out sometime between 13:00 and 15:00 hours.<sup>1713</sup> This means that Orić must have been removed from the gym sometime between 12:00 and 14:00 hours. There were at least five groups of prisoners removed before Orić was,<sup>1714</sup> and Orić estimated that trucks were leaving every four or five minutes.<sup>1715</sup> Accordingly, the transport of prisoners commenced by 13:30 hours at the latest; thereby placing those present and in charge at Orahovac with full knowledge of the murder operation by that time.

706. The prisoners were removed from the gym via a different door from the one through which they entered.<sup>1716</sup> A military TAM truck, covered with tarpaulin, would reverse up to the exit of the gym.<sup>1717</sup> Three or four Zvornik Brigade MPs would remain at the gym's entrance, while two MPs plus one or two soldiers and the driver were around the truck.<sup>1718</sup> One of the truck drivers, whose name was "Rajko," was a member of the Zvornik Brigade's 4<sup>th</sup> Battalion.<sup>1719</sup> [REDACTED].<sup>1720</sup>

<sup>1708</sup> See [REDACTED] PW-169, T.17335; [REDACTED] PW-110, T.708-709; ORIĆ, T.949; M.BIRČAKOVIĆ, T.11026, who all testified that the prisoners were blindfolded.

<sup>1709</sup> See para. 681.

<sup>1710</sup> See para. 1089.

<sup>1711</sup> S.BIRČAKOVIĆ, T.10754.

<sup>1712</sup> [REDACTED] PW-142, T.6453; [REDACTED] PW-110, T.764.

<sup>1713</sup> ORIĆ, T.958-959.

<sup>1714</sup> At T.949, Orić testified that he was in the sixth group of prisoners to leave the School.

<sup>1715</sup> ORIĆ, T. 956, 962.

<sup>1716</sup> [REDACTED] PW-142, T.6454. A photograph of the exit can be seen in Exh. P2103 at p.125.

<sup>1717</sup> M.BIRČAKOVIĆ, T.11025; [REDACTED] PW-142, T.6454; [REDACTED] PW-143, T.6539;

[REDACTED] PW-169, T.17335.

<sup>1718</sup> [REDACTED] PW-142, T.6454.

<sup>1719</sup> M.BIRČAKOVIĆ, T.11038.

707. The prisoners were then told to crawl, one by one,<sup>1721</sup> to a small locker room next to the gym, where they were ordered to stand up.<sup>1722</sup> In the locker room, there were four or five armed Bosnian Serb soldiers, including a female VRS soldier in camouflage uniform with an automatic rifle.<sup>1723</sup> The Bosnian Serb soldiers in the locker room had a bag of cloth blindfolds,<sup>1724</sup> and had tasked two of the prisoners with the job of blindfolding each prisoner just before they left the gym.<sup>1725</sup> The female VRS soldier was holding the blindfolds.<sup>1726</sup>

708. Mevludin Orić testified that the prisoners started to become suspicious when the first prisoners who left the gym were blindfolded:

[T]he first people who went out were first blindfolded. They were given a cup of water to drink, and then they were taken outside, and this is how it kind. Then we started being suspicious. We didn't know why their eyes were being blindfolded.<sup>1727</sup> [...]

We were really suspicious about those blindfolds. We were thinking if we were being taken to the camp why are we being blindfolded?<sup>1728</sup>

709. After being blindfolded, each prisoner was then given a cup of water by the female VRS soldier.<sup>1729</sup> Zvornik Brigade MP Nada Stojanović is the only female VRS soldier known to have been present at the School that day,<sup>1730</sup> and was the only female listed on the MP Company Roster for the month of July 1995. Stojanović's name was also one of those doctored on the MP Roster in an attempt to conceal her presence at Orahovac.<sup>1731</sup> Stojanović was seen carrying water in a bucket towards the School while there were still prisoners inside,<sup>1732</sup> and the evidence has shown that Zvornik Brigade MPs were around the exit to the gym<sup>1733</sup> and were escorting the prisoners onto the trucks.<sup>1734</sup> This is the same area where this female soldier was seen. Moreover, Stojanović's patently untruthful witness interview,<sup>1735</sup> during which she conceded that she

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<sup>1720</sup> [REDACTED] 3DW-PW10, [REDACTED] T.25662-25674 (driving prisoners from the Orahovac School to the execution site).

<sup>1721</sup> ORIĆ, T.952.

<sup>1722</sup> ORIĆ, T.949.

<sup>1723</sup> ORIĆ, T.950.

<sup>1724</sup> [REDACTED] PW-110, T.708-709; [REDACTED] PW-169, T.17335. *See also* M.BIRČAKOVIĆ, T.11026.

<sup>1725</sup> [REDACTED] PW-169, T.17335; [REDACTED] PW-110, T.708-709; ORIĆ, T.949. *See also* M.BIRČAKOVIĆ, T.11026.

<sup>1726</sup> [REDACTED]PW-110, T.765:4-5.

<sup>1727</sup> ORIĆ, T.948.

<sup>1728</sup> ORIĆ, T.952.

<sup>1729</sup> [REDACTED] PW-110, T.709; [REDACTED] PW-169, T.17335. *See also* ORIĆ, T.949.

<sup>1730</sup> Exh. P00354; M.BIRČAKOVIĆ, T.11021.

<sup>1731</sup> *See* para. 671.

<sup>1732</sup> RISTIĆ, T.10081-10082, 10084.

<sup>1733</sup> [REDACTED] PW-142, T.6454.

<sup>1734</sup> [REDACTED] PW-143, T.6539; [REDACTED] PW-142, T.6454. *See also* M.BIRČAKOVIĆ, T.11026.

<sup>1735</sup> Exh. 3D00511.

was in Orahovac but claimed she was having coffee with her sister-in-law and heard no gunfire, provides the Trial Chamber with evidence that the contrary was the truth, and that Stojanović was engaged with the rest of her colleagues in knowingly preparing the Muslim prisoners for death. Accordingly, this female VRS soldier at the exit to the gym, holding the blindfolds and providing water to the prisoners, was MP Nada Stojanović.

710. Some of the prisoners' hands were then tied,<sup>1736</sup> either by MPs or the soldiers who were there,<sup>1737</sup> and they were escorted by MPs on to the truck,<sup>1738</sup> one by one.<sup>1739</sup> Approximately 20-30 prisoners would get onto the truck.<sup>1740</sup> The truck would then drive out of the schoolyard and turn right,<sup>1741</sup> in the direction of the execution sites. The trucks would then return empty.<sup>1742</sup> The trucks were always escorted by soldiers from the Zvornik Brigade<sup>1743</sup> (and MPs on at least one occasion)<sup>1744</sup> running behind or alongside the truck.<sup>1745</sup> After one return trip, [REDACTED] PW-142 heard the escorts, who were either soldiers or MPs from the Zvornik Brigade,<sup>1746</sup> say that the prisoners who had been taken away in the truck had been executed.<sup>1747</sup>

711. Prior to their removal, in a calculated and deceptive effort to keep the prisoners calm, the prisoners had been told that they were being taken to the Batković Camp.<sup>1748</sup> However, the prisoners still inside the gym could hear the trucks arriving and leaving regularly, which made them suspicious that they were not, in fact, being taken to the Batković Camp.<sup>1749</sup>

712. During the day, shots and "bursts of fire" could also be heard coming from the direction where the trucks were taking the prisoners.<sup>1750</sup> Stanoje Birčaković testified that

<sup>1736</sup> [REDACTED] PW-142, T.6454; [REDACTED] PW-143, T.6539; M.BIRČAKOVIĆ, T.11026.

<sup>1737</sup> [REDACTED] PW-142, T.6454; [REDACTED].

<sup>1738</sup> [REDACTED] PW-143, T.6539; [REDACTED] PW-142, T.6454; [REDACTED] PW-101, T.7579.

<sup>1739</sup> M.BIRČAKOVIĆ, T.11026.

<sup>1740</sup> M.BIRČAKOVIĆ, T.11026; [REDACTED] PW-110, T.712; [REDACTED] PW-101, T.7571-7572.

See also ORIĆ, at T.953, who testified that there were 12-13 people on the truck in which he was transported to the execution site.

<sup>1741</sup> [REDACTED] PW-142, T.6455; [REDACTED] PW-143, T.6539; M.BIRČAKOVIĆ, T.11026 ("towards Križeviči"); D.IVANOVIĆ, T.14549 ("the civilians were taken towards the separation line").

<sup>1742</sup> [REDACTED] PW-143, T.6539-6540.

<sup>1743</sup> [REDACTED] PW-142, T.6455, 6456:9-13, 6456:21-25 – 6457:1-3.

<sup>1744</sup> [REDACTED] PW-142, T.6457:2-3.

<sup>1745</sup> [REDACTED] PW-142, T.6455-6456.

<sup>1746</sup> [REDACTED] PW-142, T.6456:9-13.

<sup>1747</sup> [REDACTED] PW-142, T.6455-6456.

<sup>1748</sup> ORIĆ, T.947-948; [REDACTED] PW-110, T.711 ("the Bijeljina camp"); [REDACTED] PW-169, T.17334 (some were going to Fikret Avdić and others to Bijeljina).

<sup>1749</sup> ORIĆ, T.953.

<sup>1750</sup> [REDACTED] PW-142, T.6455; [REDACTED] PW-143, T.6541; S.BIRČAKOVIĆ, T.10755. See also M.BIRČAKOVIĆ, T.11037.

these “accentuated bursts of fire”<sup>1751</sup> were “repeated throughout the day at certain time intervals...it’s something that went on for 15 to 20 minutes and then would stop.”<sup>1752</sup>

713. After approximately one hour,<sup>1753</sup> after two or three truckloads of prisoners had left,<sup>1754</sup> Lt. Jasikovac ordered Milorad Birčaković to follow the trucks to the so-called “water point.”<sup>1755</sup> Despite his claims to the contrary, Birčaković must have known about the executions during this process. Given that Birčaković was Drago **NIKOLIĆ**’s driver, **NIKOLIĆ** also would have known that the executions were occurring at this time.

714. Birčaković took the Opel Rekord and made up to six trips escorting trucks to the “water point,”<sup>1756</sup> where the trucks would then turn left onto a gravel road<sup>1757</sup> towards the first Orahovac execution site. Mevludin Orić, who was in the sixth group of prisoners to leave the School,<sup>1758</sup> and [REDACTED] PW-169 testified that a red car containing a Serb soldier armed with an automatic rifle escorted the trucks they were transported on, respectively, to the execution site.<sup>1759</sup>

715. [REDACTED] PW-143 saw Drago **NIKOLIĆ** getting into a metallic grey-coloured military station wagon at the School which then left in the same direction as the trucks taking prisoners;<sup>1760</sup> that is, towards the execution sites. [REDACTED];<sup>1761</sup> [REDACTED].<sup>1762</sup>

716. Drago **NIKOLIĆ** was present the Orahovac School after all the preparation described above had been carried out and the transportation of prisoners had begun. **NIKOLIĆ** knew that the prisoners were being murdered.

### **The executions.**

717. The Orahovac executions occurred at two sites adjacent to each other and some 800 metres from the School.<sup>1763</sup> Mevludin Orić,<sup>1764</sup> [REDACTED] PW-110<sup>1765</sup> and

<sup>1751</sup> S.BIRČAKOVIĆ, T.10755:19-20.

<sup>1752</sup> S.BIRČAKOVIĆ, T.10755:12-13.

<sup>1753</sup> M.BIRČAKOVIĆ, T.11126.

<sup>1754</sup> M.BIRČAKOVIĆ, T.11026-11027.

<sup>1755</sup> M.BIRČAKOVIĆ, T.11026-11027.

<sup>1756</sup> M.BIRČAKOVIĆ, T.11028; Exh. IC00-0106. See also Dragoje Ivanović at T.14551-14552, who saw the car in which Drago **NIKOLIĆ** arrived that morning leave the School both in the direction of Zvornik and the direction of the separation line (i.e., the direction of the execution site).

<sup>1757</sup> M.BIRČAKOVIĆ, T.11036.

<sup>1758</sup> ORIĆ, T.949.

<sup>1759</sup> ORIĆ, T.955; [REDACTED] PW-169, T.17335.

<sup>1760</sup> [REDACTED] PW-143, T.6540, [REDACTED].

<sup>1761</sup> [REDACTED].

<sup>1762</sup> [REDACTED].

<sup>1763</sup> RUEZ, T.1484.

<sup>1764</sup> Given that Orić was in only the sixth group to leave the School, and also his later description of seeing the railway lines (at T.967), it is clear that he was taken to the first execution site.

[REDACTED] PW-169<sup>1766</sup> were all taken to the first site, which is located up a gravel road which branches off the Orahovac – Križeviči Road, next to a railway underpass.<sup>1767</sup> The second site, where executions occurred later in the day,<sup>1768</sup> is located adjacent to the Orahovac – Križeviči Road,<sup>1769</sup> near the so-called “water point.”<sup>1770</sup>

718. When a truck with prisoners on board left the Orahovac School, it would turn right onto the road and drive towards Križeviči.<sup>1771</sup> After approximately five minutes,<sup>1772</sup> the truck would turn off the main road onto a small, gravel road.<sup>1773</sup> If the truck was going to the first execution site, it would then drive up the gravel road, through a small underpass beneath the railway tracks and into a meadow on the far side.<sup>1774</sup> During the evening, executions were also carried out in the meadow next to the water point.<sup>1775</sup>

719. Once the truck stopped, the prisoners were ordered to get out and line up.<sup>1776</sup> Sometimes there were as many as four rows of prisoners.<sup>1777</sup> They were also told not to talk.<sup>1778</sup> As soon as the truck left, the soldiers opened fire on the prisoners.<sup>1779</sup> Mevludin Orić described what happened next:

My relative was killed immediately. He was screaming, and he was squeezing my hand very tight. I pushed his hand, and I threw myself on the ground. And he fell on me, on the lower side of my back, and from that moment I pretended I was dead. He was shaking. His body was shaking on my body, and then he went stiff. And the rest of the group, maybe two or three of them, started wailing and screaming because they were wounded, and these other men came and finished them off. And that's how it continued. People were brought there and killed.<sup>1780</sup>

720. Some of the wounded Muslims were not killed immediately but were left to suffer in agony.<sup>1781</sup> At one point, [REDACTED] PW-110 heard a wounded Muslim begging to

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<sup>1765</sup> At T.724-725, [REDACTED] PW-110 described how during his escape, he saw a meadow by the road covered in bodies [REDACTED]. This was clearly the second execution site. [REDACTED] it is clear that [REDACTED] PW-110 was at the first execution site.

<sup>1766</sup> At T.17339, [REDACTED] PW-169 described how, during his escape, he saw the underpass which went beneath the railway tracks. [REDACTED] clearly indicate that [REDACTED] PW-169 was taken to the first execution site.

<sup>1767</sup> See, e.g., RUEZ, T.1484-1493; Exh. P2103, pp.135, 138 and 139.

<sup>1768</sup> See, e.g., [REDACTED] PW-110 at T. [REDACTED] 720 [REDACTED].

<sup>1769</sup> See, e.g., RUEZ, T.1484-1493; Exh. P2103, pp.135 and 151.

<sup>1770</sup> See, e.g., [REDACTED] PW-110 at T.724-725, who described how during his escape, he saw a meadow by the road where there was a well or “source of water, ever-running water,” and the meadow was covered in bodies. [REDACTED].

<sup>1771</sup> [REDACTED] PW-142, T.6455; [REDACTED] PW-143, T.6539; M.BIRČAKOVIĆ, T.11026 (“towards Križeviči”); D.IVANOVIĆ, T.14549 (“the civilians were taken towards the separation line”).

<sup>1772</sup> ORIĆ, T.955.

<sup>1773</sup> [REDACTED] PW-110, T.712.

<sup>1774</sup> See, e.g., RUEZ, T.1484-1493; Exh. P2103, pp.135, 138 and 139.

<sup>1775</sup> See [REDACTED] PW-110, T. [REDACTED], [REDACTED] and 724-725, [REDACTED].

<sup>1776</sup> ORIĆ, T.955; [REDACTED] PW-169, T.17336; [REDACTED] PW-110, T.712.

<sup>1777</sup> [REDACTED] PW-169, T.17336 (four rows); [REDACTED] PW-110, T.712 (one or two rows).

<sup>1778</sup> [REDACTED] PW-169, T.17336.

<sup>1779</sup> [REDACTED] PW-110, T.712; [REDACTED] PW-169, T.17336; ORIĆ, T.956.

<sup>1780</sup> ORIĆ, T.956.

<sup>1781</sup> ORIĆ, T.957.

be finished off.<sup>1782</sup> Orić also heard injured Muslims begging to be killed and the soldiers would say things such as “suffer some more, you Ustasha.”<sup>1783</sup> The Serb soldiers also called the Muslims “Turks.” “They said fuck our Turk mothers and they said we were were best off dead.”<sup>1784</sup>

721. At one point, Orić heard prisoners running from the execution site, one of whom appeared to escape.<sup>1785</sup> In order to ensure that no others escaped, the Serb soldiers then shot many of the dead and dying prisoners in the head.<sup>1786</sup>

722. Trucks continued to arrive regularly, and prisoners were murdered, throughout the afternoon and into the evening.<sup>1787</sup> Mevludin Orić lay on the ground for approximately an hour before passing out sometime between 13:00 and 15:00 hours,<sup>1788</sup> during which time trucks arrived at the execution site every four or five minutes.<sup>1789</sup> He could hear the Serb soldiers say “line up,” then bursts of fire would be followed by wounded people screaming and being finished off.<sup>1790</sup> [REDACTED] PW-110 testified that as it was getting dark, trucks were still arriving approximately every 10 to 15 minutes;<sup>1791</sup> while Orić testified that when he regained consciousness, when it was dark,<sup>1792</sup> the trucks were still arriving every four or five minutes.<sup>1793</sup>

**At approximately 14:00 hours, [REDACTED] authorised the release of two additional excavator operators to assist with the burials at Orahovac.**

723. Shortly after 14:00 hours, [REDACTED] authorised the removal of two additional Zvornik Brigade excavator operators, Milovan Miladinović and Miloš Mitrović, from the front lines in order to assist with the burials at Orahovac.<sup>1794</sup> This is corroborated by the following entry in the tactical intercepts:

For Marić, Miladinović, Mitrović (engineers) to come at Nedo’s inn with the excavator in order to widen a road.<sup>1795</sup>

724. [REDACTED].<sup>1796 1797</sup>

<sup>1782</sup> [REDACTED] PW-110, T.714.

<sup>1783</sup> ORIĆ, T.957.

<sup>1784</sup> ORIĆ, T.961.

<sup>1785</sup> ORIĆ, T.958.

<sup>1786</sup> ORIĆ, T.958.

<sup>1787</sup> [REDACTED] PW-169, T.17336-17337.

<sup>1788</sup> ORIĆ, T.958-959.

<sup>1789</sup> ORIĆ, T. 956, 962.

<sup>1790</sup> ORIĆ, T.956.

<sup>1791</sup> [REDACTED] PW-110, T.713.

<sup>1792</sup> ORIĆ, T.959:24-25.

<sup>1793</sup> ORIĆ, T.962.

<sup>1794</sup> [REDACTED]; M.MITROVIĆ, Exh. P02259, Transcript of Milos MITROVIĆ - Case No. IT-02-60-T, 3 and 4 December 2003, at T.5599-5601. See also Exh. P02851 at ERN 0074-3386, which shows that Mitrović and Miladinović were members of the Engineering Company of the Zvornik Brigade.

<sup>1795</sup> Exh. P02232, p.7; [REDACTED].

725. When Miladinović and Mitrović arrived back at the Zvornik Brigade HQ, they reported to the Deputy Commander of the Engineering Company, Slavko Bogičević, who then left with Miladinović in a TAM truck to Orahovac.<sup>1798</sup> When Miladinović arrived at the execution site, he replaced Ristanović in operating the large “Rovokopač” backhoe excavator.<sup>1799</sup>

**Between 11:00 and 15:00 hours, NIKOLIĆ was seen at the School numerous times speaking with Lt. Jasikovac and senior VRS officers.**

726. At approximately 11:00 hours, Milorad Birčaković testified that **NIKOLIĆ** arrived at the School in the Opel Rekord which Birčaković had left him with at the Hotel Vidakovac earlier that morning.<sup>1800</sup> On that occasion, **NIKOLIĆ** stayed at the School for approximately one hour<sup>1801</sup> and spoke with Jasikovac and others.<sup>1802</sup>

727. As outlined below in further detail at paras. 2689-2694, MP [REDACTED] PW-142 saw **NIKOLIĆ** up to three separate times<sup>1803</sup> between 12:00 and 15:00 hours,<sup>1804</sup> standing on the road talking to some senior, higher-ranking officers;<sup>1805</sup> MP Stanoje Birčaković, who heard that senior non-Zvornik Brigade officers were present at the School,<sup>1806</sup> saw **NIKOLIĆ** in the schoolyard standing close to the road with another person;<sup>1807</sup> and MP Dragoje Ivanović saw **NIKOLIĆ** and Lt. Jasikovac speaking with a senior VRS officer who was around 50 years old.<sup>1808</sup> Significantly, MP [REDACTED] PW-143 saw **NIKOLIĆ** during the afternoon hours speaking with a senior VRS officer who was not from the Zvornik Brigade. [REDACTED] PW-143’s description of this officer was consistent with the contemporaneous appearance of **BEARA**.<sup>1809</sup> The only senior non-Zvornik Brigade officers known to have been in the Zvornik Brigade area at the time were **POPOVIĆ** and **BEARA**.

728. **NIKOLIĆ**’s presence at the School during the early to mid afternoon hours on 14 July and the fact that he spoke on numerous occasions with these senior VRS officers

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<sup>1796</sup> [REDACTED].

<sup>1797</sup> [REDACTED], T.15846.

<sup>1798</sup> M.MITROVIĆ, Exh. P02259 at T.5601.

<sup>1799</sup> C.RISTANOVIĆ, Exh. P02256, at T.5375-5376.

<sup>1800</sup> M.BIRČAKOVIĆ, T.11022.

<sup>1801</sup> M.BIRČAKOVIĆ, T.11023.

<sup>1802</sup> M.BIRČAKOVIĆ, T.11022.

<sup>1803</sup> [REDACTED] PW-142, T.6452.

<sup>1804</sup> [REDACTED] PW-142, T.6451-6452, 6484.

<sup>1805</sup> [REDACTED] PW-142, T.6451-6452, 6484.

<sup>1806</sup> S.BIRČAKOVIĆ, T.10767-10768.

<sup>1807</sup> S.BIRČAKOVIĆ, T.10748; Exh. IC00-0095.

<sup>1808</sup> D.IVANOVIĆ, T.14546, 14548.

<sup>1809</sup> See e.g., Exh. P03636, Photograph showing Ljubiša **BEARA** and others.

during that period is, of itself, clear evidence that **NIKOLIĆ** knew of, and played a significant role in coordinating, the detention and execution of prisoners at Orahovac.

**During the afternoon, reinforcements were sent from the 4<sup>th</sup> Battalion and they, and Tanacko Tanić, were asked to form part of an execution squad.**

729. At some point during the afternoon, **NIKOLIĆ**'s deputy, Milorad Trbić, called Lazar Ristić, the Deputy Commander of the Zvornik Brigade's 4<sup>th</sup> Battalion, and asked Ristić to send soldiers to the Orahovac School to assist with the security of prisoners who were about to break out.<sup>1810</sup> Ristić sent ten soldiers to the School pursuant to Trbić's request.<sup>1811</sup> Sometime later, Ristić received a telephone call from one of his soldiers, who told Ristić that they had been asked to participate in an execution.<sup>1812</sup> This is consistent with the evidence of Tanacko Tanić, who testified that when he was at the School, he also was asked to participate in an execution.<sup>1813</sup>

730. These open attempts to recruit Zvornik Brigade soldiers to execute the prisoners, whose security was overseen and coordinated by Drago **NIKOLIĆ**, could not have occurred without **NIKOLIĆ**'s knowledge and authority.

731. According to Lazar Ristić, after receiving this call, he went to the School, lined up his men and let them go home.<sup>1814</sup> [REDACTED].<sup>1815 1816</sup>

732. [REDACTED]. First, Sgt. Gojko Simić, a platoon commander from the 2<sup>nd</sup> Company of the 4<sup>th</sup> Battalion,<sup>1817</sup> was present with his weapon at the School sometime between 12:00 and 14:00 hours on 14 July<sup>1818</sup> and was identified later that day as the leader of an execution squad at the Orahovac execution sites (*see* para. 745). Thus, the 4<sup>th</sup> Battalion *was* involved in the executions. Lazar Ristić made the self-serving claim that Simić was on leave on 14 July;<sup>1819</sup> however, Ristić conceded that he *knew* that Simić was at the School with his rifle;<sup>1820</sup> and Milorad Birčaković confirmed that when he saw Gojko Simić outside the School that day: "He was walking towards the front line. *He was*

<sup>1810</sup> RISTIĆ, T.10062, 10068; [REDACTED].

<sup>1811</sup> RISTIĆ, T.10068-10070.

<sup>1812</sup> RISTIĆ, T.10072.

<sup>1813</sup> TANIĆ, T.10342-10345.

<sup>1814</sup> RISTIĆ, T.10076.

<sup>1815</sup> [REDACTED].

<sup>1816</sup> [REDACTED].

<sup>1817</sup> Exh. P00283, Zvornik Brigade Order No. 6-72, signed by Vinko **PANDUREVIĆ**, dated 8 April 1994, at ERN: 0092-9263 (lists Simić's rank as sergeant); M.BIRČAKOVIĆ, T.11039 (testified that Simić was a member of the 4<sup>th</sup> Battalion); RISTIĆ, T.10063, testified that Simić was in the 2<sup>nd</sup> Company of the 4<sup>th</sup> Battalion.

<sup>1818</sup> M.BIRČAKOVIĆ, T.11039; RISTIĆ, T.10062-10063. (Ristić testified that a prisoner tried to grab Simić's rifle from him; therefore, Simić was obviously armed).

<sup>1819</sup> RISTIĆ, T.10140.

<sup>1820</sup> RISTIĆ, T.10062-10063.



*on his way back from the holiday that he had had, and he went towards the line.”*<sup>1821</sup> Thus, Gojko Simić had returned from leave and was on duty on 14 July. Moreover, even if Gojko Simić were on leave, this would not absolve his superior officers of responsibility because Sgt. Gojko Simić was a non-commissioned officer<sup>1822</sup> and thus part of the active forces of the VRS<sup>1823</sup> at all times.

733. Second, Ristić claimed that he allowed these ten soldiers to go home and report back to the 4<sup>th</sup> Battalion at 08:00 hours the next day.<sup>1824</sup> At this time, the 4<sup>th</sup> Battalion was under enormous threat from the Muslim column and they were also attacked by the ABiH 2<sup>nd</sup> Corp at around 04:30 hours the next morning.<sup>1825</sup> It is entirely unreasonable to think that Ristić allowed ten of his soldiers to go home for the night in these circumstances; instead, this was obvious attempt to explain why those men did not return to the front lines or the 4<sup>th</sup> Battalion Command with Ristić when he left the School.

734. Third, Sreten Milošević was present [REDACTED] at the Zvornik Brigade HQ later that night, [REDACTED], to celebrate the “good job” that had been done with the executions.<sup>1826</sup> Given Milošević’s involvement in, and approval of, the murder operation, **NIKOLIĆ** could have arranged new uniforms for these soldiers through Milošević in order to facilitate the murder operation. Contrary to Milošević’s testimony that there were no new uniforms at the time,<sup>1827</sup> just three days later, the Zvornik Brigade took delivery of nineteen camouflage uniforms from the “Vezionica” Company.<sup>1828</sup> Sreten Milošević had ordered these uniforms and they were marked “for the special purpose.”

735. Fourth, Ristić’s testimony about whether he heard that **NIKOLIĆ** was at the School was evasive. Ristić stated that when he got to the School, he saw Trbić and Jasikovac and “most likely” looked for **NIKOLIĆ**, but he could no longer recall whether he looked for **NIKOLIĆ** because he was told that **NIKOLIĆ** was there, or whether he just assumed it because the MPs were there.<sup>1829</sup> Ristić’s obvious attempt to distance

<sup>1821</sup> M.BIRČAKOVIĆ, T.11143 (emphasis added).

<sup>1822</sup> Exh. P00703, RS Law on the Army, published in the Official Gazette of the Serbian Peoples of Bosnia and Herzegovina, dated 1 June 1992, Art.7(2) (sergeants are listed as non-commissioned officers).

<sup>1823</sup> Exh. P00703, Art. 2 (non-commissioned officers are part of the active forces of the VRS).

<sup>1824</sup> RISTIĆ, T.10071.

<sup>1825</sup> RISTIĆ, T.10097.

<sup>1826</sup> TANIĆ, [REDACTED], 10356:5-12.

<sup>1827</sup> S.MILOŠEVIĆ, T.33988-33989. “Q. Sir, could anyone in 1995 promise to give someone a new uniform if they did a certain job? A. I am not aware of it. Promises could have been made, but where uniforms would be got from, I don't know.”

<sup>1828</sup> Exh. P04600, Zvornik Brigade material list for delivery No. 20/02-197, for camouflage uniforms, dated 17 July 1995.

<sup>1829</sup> RISTIĆ, T.10078-10081.

himself from his prior statement on this point provide the Trial Chamber with evidence of Ristić's bias in favour of NIKOLIĆ.

**At around 20:30 hours, NIKOLIĆ was directing the transport of prisoners from the School and their removal off trucks at the execution site.**

736. At around 20:30 hours, [REDACTED] PW-101 received an order to take food from the Zvornik Brigade HQ to the Orahovac School.<sup>1830</sup> [REDACTED] PW-101 was at the School for 10 or 15 minutes,<sup>1831</sup> during which time he saw a truck arrive from the direction of Križevci and Kitovnice (*i.e.*, the direction of the execution site). By this time, it appears that the trucks were no longer backing up to the gym, but instead were parking next to the road and the prisoners were then escorted by the MPs and soldiers across the School yard and onto the trucks.<sup>1832</sup> [REDACTED] PW-101 described this process and how one prisoner tried to escape as he approached the truck.<sup>1833</sup>

737. [REDACTED] PW-101 saw Drago NIKOLIĆ during this 10-15 minute period. NIKOLIĆ was coordinating what was clearly a pre-planned operation:

He was there listening and issuing orders and other people were carrying out his orders.<sup>1834</sup>

Let me tell you, those were not really orders. *I think that they planned and coordinated how to do it systematically.* There was no need for him to constantly give instructions. *People knew it; it had been all pre-planned.*<sup>1835</sup>

738. After the truck had been loaded with prisoners at the School, [REDACTED] PW-101 followed it to the execution site, where the prisoners were escorted off the truck in two or three groups and shot by approximately four to six soldiers who were present.<sup>1836</sup>

739. [REDACTED] PW-101 saw Drago NIKOLIĆ at the execution site. NIKOLIĆ was directing the soldiers who were escorting prisoners off the trucks:<sup>1837</sup>

He was there because the men who were escorting prisoners from the trucks, he was to direct them. Because the other men who were there were executing people, firing at them, and that was their job. Whereas, Drago was with these others. He wasn't yelling at them or anything of that kind. He was simply directing them what to do.<sup>1838</sup>

<sup>1830</sup> [REDACTED] PW-101, T.7564-7565; 7627-7628. Note: [REDACTED] PW-101 was unsure whether the order was received from Sgt. Radislav Pantić, the Zvornik Brigade's Head of Logistics Transport Service, or his deputy.

<sup>1831</sup> [REDACTED] PW-101, T.7678:18.

<sup>1832</sup> [REDACTED] PW-101, T.7571-7572; Exh. PIC00070, Photograph 1691 marked by PW-101 (at T.7578-7579).

<sup>1833</sup> [REDACTED] PW-101, T.7571-7572. At T.7579, [REDACTED] PW-101 confirmed that the "policemen" were actually MPs.

<sup>1834</sup> [REDACTED] PW-101, T.7573:6-8.

<sup>1835</sup> [REDACTED] PW-101, T.7573:24 – 7574:2.

<sup>1836</sup> [REDACTED] PW-101, T.7580.

<sup>1837</sup> [REDACTED] PW-101, T.7590.

<sup>1838</sup> [REDACTED] PW-101, T.7590.

740. A Lt. Colonel, who was tall, solidly built, moustached, in an officer's uniform with rank insignia and a pistol,<sup>1839</sup> was also at the execution site.<sup>1840</sup> This matches the contemporaneous description and rank of Vujadin **POPOVIĆ**, who can be seen clearly on 12 July standing in front of the Hotel Fontana with a sidearm.<sup>1841</sup> **POPOVIĆ** is also known to have been at the Orahovac School that day<sup>1842</sup> and was present at at least one other execution site in July 1995, at Bišina. The fact that [REDACTED] PW-101 saw a Lt. Colonel who fitted **POPOVIĆ**'s description clearly supports the reliability of [REDACTED] PW-101's testimony.

741. While **NIKOLIĆ** and this Lt. Colonel were at the execution site, [REDACTED] PW-101 described how a seven-year old Muslim boy, [REDACTED] PW-105, who had been transported to the execution site with his father and shot, emerged alive but wounded from the pile of murdered prisoners:<sup>1843</sup>

In that heap, in that pile of dead bodies, who did not resemble people any longer, this was just a pile of flesh in bits, and then a human being emerged. I say a human being, but it was actually a boy of some five to six years. It is unbelievable. Unbelievable. A human being came out and started moving towards the path, the path where men with automatic rifles stood doing their job. And this child was walking towards them [...]

And then all of a sudden they lowered their rifles and all of them, to the last one, just froze. And it was just a child there. Had it been a person of 70 or 80 years old, it would have been horrible, let alone an innocent, sweet child. And the child was covered in bits of bowel tissue of other people. Later on in the hospital in Zvornik, the doctor showed me, he said, "Sir, this stinks." And back at the time I didn't feel the stench. I didn't even feel it as I was driving the child. I only felt it afterwards, after everything had happened.<sup>1844</sup>

[REDACTED] PW-101 further testified how after transporting [REDACTED] PW-105 to the Zvornik Hospital [REDACTED].<sup>1845</sup>

742. [REDACTED] PW-105 testified that when he was seven years old and living in Srebrenica, he and his father, [REDACTED], were blindfolded and forced by men in camouflage uniforms onto a green truck with other people.<sup>1846</sup> When they got off the truck it was night-time and dark; they lay down in the grass and were shot at.<sup>1847</sup> He was

<sup>1839</sup> [REDACTED] PW-101, T.7586.

<sup>1840</sup> [REDACTED] PW-101, T.7581-7582, 7586.

<sup>1841</sup> See Exh. P02047, Srebrenica Trial Video at 01:42:55.

<sup>1842</sup> See para. 701.

<sup>1843</sup> [REDACTED] PW-101, T.7580-7590. See also [REDACTED] PW-105, T.7744-7750;

<sup>1844</sup> [REDACTED] PW-101, T.7581.

<sup>1845</sup> [REDACTED] PW-101, T.7591[REDACTED].

<sup>1846</sup> [REDACTED] PW-105, T.7744-7746.

<sup>1847</sup> [REDACTED] PW-105, T.7747. This further corroborates [REDACTED] PW-101's testimony about going to Orahovac around nightfall on 14 July.

taken in a jeep to the Zvornik hospital, where he was given a shot and a bath, and his arm and leg were sewn up.<sup>1848</sup>

**After nightfall, an ULT loader arrived at the execution site and the killings continued late into the night.**

743. Milorad Birčaković testified that **NIKOLIĆ** returned to the Orahovac School just before nightfall,<sup>1849</sup> stayed at the School for up to one hour, and then had Birčaković drive him to the IKM.<sup>1850</sup> Significantly, Birčaković testified that just after nightfall (*i.e.*, after **NIKOLIĆ** had returned to the School but before he and Birčaković left for the IKM), an ULT loader arrived at the School, stopped for five or ten minutes and then left in the direction of Križevici,<sup>1851</sup> that is, towards the execution sites.

744. The ULT loader's arrival at the execution site was confirmed by [REDACTED] and Mevludin Orić.<sup>1852</sup> [REDACTED] PW-169 also testified that earlier in the day, he had seen a yellow excavator close by digging a grave<sup>1853</sup> and when it got dark, a second machine arrived and the two parked next to each other and lit up the execution site with their headlights.<sup>1854</sup> Under the lights from these machines, the TAM trucks continued to come in and prisoners continued to be executed.<sup>1855</sup>

745. [REDACTED].<sup>1856</sup> <sup>1857</sup> Gojko Simić,<sup>1858</sup> who was a platoon commander in the 2<sup>nd</sup> Company of the 4<sup>th</sup> Battalion of the Zvornik Brigade.<sup>1859</sup> Simić had been seen with his weapon at the Orahovac School that day.<sup>1860</sup>

746. [REDACTED].<sup>1861</sup> <sup>1862</sup> <sup>1863</sup> [REDACTED], they too must have been members of the 4<sup>th</sup> Battalion of the Zvornik Brigade. This conclusion is further supported by the fact that in July 1995, the 2<sup>nd</sup> Company of the 4<sup>th</sup> Battalion had two members called "Vojo

<sup>1848</sup> [REDACTED] PW-105, T.7747-7748, 7753; [REDACTED]. At trial, [REDACTED] PW-105 pointed to scars on his left knee and right arm where he was wounded. [REDACTED] PW-105, T.7749-7750.

<sup>1849</sup> M.BIRČAKOVIĆ, T.11023, 11039.

<sup>1850</sup> M.BIRČAKOVIĆ, T.11039.

<sup>1851</sup> M.BIRČAKOVIĆ, T.11041.

<sup>1852</sup> [REDACTED]; ORIĆ, T.960, saw lights from the loader and excavator which were working nearby.

<sup>1853</sup> [REDACTED] PW-169, T.17339.

<sup>1854</sup> [REDACTED] PW-169, T.17337-17338.

<sup>1855</sup> [REDACTED] PW-169, T.17339-17338; ORIĆ, T.959.

<sup>1856</sup> [REDACTED].

<sup>1857</sup> [REDACTED].

<sup>1858</sup> [REDACTED].

<sup>1859</sup> Exh. P00283, Zvornik Brigade Order No. 6-72, signed by Vinko **PANDUREVIĆ**, dated 8 April 1994, at ERN: 0092-9263; M.BIRČAKOVIĆ, T.11039; RISTIĆ, T.10063, testified that Simić was in the 2<sup>nd</sup> Company of the 4<sup>th</sup> Battalion. Note: Gojko Simić was killed in battle two days later, on 16 July (*see* Exh. 7DP00348, Death Certificate of Gojko Simić, dated 27 July 1995).

<sup>1860</sup> M.BIRČAKOVIĆ, T.11039; RISTIĆ, T.10062-10063 (Ristić testified that a prisoner tried to grab Simić's rifle from him; therefore, Simić was obviously armed).

<sup>1861</sup> [REDACTED].

<sup>1862</sup> [REDACTED].

<sup>1863</sup> [REDACTED] PW-110, T.715.

Matić”<sup>1864</sup> and “Risto Trifković.”<sup>1865</sup> Lazar Ristić testified that he did not know the whereabouts of Vojo Matić or Risto Trifković on 14 July.<sup>1866</sup>

747. [REDACTED].<sup>1867</sup> <sup>1868</sup> Sometime later, [REDACTED] PW-110 heard another Muslim survivor get up and start running towards the forest.<sup>1869</sup> While the Serb soldiers turned their attention towards that fleeing survivor, [REDACTED] PW-110 made his own escape over the railway tracks and into a cornfield.<sup>1870</sup>

748. As noted at para. 743, some half an hour or an hour after **NIKOLIĆ** returned to the Orahovac School, he and Birčaković drove to the IKM, right past the execution site. This was after the ULT loader left the School and started illuminating the execution site, but *long before* the executions finished, sometime close to midnight.<sup>1871</sup> It was around this time that [REDACTED] PW-101 saw **NIKOLIĆ** at the execution site.

749. **NIKOLIĆ** and Birčaković drove past the execution site around the time when Gojko Simić and the execution squad had moved down to the meadow by the “water point,” and were killing prisoners just metres from the road. Birčaković testified that while travelling to and from the IKM, he and **NIKOLIĆ** saw up to 50 dead bodies about five metres from the road some 50 metres from the water point.<sup>1872</sup> According to Birčaković, **NIKOLIĆ** said nothing when he saw these corpses;<sup>1873</sup> and Birčaković claimed that they did not stop the car, either on the way to the IKM or the way back.<sup>1874</sup>

750. At some point later in the evening, the last TAM truck arrived and the prisoners on board were executed.<sup>1875</sup> Afterwards, following some discussion about whether one of them would remain overnight, the Serb soldiers left the execution site.<sup>1876</sup>

751. Approximately 10 to 15 minutes later,<sup>1877</sup> Orić stood up and heard someone ask if he was wounded.<sup>1878</sup> That person identified himself as Hurem Suljić.<sup>1879</sup> Orić could also hear two wounded Muslims crying out in pain:

<sup>1864</sup> RISTIĆ, T.10067. At T.10141:8-9, RISTIĆ confirmed that Matić was a member of the 2<sup>nd</sup> Company.

<sup>1865</sup> RISTIĆ, T.10064. At T.10141:8-9, RISTIĆ confirmed that Trifković was a member of the 2<sup>nd</sup> Company.

<sup>1866</sup> RISTIĆ, T.10064, 10067.

<sup>1867</sup> [REDACTED].

<sup>1868</sup> [REDACTED].

<sup>1869</sup> [REDACTED] PW-110, T.722.

<sup>1870</sup> [REDACTED] PW-110, T.722-724. *See also* Exh. P02256 at T.5371, where Cvijetin RISTANOVIĆ confirmed that there was a corn field near the execution site.

<sup>1871</sup> *See paras. 750-752.*

<sup>1872</sup> M.BIRČAKOVIĆ, T.11042.

<sup>1873</sup> M.BIRČAKOVIĆ, T.11043.

<sup>1874</sup> INSERT REFERENCE.

<sup>1875</sup> [REDACTED] PW-169, T.17339.

<sup>1876</sup> ORIĆ, T.960. *See also* [REDACTED] PW-169, T.17339.

To our right side on the side, two other persons started crying out and moaning in pain. I came up to them and I saw that both of them were wounded. They were riddled with bullets, one of them in the stomach area and the other one in the legs. One of them was -- didn't have his shirt and said he was cold. So I took a shirt off a body and I put it on him. I told them that I couldn't help them, that I couldn't carry them because I could barely walk myself. So they said, "Okay, run away. If you can't help us, run away."<sup>1880</sup>

752. Orić could also see the grave that had been dug and the "Rovokopač" excavator and the ULT, which had been left behind, parked nearby.<sup>1881</sup> As Orić and Suljić moved into the forest, Orić looked back and could see the railway embankment and the meadow full of dead bodies.<sup>1882</sup> It was sometime after midnight.<sup>1883</sup>

753. Later that night, [REDACTED] PW-110 returned to the execution site as he tried to escape the area, [REDACTED]. Drago NIKOLIĆ and Milorad Birčaković had driven past this meadow earlier that evening, just metres away from where hundreds of dead and dying Muslims lay:

Let me tell you, the bodies were prostrated across the meadow. Most of the area was covered. I don't know how many bodies were there. There was a man who was barely alive who was separated away from the rest of the bodies. And the sounds he produced were not human sounds. They were more like animal sounds. And he was the only person who was a bit away from the rest of the group. The people -- the bodies that were there prostrated on that ground were either on their backs or on their bellies, but they were spread out. That's how they had fallen when they were shot.<sup>1884</sup>

754. The next morning, Mevludin Orić and Hurem Suljić met Smail Hodjić, who had also survived the Orahovac executions.<sup>1885</sup> A few days later, these three survivors arrived in Muslim-held territory at Nežuk.<sup>1886</sup>

### **Burials.**

755. Three engineering machines operated at Orahovac on 14 July: a large "Rovokopač" single-grab backhoe excavator,<sup>1887</sup> an ULT 220 loader,<sup>1888</sup> and a smaller "Rovokopač" Torpedo excavator.<sup>1889</sup> In addition, a Zvornik Brigade Mercedes 2626 truck

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<sup>1877</sup> ORIĆ, T.961.

<sup>1878</sup> ORIĆ, T.963; [REDACTED].

<sup>1879</sup> ORIĆ, T.964; [REDACTED].

<sup>1880</sup> ORIĆ, T.963.

<sup>1881</sup> ORIĆ, T.964, 966. See also Exh. P02093, which is a sketch of the excavator and the ULT which Orić saw at the execution site.

<sup>1882</sup> ORIĆ, T.967.

<sup>1883</sup> ORIĆ, T.968.

<sup>1884</sup> [REDACTED] PW-110, T.724-725.

<sup>1885</sup> ORIĆ, T.969; [REDACTED].

<sup>1886</sup> ORIĆ, T.970; [REDACTED].

<sup>1887</sup> See paras 692-698.

<sup>1888</sup> Exh. P02093; [REDACTED] PW-169, T.17339-17338; [REDACTED]; M.BIRČAKOVIĆ, T.11041.

See also paras. 743-744 and 752.

<sup>1889</sup> Exh. P00301, Zvornik Brigade Vehicle Log for Rovakopac Torpedo from Birac Holding.

towed an excavator to Križevići (next to Orahovac);<sup>1890</sup> and a Zvornik Brigade TAM 75 truck registered to an Engineering Company driver<sup>1891</sup> made two trips to Orahovac.<sup>1892</sup>

756. The large “Rovokopač” excavator backhoe arrived at Orahovac at around 12:00 hours.<sup>1893</sup> By 14:00 hours, the tactical intercepts show that another excavator was required (“come at Nedo’s inn *with the excavator.*”)<sup>1894</sup> The operation of a second excavator at Orahovac is confirmed by the Zvornik Brigade vehicle log for a “Rovokopač” Torpedo excavator, which is recorded as having operated at Orahovac for five hours on 14 July.<sup>1895</sup> Significantly, as with the “Rovokopač” backhoe excavator, the vehicle log for the Torpedo specifically states that the work at Orahovac was done for the VRS.<sup>1896</sup>

757. Cvijetin Ristanović claims that he did not see the Torpedo excavator at Orahovac on 14 July,<sup>1897</sup> while Damjan Lazarević<sup>1898</sup> and Miloš Mitrović<sup>1899</sup> both claimed that the Torpedo did not go to Orahovac that day. However, the vehicle log clearly shows that the Torpedo *was* at Orahovac; and both Lazarević and Mitrović implicitly acknowledged the accuracy of the vehicle log when they agreed that the Torpedo went to Kozluk on 16 July, as the vehicle log states.<sup>1900</sup> Mitrović’s claim that he did not go to Orahovac on 14 July<sup>1901</sup> is not credible. Mitrović was requested by name and removed from the front lines, at a time of great danger to the Zvornik area, for the specific purpose of going to Orahovac. It is implausible that he just stayed at the Engineering Company base for two days. It is also apparent why Mitrović did not admit to being at Orahovac but conceded his presence at Kozluk; because on 14 July he is likely to have witnessed executions at Orahovac and known the identity of the shooters, whereas the executions at Kozluk were finished by the time he arrived.

758. Mevludin Orić and Hurem Suljić escaped from the execution site sometime after midnight,<sup>1902</sup> after the last executions had happened and the Serb soldiers had left the site.

<sup>1890</sup> Exh. P00299, Zvornik Brigade Vehicle Log for Mercedes Mercedes 2626.

<sup>1891</sup> See Exh. P02260, Transcript of Ostoja STANOJEVIĆ - Case No. IT-02-60-T, 4 and 5 December 2003, at T.5675 where Stanojević stated that he was a member of the Engineering Company in July 1995.

<sup>1892</sup> Exh. P00298, T. Zvornik Brigade Vehicle Log for TAM 75 (M-5264) (1 July 1995 – 31 July 1995).

<sup>1893</sup> See paras. 692-698.

<sup>1894</sup> Exh. P02232, p.7; [REDACTED].

<sup>1895</sup> Exh. P00301, Zvornik Brigade Vehicle Log for Rovakopac Torpedo from Birac Holding.

<sup>1896</sup> Exh. P00301, at 0307-5486.

<sup>1897</sup> RISTANOVIĆ, T.13629-13630.

<sup>1898</sup> D.LAZAREVIĆ, T.14478.

<sup>1899</sup> M.MITROVIĆ, Exh. P02259, at T.5613.

<sup>1900</sup> D.LAZAREVIĆ, T.14478; M.MITROVIĆ, Exh. P02259, at T.5603 acknowledged that he took the Torpedo to Kozluk on 16 July.

<sup>1901</sup> M.MITROVIĆ, Exh. P02259, at T.5613.

<sup>1902</sup> ORIĆ, T.968.

Immediately before the Serb soldiers left, Orić heard them say that the burials would continue the following morning.<sup>1903</sup> Orić confirmed that the large “Rovokopač” backhoe excavator and the ULT loader were left at the first execution site that night.<sup>1904</sup>

759. The next day, the Zvornik Brigade Engineering Company Daily Order Log Book records that a BGH-700 and an ULT 220 were tasked with working at Orahovac that day.<sup>1905</sup> These are clearly the same vehicles -- the “Rovokopač” backhoe excavator and the ULT loader -- which Mevludin Orić testified were left overnight at the execution site. This entry in the Engineering Company Daily Order Log Book proves that these two machines continued to operate at Orahovac on 15 July with the knowledge and authority of the Zvornik Brigade. The likely reason why there were no orders recorded in the Log Book on 14 July in relation to their work at Orahovac is simply because the request for machines to go to Orahovac was made after the orders were posted.<sup>1906</sup>

760. The presence of the ULT 220 at Orahovac on 15 July is further confirmed by a Zvornik Brigade vehicle log which records that an ULT 220 performed five hours of work for the VRS at Orahovac that day.<sup>1907</sup> The registered driver, Veljko Kovačević, was not listed on the Zvornik Brigade Engineering Company roster in July 1995; however, Damjan Lazarević confirmed that once the machine was requisitioned, Kovčević “*would be made part of the company or the brigade.*”<sup>1908</sup> The Zvornik Brigade TAM 75 truck which made two trips to Orahovac on 14 July also made four trips to Orahovac on 15 July<sup>1909</sup> to provide personnel, fuel or other support to the operation.<sup>1910</sup>

761. On 16 July, the Engineering Company Daily Order Log Book again records that a BGH-700 and an ULT 220 were tasked with working at Orahovac that day.<sup>1911</sup> The same Mercedes 2626 truck which towed the excavator to Križevići on 14 July also records a trip to Orahovac on 16 July;<sup>1912</sup> most likely to collect the excavator and return it to the Engineering Company base<sup>1913</sup> from where it was taken to Branjevo the next day.<sup>1914</sup> Finally, the same Zvornik Brigade TAM truck which went to Orahovac on 14 and 15 July

<sup>1903</sup> ORIC, T.960:23-24.

<sup>1904</sup> ORIC, T.964, 966. See also Exh. P02093.

<sup>1905</sup> Exh. P00297, Zvornik Brigade Engineering Company Daily Orders Log Book, for the period 13 to 16 July 1995, at ERN 0084-6762.

<sup>1906</sup> Exh. P00686, at para.7.27.

<sup>1907</sup> Exh. P00302, Zvornik Brigade Vehicle Log for ULT 220 from Birac-Holding.

<sup>1908</sup> D.LAZAREVIĆ, T.14514 (emphasis added).

<sup>1909</sup> Exh. P00298, Zvornik Brigade Vehicle Log for TAM 75 (M-5264) (1 July 1995 – 31 July 1995).

<sup>1910</sup> Exh. P00686, at para.7.27.

<sup>1911</sup> Exh. P00297, Zvornik Brigade Engineering Company Daily Orders Log Book, for the period 13 to 16 July 1995.

<sup>1912</sup> Exh. P00299, Zvornik Brigade Vehicle Log for Mercedes 2626.

<sup>1913</sup> Exh. P00686, at para.7.27.

<sup>1914</sup> See Exh. P00300, Zvornik Brigade Vehicle Log for Rovakopač (C-3117).



made two trips between Orahovac to Kozluk on 16 July,<sup>1915</sup> most likely to move personnel or equipment between those sites.<sup>1916</sup>

762. The five vehicles associated with the burials at Orahovac received a total of **240** litres of D2 fuel on 14 and 15 July: the “Rovokopač” backhoe excavator (C-3117) received 40 litres on 14 July;<sup>1917</sup> the “Rovokopač” Torpedo excavator received 40 litres on 14 July;<sup>1918</sup> the Mercedes 2626 truck received 30 litres on 14 July;<sup>1919</sup> the TAM truck received 15 litres on 14 July and 15 litres on 15 July (in two dispersals of 10 and five litres, respectively);<sup>1920</sup> and the ULT 220 loader received 100 litres of fuel on 15 July (made up of two dispersals of 60 and 40 litres, respectively).<sup>1921</sup>

763. The Zvornik Brigade Fuel Dispersal Log shows that on 14 July, 200 litres of fuel were dispersed to the Engineering Company.<sup>1922</sup> The next day, a further 40 litres of fuel were dispersed to the Logistics Organ at Orahovac.<sup>1923</sup> This equals **240** litres of D2 fuel, the exact same amount recorded as being used by the five engineering vehicles which facilitated the burial of the prisoners murdered at Orahovac (*see* para. 762). This compelling evidence not only corroborates the accuracy of the vehicle logs associated with those five vehicles; but also emphasises the key contributions made by the Zvornik Brigade Engineering Company and Logistics Organ to the murder operation at Orahovac.

**Known Zvornik Brigade involvement at Orahovac on 14 July.**

764. The evidence has proven that the following Zvornik Brigade officers were present at the Orahovac School on 14 July: Drago **NIKOLIĆ**; Milorad Trbić; Sreten Milošević; and Miomir Jasikovac. Zvornik Brigade officers Dragan Jokić, Dragan Obrenović and Miladin Mijatović also authorised resources to be sent to Orahovac:

765. The following Zvornik Brigade MPs were present at the School on 14 July: Sladan Jokić; Milomir Simić; Milorad Birčaković; Nada Stojanović; Stanoje Birčaković; Ćedo Jović; Predrag Ristić; Želko Stevanović; Dragoje Ivanović; and Goran Bogdanović. Other Zvornik Brigade personnel present at the School on 14 July include: Sgt. Tanacko Tanić; Cpl. Lazar Ristić; Sgt. Gojko Simić; ten soldiers from the 4<sup>th</sup> Battalion; “Rajko,” a

<sup>1915</sup> Exh. P00298, Zvornik Brigade Vehicle Log for TAM 75 (M-5264) (1 July 1995 – 31 July 1995).

<sup>1916</sup> Exh. P00686, at para.7.27.

<sup>1917</sup> Exh. P00300, Zvornik Brigade Vehicle Log for Rovakopac (C-3117).

<sup>1918</sup> Exh. P00301, Zvornik Brigade Vehicle Log for Rovakopac Torpedo from Birac Holding.

<sup>1919</sup> Exh. P00299, Zvornik Brigade Vehicle Log for Mercedes 2626.

<sup>1920</sup> Exh. P00298, Zvornik Brigade Vehicle Log for TAM 75 (M-5264).

<sup>1921</sup> Exh. P00302, Zvornik Brigade Vehicle Log for ULT 220 from Birac-Holding.

<sup>1922</sup> Exh. P00281, Zvornik Brigade Fuel Dispersal Log, dated 7 February 1994 to 14 May 1996, at ERN 0327-6680.

<sup>1923</sup> Exh. P00281, at ERN 0327-6680.

driver from the 4<sup>th</sup> Battalion; [REDACTED] 3DW-PW10, [REDACTED]; and [REDACTED] PW-101, [REDACTED].

766. Zvornik Brigade personnel present at the Orahovac execution sites on 14 July: 2<sup>nd</sup> Lt. Drago **NIKOLIĆ**; Milorad Birčaković; Sgt. Gojko Simić; Slavko Bogičević, Deputy Commander of the Engineering Company; Cvijetin Ristanović, excavator operator; Milan Maksimović, driver; Risto Lazić, soldier who escorted the excavator; [REDACTED] PW-101, [REDACTED]; and Milovan Miladinović, excavator operator.

767. There were also numerous civilians around the School, on the street and in nearby houses at the time; so the civilian community was also fully aware of what was going on in Orahovac on 13, 14 and 15 July.

**(xlvii) 14 July 1995: Detention and murder of Muslim prisoners at the Petkovci School and the Petkovci Dam.**

768. The area of Petkovci falls within the zone of the Zvornik Brigade's 6<sup>th</sup> Battalion<sup>1924</sup> and was used as a detention, execution and primary burial site on 14 and 15 July. The Petkovci School, where the prisoners were detained, is approximately 600 to 800 metres away from the command post of the 6<sup>th</sup> Battalion;<sup>1925</sup> while the Petkovci Dam execution site and primary gravesite is less than two kilometres from the command post of the 6<sup>th</sup> Battalion.<sup>1926</sup>

**Between 10:00 and 12:00 hours, the Zvornik Brigade Duty Operations Officer told the Deputy Commander of the 6<sup>th</sup> Battalion that Muslim prisoners would be arriving at the Petkovci School.**

769. On the morning of 14 July, Marko Milošević, the Deputy Commander of the Zvornik Brigade's 6<sup>th</sup> Battalion,<sup>1927</sup> was at the command post of the 6<sup>th</sup> Battalion.<sup>1928</sup> Between 10:00 and 12:00 hours, Milošević received a telephone call over the secure wire military line<sup>1929</sup> from the Zvornik Brigade Duty Officer.<sup>1930</sup> The Duty Officer told Milošević that in approximately two hours time, some "imprisoned Muslims would be brought to the elementary school in Petkovci and that they would be accompanied by the

<sup>1924</sup> Exh. P00686, Revised Narrative Report by Richard Butler, at para. 7.28.

<sup>1925</sup> M.MILOŠEVIĆ, T.13318; O.STANISIC, T.11606. *See also* Exh. P02815, Aerial image of the village of Petkovci, marked by Ostoja STANISIC during proofing session on 13 May 2007, which shows the 6<sup>th</sup> Battalion Command (marked "1") and the Petkovci School (marked "2").

<sup>1926</sup> Exh. P00686, Revised Narrative Report by Richard Butler, at para. 7.28.

<sup>1927</sup> M.MILOŠEVIĆ, T.13299:12-13.

<sup>1928</sup> M.MILOŠEVIĆ, T.13300:10-12.

<sup>1929</sup> M.MILOŠEVIĆ, T.13342.

<sup>1930</sup> M.MILOŠEVIĆ, T.13300-13301.

security.”<sup>1931</sup> Major Dragan Jokić was the Duty Operations Officer on the morning of 14 July;<sup>1932</sup> thus, Jokić would have made the call to Marko Milošević. Around this time, Jokić also ordered Cvijetin Ristanović and the “Rovokopač” backhoe excavator to go to Orahovac where it started digging the first mass grave at that location around noon.<sup>1933</sup>

770. Approximately two hours later, Ostoja Stanišić, the Commander of the 6<sup>th</sup> Battalion, returned to the 6<sup>th</sup> Battalion Command.<sup>1934</sup> Marko Milošević informed him of the call from the Zvornik Brigade Duty Operations Officer.<sup>1935</sup> Stanišić testified that the prisoners were already in the School by this time.<sup>1936</sup>

771. As with Lazar Ristić, the Deputy Commander of the 4<sup>th</sup> Battalion, Ostoja Stanišić made a partial admission regarding the people and events relating to the murder operation at the School and the Dam, but clearly left out details which he felt would incriminate himself. Stanišić also claimed that Milošević told him that the prisoners were “allegedly to be exchanged;”<sup>1937</sup> however, Milošević said nothing about an exchange during his testimony and this was instead a clear attempt by Stanišić to minimise his own knowledge of, and involvement in, the murder operation.

**Prisoners arrived at the Petkovci School during the afternoon of 14 July.**

772. [REDACTED] PW-113 was captured on 13 July near Sandići then transferred to Bratunac where he spent the night on a truck.<sup>1938</sup> [REDACTED].<sup>1939</sup> The next morning, these trucks left Bratunac as part of a convoy led by an UNPROFOR APC.<sup>1940</sup> [REDACTED],<sup>1941</sup> then the convoy then departed towards Konjević Polje<sup>1942</sup>

<sup>1931</sup> M.MILOŠEVIĆ, T.13300-13301.

<sup>1932</sup> See Exh. P00377 at ERN 0293-5744-0293-5747.

<sup>1933</sup> See paras. 692-698.

<sup>1934</sup> M.MILOŠEVIĆ, T.13301:11-14. Note: Ostoja Stanišić testified that he returned to the 6<sup>th</sup> Battalion Command at approximate 17:00 or 18:00 hours, but Marko Milošević testified that he received an order from Stanišić between 16:00 and 17:00 hours to deliver a message to **BEARA** at the Petkovci School, so Stanišić’s appears to be mistaken about this time.

<sup>1935</sup> M.MILOŠEVIĆ, T.13301:11-14. Note: Ostoja Stanišić testified that he returned to the 6<sup>th</sup> Battalion Command at approximate 17:00 or 18:00 hours, but Marko Milošević testified that he received an order from Stanišić between 16:00 and 17:00 hours to deliver a message to **BEARA** at the Petkovci School, so Stanišić’s appears to be mistaken about this time.

<sup>1936</sup> O.STANISIC, T.11661.

<sup>1937</sup> O.STANISIC, T.11601.

<sup>1938</sup> [REDACTED] PW-113, Exh. P02280 at T.1381-1399.

<sup>1939</sup> [REDACTED].

<sup>1940</sup> [REDACTED] PW-113, Exh. P02280 at T.1399; [REDACTED].

<sup>1941</sup> [REDACTED].

<sup>1942</sup> [REDACTED] PW-113, Exh. P02280 at T.1400; [REDACTED].

[REDACTED].<sup>1943</sup> The trucks went through Zvornik, Karakaj, and arrived at the Petkovci School sometime in the afternoon.<sup>1944</sup>

**Conditions of detention were appalling and numerous prisoners were killed at the School.**

773. [REDACTED].<sup>1945</sup> The prisoners were ordered to jump off the trucks one by one, put their hands behind their head and chant aloud “Long live the Serb Republic” and “Srebrenica is Serb,” and then run to the School between two lines of approximately 20 Serb soldiers, dressed in camouflage uniforms,<sup>1946</sup> [REDACTED].<sup>1947</sup> Some of the prisoners remained on the trucks for up to an hour, shouting and screaming for water, before they were allowed off.<sup>1948</sup> Despite their pleas, the prisoners were given no water and one of them grew so desperate that he drank his own urine.<sup>1949</sup>

774. Once the prisoners reached the School building, they ran down five or six steps and into a corridor where Serb soldiers hit the prisoners as they ran past.<sup>1950</sup> The prisoners were then directed up a flight of stairs and along a corridor off which four or five classrooms were located.<sup>1951</sup> While the prisoners went up the stairs, one of the Serb soldiers made them repeat the following words: “This is Serbian land and will always remain so;” and “Srebrenica has always been Serbian and will continue to be that.”<sup>1952</sup>

775. [REDACTED].<sup>1953</sup> <sup>1954</sup> There were approximately 200 prisoners in the classroom,<sup>1955</sup> which were even more overcrowded than the lorries.<sup>1956</sup>

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<sup>1943</sup> [REDACTED].

<sup>1944</sup> [REDACTED]; [REDACTED] PW-113, Exh. P02280 at T.1401-1402. *See also* Exh. P01729, Photograph showing stairs which access the school at Petkovci, which [REDACTED] PW-113 recognised as the entrance of the Petkovci School (at T.3337); and Exh. P2103, Exhibits of Jean-Rene Ruez, at p.156-159.

<sup>1945</sup> [REDACTED].

<sup>1946</sup> [REDACTED] PW-113, Exh. P02280 at T.1403.

<sup>1947</sup> [REDACTED].

<sup>1948</sup> [REDACTED] PW-113, Exh. P02280 at T.1402.

<sup>1949</sup> [REDACTED] PW-113, Exh. P02280 at T.1402.

<sup>1950</sup> [REDACTED]; [REDACTED] PW-113, Exh. P02280 at T.1403-1404. *See also* Exh. P01729, Photograph showing stairs which access the school at Petkovci, which [REDACTED] PW-113 stated was where some of the beatings occurred as they ran into the School (at T.3337-3338).

<sup>1951</sup> [REDACTED]; [REDACTED] PW-113, Exh. P02280 at T.1405. *See also* Exh. P01730, Photograph of stairs inside the school at Petkovci, which [REDACTED] PW-113 recognised as the stairs inside the School which the prisoners ran up (at T.3338); and Exh. P01731, Hallway of first floor in Petkovci School, which [REDACTED] PW-113 recognised as the hallway outside the classrooms in which the prisoners were held (at T.3338).

<sup>1952</sup> [REDACTED] PW-113, Exh. P02280 at T.1402.

<sup>1953</sup> [REDACTED].

<sup>1954</sup> [REDACTED].

<sup>1955</sup> [REDACTED]; [REDACTED] PW-113, T.3359, [REDACTED].

<sup>1956</sup> [REDACTED] PW-113, Exh. P02280 at T.1406.

776. [REDACTED].<sup>1957 1958</sup> Another prisoner actually tried to open a window, and the Serb soldiers fired shots into the room, breaking the windows and leaving five or six prisoners with injuries from the gunfire and the broken glass.<sup>1959</sup> [REDACTED] PW-113's recollection of shooting inside one of the classrooms is corroborated by the subsequent discovery of marks consistent with bullet ricochets on the blackboard inside one of the classrooms.<sup>1960</sup>

777. The conditions in the classrooms were suffocating; the prisoners were very thirsty and had no toilet facilities.<sup>1961</sup> Many of the prisoners were soaked with urine,<sup>1962</sup> [REDACTED].<sup>1963</sup> At one point, the prisoners were given a very small and completely insufficient amount of water.<sup>1964</sup> At various points, Serb soldiers also came in and demanded money from the prisoners.<sup>1965</sup>

778. [REDACTED].<sup>1966</sup> In particular, prisoners from certain villages including Cerska, Konjević Polje and Glogova were called outside the classroom and the prisoners could hear beating and moaning sounds coming from the corridor outside.<sup>1967</sup> None of these prisoners returned.<sup>1968</sup> The recollection of both survivors that numerous prisoners were killed at the School is corroborated by the fact that on 15 July, two Zvornik Brigade trucks, a TAM 75 and a TAM 80, made a total of ten trips between Petkovci and the Dam.<sup>1969</sup> At least one of those trucks was used to take the bodies of murdered prisoners from the Petkovci School to the Dam.<sup>1970</sup>

**At approximately 16:00 or 17:00 hours, BEARA and NIKOLIĆ were at the crossroads near the School.**

779. At approximately 15:00 hours,<sup>1971</sup> Ostoja Stanišić, Commander of the Zvornik Brigade's 6<sup>th</sup> Battalion, personally received a call from the Zvornik Brigade Duty Officer, Major Dragan Jokić, who told Stanišić that "Colonel **BEARA** was supposed to be

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<sup>1957</sup> [REDACTED].

<sup>1958</sup> [REDACTED].

<sup>1959</sup> [REDACTED] PW-113, Exh. P02280 at T.1407.

<sup>1960</sup> Exh. P2103, Exhibits of Jean-Rene Ruez, at p.164-166.

<sup>1961</sup> [REDACTED] PW-113, Exh. P02280 at T.1406.

<sup>1962</sup> [REDACTED] PW-113, Exh. P02280 at T.1406.

<sup>1963</sup> [REDACTED].

<sup>1964</sup> [REDACTED] PW-113, Exh. P02280 at T.1406.

<sup>1965</sup> [REDACTED]; [REDACTED] PW-113, Exh. P02280 at T.1407.

<sup>1966</sup> [REDACTED].

<sup>1967</sup> [REDACTED] PW-113, Exh. P02280 at T.1408.

<sup>1968</sup> [REDACTED] PW-113, Exh. P02280 at T.1408.

<sup>1969</sup> Exh.P00945, 1.Zvlpbr Vehicle Log for TAM 75 (M-5329); Exh. P00303, Zvornik Brigade Vehicle Log for TAM 80 (M-5300) for the month of July 1995.

<sup>1970</sup> O.STANISIC, T.11611.

<sup>1971</sup> M.MILOŠEVIĆ, T.13336.

notified that he should report to the command,”<sup>1972</sup> and that **BEARA** could be found outside “the new school in Petkovci.”<sup>1973</sup> Stanišić attempted to clarify which command **BEARA** was to report to, to which Jokić replied: “Well, he knows well which command he’s supposed to report to.”<sup>1974</sup>

780. This conversation is consistent with the evidence in this case which has proven that the Zvornik Brigade Duty Operations Officer acted as a communications hub for the murder operation throughout this period. For example, on 14 July, the following messages were recorded in the Duty Operations Officer Notebook: “Colonel Salapura called – **Drago** and **BEARA** are to report to Golić;”<sup>1975</sup> “**BEARA** to call 155;”<sup>1976</sup> and “from **BEARA** – **Drago** to report Mane - Đukići.”<sup>1977</sup> Similar messages were passed through the Duty Operations Officer to **BEARA**, **NIKOLIĆ** and **POPOVIĆ** on 15<sup>1978</sup> and 16 July.<sup>1979</sup>

781. Following this phone call, Stanišić ordered his deputy, Marko Milošević, to go to the Petkovci School and find **BEARA** and deliver the message.<sup>1980</sup> Marko Milošević received those instructions at approximately 16:00 or 17:00 hours,<sup>1981</sup> and confirmed that the message he ultimately received from Stanišić to pass to **BEARA** was for him to “report to the brigade command.”<sup>1982</sup>

782. At the crossroads leading to the School, some 70 to 80 metres from the School itself,<sup>1983</sup> Milošević encountered Drago **NIKOLIĆ**, who Milošević knew from his

<sup>1972</sup> O.STANISIĆ, T.11601; M.MILOŠEVIĆ, T.13302-13303.

<sup>1973</sup> O.STANISIĆ, T.11604.

<sup>1974</sup> O.STANISIĆ, T.11601; [REDACTED]; M.MILOŠEVIĆ, T.13333-13334.

<sup>1975</sup> Exh. P00377 at ERN: 0293-5744.

<sup>1976</sup> Exh. P00377 at ERN: 0293-5751.

<sup>1977</sup> Exh. P00377 at ERN: 0293-5752.

<sup>1978</sup> Exh. P00377, “Communicate to **POPOVIĆ** that his proposal has been approved” (at ERN: 0293-5760); and “**Drago** and Lieutenant Colonel **POPOVIĆ** are to report to Major Golić early in the morning” (at ERN: 0293-5761).

<sup>1979</sup> Exh. P00377, “0855 Golić asked **POPOVIĆ** to call him and said that he can forget what he asked for and what he wrote about. He knows what he is supposed to do according to agreed procedure (Boss from Panorama 01. Message conveyed to **POPOVIĆ** at 0910” (at ERN: 0293-5763); “**BEARA** to call Panorama 155 at 0930” (at ERN: 0293-5763); “At 1115 hrs. It was reported from *Zlatar* that a triage of wounded and prisoners must be carried out (It was reported to **BEARA**)” (at ERN: 0293-5764); and “At 1400 hrs. **POPOVIĆ** requested a bus with a full tank and 500 liters of D2” (at ERN: 0293-5766).

<sup>1980</sup> O.STANISIĆ, T.11604; M.MILOŠEVIĆ, T.13302.

<sup>1981</sup> M.MILOŠEVIĆ, T.13303. Note: Stanišić testified that this “may have been between 1800 and 1900 hours;” however, Milošević actually went to the School and spoke with **BEARA** and **NIKOLIĆ**, thus his memory of the times is likely to be more accurate.

<sup>1982</sup> M.MILOŠEVIĆ, T.13302:6. At T.11604:22, Ostojica Stanišić described the message as **BEARA** “should report back to *his* command;” however, this was in the context of distinguishing it from the Battalion Command, so it is unlikely that Stanišić was referring to any specific command.

<sup>1983</sup> M.MILOŠEVIĆ, T.13304; Exh. 3DIC00134, Aerial photograph of the Petkovci School, on which Milošević marked where he saw Drago **NIKOLIĆ** and **BEARA**. See also Exh PIC00110, Aerial image of the Petkovci School marked by Ostojica Stanišić.

previous position as the security officer in the 1<sup>st</sup> Battalion.<sup>1984</sup> Significantly, during cross-examination of both Marko Milošević and Ostoja Stanišić, counsel for Drago **NIKOLIĆ** did not contest that this encounter occurred.<sup>1985</sup> Milošević asked Drago **NIKOLIĆ** whether anyone by the name “**BEARA**” was there, and **NIKOLIĆ** pointed out a person<sup>1986</sup> who Milošević described as approximately 60 years old with grey hair.<sup>1987</sup> This clearly matches the description of **BEARA** at the time.<sup>1988</sup> Milošević’s testimony is further corroborated by an entry in the Zvornik Brigade Duty Operations Officer Notebook which records that **BEARA** was going to Petkovci that day,<sup>1989</sup> [REDACTED].<sup>1990</sup> There can be no doubt that this individual was Col. Ljubiša **BEARA**.

783. Milošević approached **BEARA**, greeted him and then conveyed the message that **BEARA** was to contact “the Brigade.”<sup>1991</sup> This encounter lasted two or three minutes<sup>1992</sup> and **BEARA** did not say anything in response.<sup>1993</sup> In cross-examination, counsel for **BEARA** referred to this meeting as a “supposed encounter,” to which Milošević vehemently responded: “Well, it wasn’t a supposed encounter. *It was an encounter*, two or three minutes.”<sup>1994</sup>

784. Milošević also saw four or five MPs in camouflage uniforms and white belts with **BEARA** and **NIKOLIĆ**.<sup>1995</sup> Milošević claimed they were not Zvornik Brigade MPs because he did not recognise them;<sup>1996</sup> however, Milošević later conceded that he did not actually know all of the Zvornik Brigade MPs.<sup>1997</sup> The Petkovci School was within the Zvornik Brigade’s area of responsibility and the MPs were with Drago **NIKOLIĆ**; thus, these MPs would have been from the Zvornik Brigade or the Drina Corps MP Company.

785. Milošević also saw some soldiers, who he could not recognise, in camouflage and olive-drab uniforms providing security around the School;<sup>1998</sup> a blue Golf III car;<sup>1999</sup> and

<sup>1984</sup> M.MILOŠEVIĆ, T.13303 (*see also* T.13299, where Milošević testified that he had previously been the Assistant Commander for Security in the 1<sup>st</sup> Battalion); O.STANISIĆ, T.11605.

<sup>1985</sup> This was explicitly confirmed at T.11723:17-19, when counsel for Drago **NIKOLIĆ** stated: “Your Honours, in the course of cross-examination by this Defence team, this witness (Ostoja Stanišić) was never the object of any suggestion that he made anything up.”

<sup>1986</sup> M.MILOŠEVIĆ, T.13303.

<sup>1987</sup> M.MILOŠEVIĆ, T.13319.

<sup>1988</sup> *See e.g.*, Exh. P03636, Photograph showing Ljubiša **BEARA** and others.

<sup>1989</sup> P00377 at ERN 0293-5746.

<sup>1990</sup> [REDACTED].

<sup>1991</sup> M.MILOŠEVIĆ, T.13303.

<sup>1992</sup> M.MILOŠEVIĆ, T.13319.

<sup>1993</sup> M.MILOŠEVIĆ, T.13305.

<sup>1994</sup> M.MILOŠEVIĆ, T.13319 (emphasis added).

<sup>1995</sup> M.MILOŠEVIĆ, T.13303-13304; O.STANISIĆ, T.11605.

<sup>1996</sup> M.MILOŠEVIĆ, T.13305.

<sup>1997</sup> At T.13344, Milošević stated that he did not know all the MPs from the Zvornik Brigade.

<sup>1998</sup> M.MILOŠEVIĆ, T.13304; O.STANISIĆ, T.11605.

“a few” empty lorries and buses “down on the road.”<sup>2000</sup> The presence of empty trucks and buses and the deployment of soldiers around the School clearly indicate that the Muslim prisoners had already arrived from Bratunac and were inside the School.

786. After this, Milošević returned to the Battalion Command and briefed Ostoja Stanišić on what had happened,<sup>2001</sup> and Stanišić relayed this information about **BEARA** to the Zvornik Brigade Duty Operations Officer.<sup>2002</sup> That afternoon, Milošević and Stanišić could hear isolated shots and bursts of gunfire coming from the direction of the School.<sup>2003</sup> That night, Ostoja Stanišić also heard gunfire “in the depths, from the free territory.”<sup>2004</sup>

**Transport of prisoners to the execution site.**

787. [REDACTED].<sup>2005</sup> Outside the classroom, four or five Serb soldiers ordered the men to strip off their clothes down to their waist,<sup>2006</sup> take off their shoes,<sup>2007</sup> [REDACTED].<sup>2008</sup> [REDACTED].<sup>2009</sup> Forcing the men to discard their remaining personal belongings, as had happened in Orahovac earlier that day, is clear evidence that there would be no exchange and these men were to be murdered.

788. The prisoners were then forced to put their hands behind their backs and one of the Serb soldiers tied the prisoners’ hands together with [REDACTED]<sup>2010</sup> or some kind of “very sharp” thread.<sup>2011</sup> This is corroborated by the recovery of 24 ligatures (one made of nylon rope and 23 made of twine) from primary and secondary grave sites associated with the murder of prisoners detained at the Petkovci School.<sup>2012</sup> The prisoners were then

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<sup>1999</sup> M.MILOŠEVIĆ, T.13305.

<sup>2000</sup> M.MILOŠEVIĆ, T.13305; O.STANISIĆ, T.11605.

<sup>2001</sup> M.MILOŠEVIĆ, T.13303.

<sup>2002</sup> O.STANISIĆ, T.11650; M.MILOŠEVIĆ, T.13306, 13330.

<sup>2003</sup> M.MILOŠEVIĆ, T.13307; O.STANISIĆ, T.11607.

<sup>2004</sup> O.STANISIĆ, T.11608.

<sup>2005</sup> [REDACTED].

<sup>2006</sup> [REDACTED]; [REDACTED] PW-113, Exh. P02280 at T.1409. *See also* Exh. P01731, Hallway of first floor in Petkovci School, which [REDACTED] PW-113 recognised as the hallway where the prisoners were forced to take off their clothes (at T.3338).

<sup>2007</sup> [REDACTED]; [REDACTED] PW-113, Exh. P02280 at T.1409.

<sup>2008</sup> [REDACTED].

<sup>2009</sup> [REDACTED].

<sup>2010</sup> [REDACTED].

<sup>2011</sup> [REDACTED] PW-110, Exh. P02280 at T.1409. *See also* Exh. P01731, Hallway of first floor in Petkovci School, which [REDACTED] PW-113 recognised as the hallway where the prisoners had their hands tied (at T.3338).

<sup>2012</sup> *See* Exh. P00649, Dean Manning’s report titled “Summary of Forensic Evidence - Execution Points and Mass Graves,” which shows that **1** ligature was recovered from the Dam (ERN: 0095-0967 and 0095-1024) and **23** ligatures from Liplje 2, 14 of which were associated with parts of the hand or forearm and 9 directly associated with bodies (ERN: 0095-0971 and 0095-1025).



pushed into another classroom along the corridor, which contained other ligatured prisoners.<sup>2013</sup>

789. [REDACTED].<sup>2014</sup> <sup>2015</sup> The prisoners then ran out the door with a group of prisoners and down the steps.<sup>2016</sup> [REDACTED],<sup>2017</sup> [REDACTED] PW-113 could also feel something sticking to his feet.<sup>2018</sup> [REDACTED],<sup>2019</sup> [REDACTED] PW-113 could feel dead bodies in front of the School.<sup>2020</sup>

790. [REDACTED].<sup>2021</sup> The prisoners could see a truck which had reversed up in front of the School.<sup>2022</sup> The prisoners, [REDACTED],<sup>2023</sup> then climbed up a ramp into the truck,<sup>2024</sup> [REDACTED].<sup>2025</sup> [REDACTED],<sup>2026</sup> [REDACTED] could not sit down because the truck was so full.<sup>2027</sup> [REDACTED].<sup>2028</sup> At least one prisoner was shot on the truck.<sup>2029</sup>

791. When the truck left the School, it travelled along an asphalt road<sup>2030</sup> and then a dirt road for approximately 10-15 minutes.<sup>2031</sup> When it stopped, the prisoners could hear heavy bursts of fire<sup>2032</sup> and yelling.<sup>2033</sup> [REDACTED],<sup>2034</sup> [REDACTED].<sup>2035</sup>

### **The executions**

792. [REDACTED].<sup>2036</sup> As [REDACTED] PW-113 waited on the truck, another prisoner who had managed to free himself asked [REDACTED] PW-113 if he wanted to

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<sup>2013</sup> [REDACTED]; [REDACTED] PW-113, Exh. P02280 at T.1409.

<sup>2014</sup> [REDACTED].

<sup>2015</sup> [REDACTED].

<sup>2016</sup> [REDACTED]; [REDACTED] PW-113, Exh. P02280 at T.1415.

<sup>2017</sup> [REDACTED].

<sup>2018</sup> [REDACTED] PW-113, Exh. P02280 at T.1415.

<sup>2019</sup> [REDACTED].

<sup>2020</sup> [REDACTED] PW-113, Exh. P02280 at T.1415.

<sup>2021</sup> [REDACTED].

<sup>2022</sup> [REDACTED]; [REDACTED] PW-113, Exh. P02280 at T.1415.

<sup>2023</sup> [REDACTED].

<sup>2024</sup> [REDACTED] PW-113, Exh. P02280 at T.1416.

<sup>2025</sup> [REDACTED].

<sup>2026</sup> [REDACTED].

<sup>2027</sup> [REDACTED]; [REDACTED] PW-113, Exh. P02280 at T.1416.

<sup>2028</sup> [REDACTED].

<sup>2029</sup> [REDACTED]; [REDACTED] PW-113, Exh. P02280 at T.1416.

<sup>2030</sup> [REDACTED] PW-113, Exh. P02280 at T.1416.

<sup>2031</sup> [REDACTED] PW-113, Exh. P02280 at T.1417; [REDACTED].

<sup>2032</sup> [REDACTED] PW-113, Exh. P02280 at T.1417.

<sup>2033</sup> [REDACTED]; [REDACTED] PW-113, Exh. P02280 at T.1416.

<sup>2034</sup> [REDACTED].

<sup>2035</sup> [REDACTED]. See also Exh. P01737, Photograph of the Dam, which [REDACTED] PW-113 recognised as the place where the prisoners were taken and the executions carried out (at T.3338); and Exh. P2103, Exhibits of Jean-Rene Ruez, at p.169-184.

<sup>2036</sup> [REDACTED].

be untied but [REDACTED] PW-113 declined, stating that: “We understood that was the end, so there was no need.”<sup>2037</sup>

793. Once the prisoners disembarked from the truck, they were ordered to find a place and form a row.<sup>2038</sup> [REDACTED].<sup>2039</sup> The prisoners were ordered to lie down on the ground;<sup>2040</sup> then as the prisoners started to lie down,<sup>2041</sup> the soldiers opened fire [REDACTED].<sup>2042</sup>

794. [REDACTED];<sup>2043</sup> however, [REDACTED] PW-113 was less fortunate and was shot in the arm and the right side of his chest.<sup>2044</sup> [REDACTED] PW-113 then lay there, badly wounded, and watched as other groups of men were marched out and executed, during which time he was shot again, this time in the foot:

Well, they were still bringing out more groups in the second row to my right. But when the next row was being filled up and when they came somewhere behind me, when shooting started, that’s when I was hit in my foot. And the bullets were whizzing past me. They were whistling past. I was just twitching from that, and I was waiting to be hit.<sup>2045</sup>

795. The Serb soldiers then went around and systematically shot many of the dead and dying prisoners in the head.<sup>2046</sup> [REDACTED].<sup>2047</sup> [REDACTED] PW-113 was hit by stones or fragmentation ammunition when a wounded prisoner near him was shot in the head,<sup>2048</sup> and stated that he was in so much pain that he actually hoped to be killed:

As the others were killing, as others were being killed, I was praying that I be killed, too, because I was in terrible pain. But I dared not call out to them. So I just thought that my mother would never know where I was, as I was thinking that I’d like to die.<sup>2049</sup>

796. Sometime later, [REDACTED] PW-113 saw [REDACTED] move and the two men spoke and determined that the other was alive.<sup>2050</sup> After some time, [REDACTED] PW-113 managed to move closer to [REDACTED] and [REDACTED] PW-113 unsuccessfully tried to bite through the rope around [REDACTED] wrists.<sup>2051</sup> [REDACTED] then managed to untie [REDACTED] PW-113 ligatures,<sup>2052</sup> during which

<sup>2037</sup> [REDACTED] PW-113, Exh. P02280 at T.1417.

<sup>2038</sup> [REDACTED] PW-113, Exh. P02280 at T.1418; [REDACTED].

<sup>2039</sup> [REDACTED].

<sup>2040</sup> [REDACTED] PW-113, Exh. P02280 at T.1418; [REDACTED].

<sup>2041</sup> [REDACTED] PW-113, Exh. P02280 at T.1419.

<sup>2042</sup> [REDACTED].

<sup>2043</sup> [REDACTED].

<sup>2044</sup> [REDACTED] PW-113, Exh. P02280 at T.1419. -[REDACTED].

<sup>2045</sup> [REDACTED] PW-113, Exh. P02280 at T.1419. [REDACTED].

<sup>2046</sup> [REDACTED]; [REDACTED] PW-113, Exh. P02280 at T.1419.

<sup>2047</sup> [REDACTED].

<sup>2048</sup> [REDACTED] PW-113, Exh. P02280 at T.1420.

<sup>2049</sup> [REDACTED] PW-113, Exh. P02280 at T.1421.

<sup>2050</sup> [REDACTED] PW-113, Exh. P02280 at T.1421; [REDACTED] PW-113, T.3335; [REDACTED].

<sup>2051</sup> [REDACTED] PW-113, Exh. P02280 at T.1421.

<sup>2052</sup> [REDACTED] PW-113, Exh. P02280 at T.1421; [REDACTED] PW-113, T.3335; [REDACTED].

time they could hear and see the lights of an approaching machine so [REDACTED] walked, and [REDACTED] PW-113 crawled, over the top of the dead bodies into a concrete ditch next to the execution site.<sup>2053</sup> Once they were in the ditch, [REDACTED] PW-113 managed to untie [REDACTED]'s hands, and [REDACTED] bandaged [REDACTED] PW-113's wounds.<sup>2054</sup> From the execution site, the men could hear more strong bursts of fire.<sup>2055</sup> It was just before dawn on 15 July.<sup>2056</sup>

797. As soon as it grew light, [REDACTED] and [REDACTED] PW-113 tried to escape, but came across a large bulldozer with an armed guard, so they returned to the concrete ditch,<sup>2057</sup> [REDACTED].<sup>2058</sup> Later that morning, [REDACTED] and [REDACTED] PW-113 escaped in a different direction, and from a vantage point up a hill some 150 to 200 metres from the execution site, they watched an ULT loader arrive.<sup>2059</sup> This is corroborated by the the Zvornik Brigade Engineering Company Daily Order Log Book, which records that an ULT and an excavator were tasked with working at Petkovci that day.<sup>2060</sup>

798. [REDACTED].<sup>2061</sup> As of March 2009, the remains of **805** of these individuals have been identified in Petkovci Dam-related graves.<sup>2062</sup> [REDACTED].<sup>2063</sup>

799. The loader would scoop up 10 to 15 bodies and load them onto a tractor with a trailer, which would then leave for the burial site and return some 20 minutes later.<sup>2064</sup> [REDACTED].<sup>2065 2066 2067</sup>

800. [REDACTED] and [REDACTED] PW-113 finally escaped from the site and endured four traumatic days before reaching Muslim-held territory on 18 July.<sup>2068</sup>

<sup>2053</sup> [REDACTED] PW-113, Exh. P02280 at T.1421-1422; [REDACTED] PW-113, T.3335; [REDACTED].

<sup>2054</sup> [REDACTED]; [REDACTED] PW-113, Exh. P02280 at T.1422; [REDACTED] PW-113, T.3335.

<sup>2055</sup> [REDACTED]; [REDACTED] PW-113, Exh. P02280 at T.1422.

<sup>2056</sup> [REDACTED]; [REDACTED] PW-113, Exh. P02280 at T.1422.

<sup>2057</sup> [REDACTED]; [REDACTED] PW-113, Exh. P02280 at T.1423.

<sup>2058</sup> [REDACTED].

<sup>2059</sup> [REDACTED] PW-113, Exh. P02280 at T.1423; [REDACTED].

<sup>2060</sup> Exh. P00297, Zvornik Brigade Engineering Company Daily Orders Log Book, for the period 13 to 16 July 1995, at ERN 0084-6762.

<sup>2061</sup> [REDACTED].

<sup>2062</sup> See Exh. P04490, Report titled, "Update to the Summary of Forensic Evidence – Exhumation on the Graves Related to Srebrenica – March 2009," with public annexes A-C, by Dusan Janc, dated 13 March 2009, which shows that the remains of **18** individuals have been identified from the Dam near Petkovci; **156** from Liplje 1; **174** from Liplje 2; **57** from Liplje 3; **287** from Liplje 4; and **113** from Liplje 7. There are DNA connections between the Dam primary grave site these five secondary sites (see ERN: X019-4240).

<sup>2063</sup> [REDACTED].

<sup>2064</sup> [REDACTED]; [REDACTED] PW-113, Exh. P02280 at T.1423.

<sup>2065</sup> [REDACTED].

<sup>2066</sup> [REDACTED].

<sup>2067</sup> [REDACTED].

**On 15 July, the 6<sup>th</sup> Battalion sent soldiers and trucks to clean up the School.**

801. On 15 July, Ostoja Stanišić, Commander of the 6<sup>th</sup> Battalion, was at the front line when he received a call from the 6<sup>th</sup> Battalion communications who told him that some local villagers had asked for a truck in order to drive some dead bodies away.<sup>2069</sup> Stanišić claims that he gave his approval for the use of the truck but that was the extent of his knowledge;<sup>2070</sup> and that the following day, he saw Major Obrenović and told Obrenović that he was angry at having to send the lorry.<sup>2071</sup> [REDACTED].<sup>2072</sup>

802. [REDACTED] three significant pieces of evidence. First, Marko Milošević, the Deputy Commander of the 6<sup>th</sup> Battalion, testified that Ostoja Stanišić told Milošević that he had sent members of the 6<sup>th</sup> Battalion to clean up the Petkovci School.<sup>2073</sup> Second, the vehicle log for a Zvornik Brigade TAM 75 truck, logged out to Dragan Topalović (a 6<sup>th</sup> Battalion driver)<sup>2074</sup> and Vlado Josić (Ostoja Stanišić's driver),<sup>2075</sup> made four trips between Petkovci and the Dam on 15 July.<sup>2076</sup> Third, the vehicle log for a Zvornik Brigade TAM 80 truck, again logged out to Dragan Topalović and Vlado Josić, made six trips between Petkovci and the Dam on 15 July.<sup>2077</sup>

803. Ostoja Stanišić testified that he could not account for the entries in this latter vehicle log,<sup>2078</sup> claiming that he spoke with Vlado Josić and confirmed that the truck was in Srebrenica that entire day.<sup>2079</sup> However, the vehicle log is clear on its face, and Stanišić's untruthful testimony on this point provides the Trial Chamber with evidence that the contrary was in fact the truth, and that Stanišić and the 6<sup>th</sup> Battalion were involved in cleaning up, and covering up, the murder of prisoners at the Petkovci School.

804. On 15 July, Ostoja Stanišić received another phone call from an unknown security officer who informed him that additional prisoners were to be placed in the Petkovci

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<sup>2068</sup> [REDACTED]; [REDACTED] PW-113, T.3336-3337; [REDACTED] PW-113, Exh. P02280 at T.1423-1424.

<sup>2069</sup> O.STANISIĆ, T.11611-11612.

<sup>2070</sup> O.STANISIĆ, T. 11612:1-2.

<sup>2071</sup> O.STANISIĆ, T. 11612-11613.

<sup>2072</sup> [REDACTED] ].

<sup>2073</sup> M.MILOŠEVIĆ, T.13333:22-25 – 13334:1-7.

<sup>2074</sup> O.STANISIĆ, T.11613-11614.

<sup>2075</sup> O.STANISIĆ, T.11600.

<sup>2076</sup> Exh.P00945, 1.Zvlpbr Vehicle Log for TAM 75 (M-5329).

<sup>2077</sup> Exh. P00303, Zvornik Brigade Vehicle Log for TAM 80 (M-5300) for the month of July 1995.

<sup>2078</sup> O.STANISIĆ, T.11616:8-9.

<sup>2079</sup> O.STANISIĆ, T.11616:15-19.

School.<sup>2080</sup> Stanišić said this was not possible; and later heard that trucks had arrived at the School and then left in an unknown direction.<sup>2081</sup>

### **Burials**

805. The Zvornik Brigade Engineering Company Daily Order Log Book, signed by Damjan Lazarević, records that an ULT and an excavator were tasked with working at Petkovci on 15 July.<sup>2082</sup> Damjan Lazarević claimed to know nothing about these entries;<sup>2083</sup> however, the Log Book is clear on its face and accurately records the operation of the excavator and ULT at Orahovac on the same day (*see* para. 759). [REDACTED].<sup>2084</sup> Accordingly, it is clear that Lazarević's testimony was less than candid on this point and was a clear attempt to minimise his own knowledge of, and involvement in, the murder operation.

### **(xlvi) At 21:02 hours on 14 July, the Zvornik Brigade Duty Operations Officer informed BEARA that there were problems with the prisoners.**

806. At approximately 21:00 hours on 14 July, Major Jokić, the Duty Operations Officer, received an urgent message that **BEARA** should call "155."<sup>2085</sup> "155" was the extension number for the Chief of Staff of the VRS Main Staff, General Milovanović,<sup>2086</sup> who was absent from the Main Staff on 14 July.<sup>2087</sup>

807. Gen. **MILETIĆ** "stood in" for Milovanović that day, as evidenced by the VRS Main Staff Daily Combat Report which **MILETIĆ** type-signed as "Standing in for the Chief of Staff."<sup>2088</sup> [REDACTED].<sup>2089</sup> The fact that **MILETIĆ**, or someone from his Sector for Operations and Training, left a message for **BEARA** at the Zvornik Brigade shows that **MILETIĆ** and his Operations staff knew **BEARA** had been in the Zvornik area that day. The only reason why **BEARA** was in the Zvornik area was to oversee the murder operation. Thus, **MILETIĆ**, and the Main Staff, must also have known about, and been involved in the coordination of, the murder operation at this time.

<sup>2080</sup> O.STANISIĆ, T.11624.

<sup>2081</sup> O.STANISIĆ, T.11624.

<sup>2082</sup> Exh. P00297, Zvornik Brigade Engineering Company Daily Orders Log Book, for the period 13 to 16 July 1995, at ERN 0084-6762.

<sup>2083</sup> D.LAZAREVIĆ, T. 14471-14472.

<sup>2084</sup> [REDACTED].

<sup>2085</sup> Exh. P00377 at ERN 0293-5751; Exh. P01164(a), intercept dated 14 July at 21:02 hours.

<sup>2086</sup> MILOVANOVIĆ, T.12215; Exh. P03176, Telephone Directory from Main Staff of the Republika Srpska Army from August 1995.

<sup>2087</sup> MILOVANOVIĆ, T.12213 "Save for the 20th June, when we saw Živanović off, I was not in staff."

<sup>2088</sup> Exh. P00048, VRS Main Staff Daily Combat Report 03/3-195, dated 14 July 1995, which noted that the Drina Corps, particularly the Milići Brigade, the Bratunac Brigade and the Skelani Independent Battalion, were "receiving a large number of Muslim fugitives who are surrendering to them."

<sup>2089</sup> [REDACTED].

808. At 21:02 hours, Major Jokić contacted **BEARA**, who was at the Bratunac Brigade HQ, to pass on this message.<sup>2090</sup> Significantly, Jokić also informed **BEARA** that: “We have huge problems over here...There are big problems. Well with the people, I mean, with the parcel.”<sup>2091</sup> Given Jokić’s knowledge of the prisoners detained at Orahovac, Petkovci, Ročević and Pilica,<sup>2092</sup> the “people” to whom Jokić referred were the prisoners. The reference to “the parcel” was a coded reference to those same prisoners.

809. **BEARA**’s response was not noted, then Jokić stated: “Who? Drago is nowhere around. I don’t know where the others are all day.”<sup>2093</sup> Given that Drago **NIKOLIĆ** had spent much of the day overseeing the detention and murder of prisoners at Orahovac, as well as meeting with **BEARA** at the Zvornik Brigade HQ that morning and near the Petkovci School that afternoon, the reference to “Drago” would have been a reference to Drago **NIKOLIĆ**. Accordingly, Major Jokić’s report to **BEARA** about problems with the prisoners, and the reference to Drago **NIKOLIĆ** in the same context, indicates that both **BEARA** and **NIKOLIĆ** were involved in coordinating and overseeing the ongoing detention and murder of the prisoners at this time.

**(xlix) 14-15 July: Murder of over 1,000 Muslims at the Ročević School and Kozluk.**

810. The area of Ročević is located in the Zvornik Brigade’s area of responsibility<sup>2094</sup> and was used as a detention and execution site on 14 and 15 July. A number of prisoners were murdered at the School itself; however, most of the prisoners were executed and buried at Kozluk, which also falls within the Zvornik Brigade’s area of responsibility<sup>2095</sup> and hosted the Zvornik Brigade’s rear base and the barracks of the “Podrinje Detachment” (Drina Wolves).<sup>2096</sup> DNA evidence has shown that as of March 2009, the remains of **1040** victims have been identified in mass-graves related to the Ročević / Kozluk executions.<sup>2097</sup>

<sup>2090</sup> Exh. P01164(a), intercept dated 14 July at 21:02 hours.

<sup>2091</sup> Exh. P01164(a), intercept dated 14 July at 21:02 hours.

<sup>2092</sup> Jokić sent an excavator to Orahovac that morning; passed on messages to **BEARA** and **NIKOLIĆ** at Petkovci during the afternoon; was the duty operations officer at the time when Srećko Aćimović called about the prisoners in Ročević; and received a delegation from Pilica just before he spoke with **BEARA** at 21:02 hours (see Exh. P00377 at ERN: 0293-5751).

<sup>2093</sup> Exh. P01164(a), intercept dated 14 July at 21:02 hours.

<sup>2094</sup> S.AĆIMOVIĆ, T.12931 (Aćimović described it as the “area of defence.”)

<sup>2095</sup> Prosecution Adjudicated Fact 465.

<sup>2096</sup> Exh. P00686 at para. 7.53.

<sup>2097</sup> See Exh. P04490, Report titled, “Update to the Summary of Forensic Evidence – Exhumation on the Graves Related to Srebrenica – March 2009,” with public annexes A-C, by Dusan Janc, dated 13 March 2009, which shows that the remains of **332** individuals have been identified at Kozluk; **112** at Čančari Road 2; **138** at Čančari Road 3; **10** at Čančari Road 4; **283** at Čančari Road 5; **104** at Čančari Road 7; and **61** at

811. Unlike the other large detention / execution sites at Kravica, Orahovac, Petkovci and Pilica, there are no known Muslim survivors from the Ročević School detention site or the Kozluk executions. Thus, the eyewitness evidence of what occurred at Ročević and Kozluk is almost entirely comprised of testimony from former Zvornik Brigade soldiers and MPs who were heavily involved in these events including 2<sup>nd</sup> Battalion members Srećko Aćimović, Dragan Jović and Veljko Ivanović; MPs [REDACTED] PW-142, [REDACTED] PW-165, [REDACTED] PW-143, Stanoje Birćaković and Dragoje Ivanović; and Engineering Company members Damjan Lazarević and Miloš Mitrović. Bratunac Brigade MP Mile Janjić and shooter [REDACTED] PW-174 also gave evidence about the Ročević / Kozluk executions.

812. While each of these witnesses made partial admissions regarding the people and events relating to the murder operation at Ročević and Kozluk, most of them left out details which they felt would incriminate themselves. This is particularly true in the case of Srećko Aćimović, who clearly left out details regarding the length of time he spent at the Ročević School on 15 July and the extent to which 2<sup>nd</sup> Battalion personnel under his (and Vinko **PANDUREVIĆ**'s) command and control were involved in the detention, transportation and execution of the prisoners held there.

813. The most reliable evidence regarding the Ročević / Kozluk executions came from three particular witnesses. First, [REDACTED] PW-174 admitted to shooting at prisoners at the execution site and had no obvious reason to lie. Second, MP [REDACTED] PW-142 was clearly more candid than the other MP witnesses regarding the events at the Ročević School. [REDACTED]<sup>2098</sup>. Third, 2<sup>nd</sup> Battalion driver Veljko Ivanović was more candid about his role in the transport and execution of the prisoners than his fellow driver Dragan Jović, who left out significant details regarding his own role in the executions.

814. The following admissions are reliable and important evidence of what occurred at the Ročević School and Kozluk and constitute clear proof that the detention, transport, execution and burial of these prisoners was coordinated and carried out by significant elements of the Zvornik Brigade, well after Vinko **PANDUREVIĆ** had returned from Žepa to the Zvornik Brigade's area of responsibility. First, Srećko Aćimović, Dragan Jović, Veljko Ivanović and the Zvornik Brigade MPs admitted to being at or near the

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Čančari Road 13. Čančari Road 2, 3, 7 and 13 are linked with the Kozluk primary grave via DNA connections (ERN: X019-4240); while Čančari Road 4 and 5 both contain pieces of green glass which was also located at the Kozluk primary grave site (ERN: X019-4245-X019-4246).

<sup>2098</sup> [REDACTED].

Ročević School on 15 July. Second, MPs [REDACTED] PW-142 and [REDACTED] PW-165 admitted to the guarding the School and setting up a checkpoint to regulate traffic near the School, respectively. Third, Veljko Ivanović admitted transporting the ammunition used in the executions from the Zvornik Brigade HQ to the Ročević School. Fourth, Veljko Ivanović and Dragan Jović admitted to transporting the prisoners from the Ročević School to the execution site at Kozluk. Fifth, [REDACTED] PW-174 admitted to being transported by 2<sup>nd</sup> Battalion driver Dragan Jović to the execution site and given a gun by Jović with which [REDACTED] PW-174 shot at prisoners. Sixth, Engineering Company members Damjan Lazarević and Miloš Mitrović admitted to participating in the burial of the murdered Muslims at Kozluk.

**Prisoners arrived at the School on 14 July.**

815. Prisoners arrived at the Ročević School sometime during the day on 14 July.<sup>2099</sup> Given that thousands of prisoners were transported from the Bratunac area on the morning of 14 July, it is likely that part of this convoy was sent to Ročević as not all of the Muslim prisoners could fit in the schools at Orahovac and Petkovci.

816. [REDACTED],<sup>2100</sup> which corresponds with the forensic evidence that the remains of 1040 individuals have been identified in Kozluk-related graves.<sup>2101</sup> [REDACTED].<sup>2102</sup> During the day, a number of prisoners were killed in front of the School,<sup>2103</sup> and a local Serb woman in Ročević was wounded by a stray bullet from an infantry weapon during those killings.<sup>2104</sup>

817. Between 20:00 and 21:00 hours, Srećko Aćimović went to the Ročević School and saw the prisoners.<sup>2105</sup> [REDACTED].<sup>2106</sup>

818. Aćimović testified that he did not recognise the soldiers who were guarding the prisoners;<sup>2107</sup> which is likely due to the presence of Bratunac Brigade soldiers and MPs at the School during this period (*see* paras. 819-819). According to Aćimović, he stayed at the School for approximately half an hour and then went to the Zvornik Brigade's rear

<sup>2099</sup> Srećko Aćimović visited the School the day before the Kozluk executions and the prisoners were already at the School. This is clearly 14 July. Moreover, aside from one convoy of prisoners which arrived at Orahovac late on the night of 13 July, the evidence in this case has shown that the vast majority of the prisoners were moved from Bratunac to Zvornik on the morning of 14 July.

<sup>2100</sup> [REDACTED].

<sup>2101</sup> *See* para. 810.

<sup>2102</sup> [REDACTED].

<sup>2103</sup> S.AĆIMOVIĆ, T.12941; D.JOVIĆ, T.18050; M.LAZAREVIĆ, T.13367:17-19.

<sup>2104</sup> S.AĆIMOVIĆ, T.12935, 12941; D.JOVIĆ, T.18050; M.LAZAREVIĆ, T.13367:17-19.

<sup>2105</sup> S.AĆIMOVIĆ, T.12935; M.LAZAREVIĆ, T.13366.

<sup>2106</sup> [REDACTED].

<sup>2107</sup> S.AĆIMOVIĆ, T.12936; M.LAZAREVIĆ, T.13366.



base in Kozluk where he called the Zvornik Brigade Duty Operations Officer<sup>2108</sup> and asked to speak with the Commander or the Chief of Staff.<sup>2109</sup> The Duty Operations Officer informed Aćimović that the Commander and Chief of Staff were both absent,<sup>2110</sup> which accurately reflects the situation at the time because **PANDUREVIĆ** was still near Žepa while Obrenović was in the field near Snagovo. The Duty Operations Officer then put Aćimović on the telephone with Vujadin **POPOVIĆ**.<sup>2111</sup> Aćimović informed **POPOVIĆ** that prisoners were being killed in front of the School and, according to Aćimović, **POPOVIĆ** told him to calm down and that the prisoners were to be exchanged the next morning.<sup>2112</sup> It is extremely doubtful that **POPOVIĆ** would have tried to mislead Srećko Aćimović by telling him that the prisoners were to be exchanged. Instead, it is much more likely that this comment by Aćimović was an attempt to minimise his own knowledge of, and involvement in, the murder of those prisoners.

**At around 10:00 hours on 15 July, Srećko Aćimović went to the School and met with POPOVIĆ.**

819. Srećko Aćimović returned to the Ročević School at approximately 10:00 hours on 15 July.<sup>2113</sup> Aćimović was driven by Dragan Jović.<sup>2114</sup> When Aćimović and Jović arrived at the School, Jović saw an UNPROFOR APC in the School yard<sup>2115</sup> and some Bratunac Brigade MPs.<sup>2116</sup>

820. This is corroborated by the evidence of Bratunac Brigade MP Mile Janjić, who testified that on the late afternoon of 14 or 15 July,<sup>2117</sup> he went to the Ročević School with six or seven other Bratunac Brigade MPs including Milovan Mitrović, Slobodan Milatović and Mladen Blagojević.<sup>2118</sup> When Janjić arrived, he saw a UN APC, the Bratunac Brigade MP Commander Mirko Janković, Bratunac Brigade MP Zoran Živanović and 10 to 15 soldiers from the 1<sup>st</sup> and 2<sup>nd</sup> Battalions of the Bratunac

<sup>2108</sup> S.AĆIMOVIĆ, T.12937; M.LAZAREVIĆ, T.13368:24 – 13369:1, 13369:16-21.

<sup>2109</sup> S.AĆIMOVIĆ, T.12938; M.LAZAREVIĆ, T.13368:24 – 13369:1, 13369:16-21.

<sup>2110</sup> S.AĆIMOVIĆ, T.12939-12940; M.LAZAREVIĆ, T.13369:1-5, 13369:16-21.

<sup>2111</sup> S.AĆIMOVIĆ, T.12939-12940; M.LAZAREVIĆ, T.13369:1-5, 13369:16-21.

<sup>2112</sup> S.AĆIMOVIĆ, T.12940; M.LAZAREVIĆ, T.13369:1-5, 13369:16-21.

<sup>2113</sup> S.AĆIMOVIĆ, T.12957; D.JOVIĆ, T.18051-18052; M.LAZAREVIĆ, T.12279.

<sup>2114</sup> D.JOVIĆ, T.18051, 18076:8-14.

<sup>2115</sup> D.JOVIĆ, T.18052.

<sup>2116</sup> D.JOVIĆ, T.18053.

<sup>2117</sup> At T.17948, Janjić could not recall whether he went to Ročević on 14 or 15 July. At T.17953, Janjić stated that the School was full of prisoners and vehicles were supposed to come and transport the prisoners to Teočak, which indicates that it could be 14 July. However, at T.17956, Janjić testified that the APC left while he was there, and the APC is known to have been present on the morning of 15 July, which indicates that it could be 15 July.

<sup>2118</sup> M.JANJIĆ, T.17948-17949.

Brigade.<sup>2119</sup> Janjić claimed that he and his colleagues only stayed at the School for 10 to 20 minutes<sup>2120</sup> and that Mirko Janković also left the School during the time he was there.<sup>2121</sup> However, according to Dragan Jović, a number of Bratunac Brigade MPs remained at the School and escorted the first group of prisoners to the execution site;<sup>2122</sup> thus, Janjić was either mistaken on this point or attempting to minimise his own involvement, and that of his colleagues, in the Ročević / Kozluk murders.

821. According to Aćimović, he met Vujadin **POPOVIĆ**, who was armed with a pistol,<sup>2123</sup> in front of the School.<sup>2124</sup> Aćimović testified that there were at least 12 corpses lying on the grass outside the School.<sup>2125</sup> **POPOVIĆ** also would have seen these bodies. Aćimović and **POPOVIĆ** then proceeded to an office on the first floor of the School.<sup>2126</sup> Aćimović asked that the door to an office with a phoneline be opened, so Dragan Jović got the keys from the school secretary, Boro Lakić.<sup>2127</sup> Dragan Jović testified that he saw Aćimović go into the office but did not see Aćimović meet a senior officer outside the School<sup>2128</sup> and did not see anyone aside from Aćimović enter the office.<sup>2129</sup> However, Jović did not enter the office himself (he stayed 20-30 metres away from the office)<sup>2130</sup> and only stayed there a short period of time before going home for approximately 40 minutes to one hour.<sup>2131</sup>

822. Aćimović testified that **POPOVIĆ** then asked him why he had not brought any men,<sup>2132</sup> and threatened Aćimović that he would be held responsible for not following orders.<sup>2133</sup> Given the speed and efficiency with which the over 1,000 prisoners at the Ročević School were transported and executed, it is unlikely that Aćimović mounted much, if any, real resistance to **POPOVIĆ**'s demands. Instead, it is much more likely that Aćimović hid the true nature of his conversation with **POPOVIĆ** in an attempt to place his own actions and presence at the School in the most favourable light possible.

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<sup>2119</sup> M.JANJIĆ, T.17951-17952.

<sup>2120</sup> M.JANJIĆ, T.17955.

<sup>2121</sup> M.JANJIĆ, T.17954.

<sup>2122</sup> D.JOVIĆ, T.18083:4-9.

<sup>2123</sup> S.AĆIMOVIĆ, T.12986:9-11.

<sup>2124</sup> S.AĆIMOVIĆ, T.12958.

<sup>2125</sup> S.AĆIMOVIĆ, T.12958.

<sup>2126</sup> S.AĆIMOVIĆ, T.12958.

<sup>2127</sup> D.JOVIĆ, T.18052.

<sup>2128</sup> D.JOVIĆ, T.18073.

<sup>2129</sup> D.JOVIĆ, T.18074.

<sup>2130</sup> D.JOVIĆ, T.18074:2-4.

<sup>2131</sup> D.JOVIĆ, T.18054.

<sup>2132</sup> S.AĆIMOVIĆ, T.12958.

<sup>2133</sup> S.AĆIMOVIĆ, T.12959.

823. Aćimović testified that **POPOVIĆ** then called the Brigade and asked for vehicles to be sent to transport the prisoners.<sup>2134</sup> Around this time, Aćimović also called the Zvornik Brigade and left an order with Radislav Pantić for 2<sup>nd</sup> Battalion driver Veljko Ivanović to bring three crates of ammunition to the School (*see* para. 832).

824. Dragan Jović testified that he returned to the School around an hour after he left,<sup>2135</sup> and Srećko Aćimović asked Jović to go and see a certain “Drašković,” whose brother had been killed earlier in the war, to see if he wanted to execute prisoners.<sup>2136</sup> Aćimović told Jović: “We have to do that. It’s an order, the order must be carried out.”<sup>2137</sup> Jović then went to see Drašković, who according to Jović declined the invitation.<sup>2138</sup> [REDACTED].<sup>2139</sup>

**Between 10:00 and 12:00 hours on 15 July, Zvornik Brigade MPs were deployed to the School.**

825. Between approximately 10:00 and 12:00 hours on 15 July, Lt. Jasikovac ordered a number of Zvornik Brigade MPs including [REDACTED],<sup>2140</sup> Dragoje Ivanović,<sup>2141</sup> [REDACTED]<sup>2142</sup> and Stanoje Birčaković<sup>2143</sup> to go to the school in Ročević to secure the facilities and prisoners being held there.<sup>2144</sup> [REDACTED] PW-142 testified that the MPs were immediately assigned to secure the facilities because there were a lot of angry people outside the school.<sup>2145</sup> This is corroborated by the evidence of [REDACTED] PW-174, who testified that he saw MPs and soldiers when he arrived at the School, some of whom were lying down with machine guns pointed towards the entrance of the School.<sup>2146</sup>

826. [REDACTED].<sup>2147</sup> [REDACTED] PW-142 [REDACTED] stated that when the MPs arrived at the School, the bodies of “a couple” of dead prisoners in mostly civilian

<sup>2134</sup> S.AĆIMOVIĆ, T.12966.

<sup>2135</sup> D.JOVIĆ, T.18054.

<sup>2136</sup> D.JOVIĆ, T.18056-18057.

<sup>2137</sup> D.JOVIĆ, T.18057:3-4.

<sup>2138</sup> D.JOVIĆ, T.18057.

<sup>2139</sup> [REDACTED].

<sup>2140</sup> [REDACTED].

<sup>2141</sup> D.IVANOVIĆ, T.14553.

<sup>2142</sup> [REDACTED].

<sup>2143</sup> S.BIRČAKOVIĆ, T.10760.

<sup>2144</sup> [REDACTED]; S.BIRČAKOVIĆ, T.10760; At T.14553, Dragoje Ivanović testified that he was picked up from the Karakaj bridge en route to the Ročević School.

<sup>2145</sup> [REDACTED] PW-142, T.6461.

<sup>2146</sup> [REDACTED] PW-174, T.32704:9-21.

<sup>2147</sup> [REDACTED].

clothing could be seen.<sup>2148</sup> These bodies were later transported with the live prisoners to the execution site.<sup>2149</sup>

827. At approximately 11:00 hours on 15 July, Zvornik Brigade MP [REDACTED] PW-165 was on duty at the Karakaj / Šepak checkpoint when he also received a call from Lt. Jasikovac ordering him to go to the Ročević School, meet his fellow MPs and set up a checkpoint at the entrance to the School yard to check vehicles and prevent civilians from approaching the School.<sup>2150</sup> [REDACTED] PW-165 arrived at the School at approximately 11:30 hours where he saw angry Serb civilians who the MPs were preventing from approaching the School.<sup>2151</sup> The checkpoint was established just outside the School.<sup>2152</sup>

828. [REDACTED] PW-165 testified that he was deployed to Ročević with his MP colleagues on 11 July.<sup>2153</sup> However, [REDACTED] PW-165 was clearly mistaken about the date because the Zvornik Brigade MP roster for 15 July shows that seven MPs [REDACTED] had an “R” placed next to their name, which was subsequently erased and replaced with a “T.”<sup>2154</sup> Given that four of these MPs ([REDACTED] PW-142,<sup>2155</sup> Dragoje Ivanović,<sup>2156</sup> [REDACTED] PW-143,<sup>2157</sup> and Stanoje Birčaković)<sup>2158</sup> admitted being in Ročević on 15 July, and Milorad Birčaković also testified that he drove Lt. Jasikovac to Ročević on 15 July,<sup>2159</sup> the erased “R” can only have meant that those MPs were deployed to Ročević on 15 July. As with the erasures of the letter “O” from the Roster to conceal the presence of MP’s at Orahovac on 14 July, these alterations were made to the MP Roster in an attempt to conceal the presence of MPs at Ročević and cover up their involvement in the murder operation.

829. Three MPs who admitted being deployed to Ročević with their commander Lt. Jasikovac on 15 July -- Stanoje Birčaković, Dragoje Ivanović and [REDACTED] PW-143 -- were less than candid about their activities that day. Stanoje Birčaković and Dragoje Ivanović both testified that when the MPs arrived, Lt. Jasikovac went to the School alone

<sup>2148</sup> [REDACTED] PW-142, T.6461-6462.

<sup>2149</sup> [REDACTED] PW-142, T.6462.

<sup>2150</sup> [REDACTED] PW-165, T.9909-9911.

<sup>2151</sup> [REDACTED] PW-165, T.9911:24 – 9912:2.

<sup>2152</sup> See Exh. PIC00083, Map P02494 marked by PW-165 (at T.9920-9921).

<sup>2153</sup> [REDACTED] PW-165, T.9913.

<sup>2154</sup> See Exh. P00354 and Exh.P00677, Dutch Forensic Analysis Report, dated 15 November 1999. [REDACTED].

<sup>2155</sup> [REDACTED] PW-142, T.6460-6461. Or [REDACTED]?

<sup>2156</sup> D.IVANOVIĆ, T.14553.

<sup>2157</sup> [REDACTED] PW-143, T.6542-6546. Or [REDACTED]?

<sup>2158</sup> S.BIRČAKOVIĆ, T.10760.

<sup>2159</sup> M.BIRČAKOVIĆ, T.11047.

for an hour and then they left the area.<sup>2160</sup> Similarly, [REDACTED] PW-143 testified that he and the other MPs stopped at a shop some 50 metres from the School, stayed for an hour and then left.<sup>2161</sup>

830. The evidence of these three MPs is contradicted by MP [REDACTED] PW-142, who testified that the MPs were deployed around the School; MP [REDACTED] PW-165, who testified that the MPs also manned a checkpoint near the School; and [REDACTED] PW-174, who saw MPs, including [REDACTED], at the execution site (see paras. 847-848). Stanoje Birčaković, Dragoje Ivanović and [REDACTED] PW-143 each testified candidly about their role in the detention of prisoners at Orahovac the previous day, and their respective untruthful attempts to conceal their presence at the Ročević School on 15 July suggest that they were involved in more than just guarding prisoners at the School that day.

831. Later that day, Milorad Trbić and Drago NIKOLIĆ arrived at the School and issued orders that no civilians were allowed to approach and that the MPs were to keep everything under control.<sup>2162</sup>

**At approximately 12:00 hours, three crates of ammunition arrived from the Zvornik Brigade HQ, and the transport of prisoners began.**

832. Veljko Ivanović was a driver in the Zvornik Brigade's 2<sup>nd</sup> Battalion,<sup>2163</sup> who was at the Zvornik Brigade HQ at about 11:00 or 11:15 hours that morning<sup>2164</sup> when Sgt. Radislav Pantić<sup>2165</sup> passed on to Ivanović the following order:

Sreco called and ordered strictly that you should all load three crates of ammunition and that you should go to Ročević where you would load some other stuff. From there, you will proceed to Malesić. There is no further need for you to be here.<sup>2166</sup>

833. The three crates of ammunition used for automatic rifles,<sup>2167</sup> each containing 1,000 rounds,<sup>2168</sup> were loaded onto Ivanović's truck and he then proceeded to the Ročević School, which was approximately 20 kilometres away.<sup>2169</sup> Given that Ivanović left the Zvornik Brigade HQ after 11:00 hours, he would have arrived at the Ročević School

<sup>2160</sup> S.BIRČAKOVIĆ, T.10760; D.IVANOVIĆ, T.14554-14556.

<sup>2161</sup> [REDACTED] PW-143, T.6542-6546.

<sup>2162</sup> See paras. 2770-2775.

<sup>2163</sup> V.IVANOVIĆ, T.18174.

<sup>2164</sup> V.IVANOVIĆ, T.18176:22-25.

<sup>2165</sup> V.IVANOVIĆ, T.18177-18178. At T.18178:14-19, Ivanović described Pantić as the "head of the transport pool at Standard;" thus, this must be Sgt. Radislav Pantić, head of the traffic service within the Logistics Organ of the Zvornik Brigade.

<sup>2166</sup> V.IVANOVIĆ, T.18177.

<sup>2167</sup> V.IVANOVIĆ, T.18179:7-10.

<sup>2168</sup> V.IVANOVIĆ, T.18178:20-25.

<sup>2169</sup> V.IVANOVIĆ, T.18177.

around noon. This is the same time that Vinko **PANDUREVIĆ** returned to the Zvornik Brigade HQ from Žepa.

834. Ivanović testified that when he arrived, he saw a large number of soldiers there and he also saw Srećko Aćimović next to the door leading into the School.<sup>2170</sup> Aćimović ordered Ivanović to reverse the truck up to the door of the School, at which point the three crates of ammunition were unloaded.<sup>2171</sup> [REDACTED].<sup>2172</sup>

835. Dragan Jović testified that when he returned from asking Drašković whether he would like to participate in the execution of prisoners (*see* para. 824), Ivanović's truck was already there waiting and Aćimović told Jović that, "we had to go to Kozluk because there the execution would take place."<sup>2173</sup> Dragan Jović was then ordered to go with Veljko Ivanović and show Ivanović where the execution would take place.<sup>2174</sup> Jović stated that he and Srećko Aćimović were both familiar with the area because they had both previously transported gravel from the site.<sup>2175</sup>

836. Two boards were then used to form a ramp leading into the back of Veljko Ivanović's truck and prisoners began to be loaded onto the truck.<sup>2176</sup> [REDACTED].<sup>2177</sup>

837. MP [REDACTED] PW-142 testified that the prisoners were transported from the Ročević School in the same manner that they left the Orahovac School.<sup>2178</sup> [REDACTED],<sup>2179</sup> [REDACTED].<sup>2180</sup> The prisoners' hands were tied and they were blindfolded.<sup>2181</sup> This is corroborated by the discovery of **205** ligatures and **63** blindfolds in primary and secondary graves associated with the Kozluk executions.<sup>2182</sup> Between two and four MPs rode in the back of the trucks to the execution site.<sup>2183</sup> This process

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<sup>2170</sup> V.IVANOVIĆ, T.18177.

<sup>2171</sup> V.IVANOVIĆ, T.18177.

<sup>2172</sup> [REDACTED].

<sup>2173</sup> D.JOVIĆ, T.18058.

<sup>2174</sup> D.JOVIĆ, T.18058-18059.

<sup>2175</sup> D.JOVIĆ, T.18058, 18082:22-24.

<sup>2176</sup> V.IVANOVIĆ, T.18177. Note: [REDACTED]; Ivanović testified that it started when he arrived at the School after loading the ammunition at the Zvornik Brigade sometime around 11:00 or 11:15 hours, and [REDACTED] PW-174 testified that when he arrived at around 12:00 or 13:00, the transport was already underway (*see* T.21704).

<sup>2177</sup> [REDACTED].

<sup>2178</sup> [REDACTED] PW-142, T.6464.

<sup>2179</sup> [REDACTED].

<sup>2180</sup> [REDACTED].

<sup>2181</sup> [REDACTED]. *See also* [REDACTED] PW-174, T.32707:6.

<sup>2182</sup> Exh. P00649, Dean Manning's report titled "Summary of Forensic Evidence - Execution Points and Mass Graves," which shows that **168** cloth and white nylon twine ligatures and **55** blindfolds were found in the Kozluk primary grave (ERN: 0095-0944); while **37** ligatures and **8** blindfolds were recovered from the Čančari Road 3 secondary grave (ERN: 0095-0977).

<sup>2183</sup> D.JOVIĆ, T.18059:7-9.

occurred while Vinko **PANDUREVIĆ** was at the Zvornik Brigade HQ and later the Zvornik Brigade IKM.

838. Veljko Ivanović and Dragan Jović then drove the first truck to the Kozluk execution site.<sup>2184</sup> The MPs who escorted the first group of prisoners to the execution site were from the Bratunac Brigade.<sup>2185</sup> After the first trip, Dragan Jović testified that Srećko Aćimović ordered him to get another truck with which to transport the prisoners.<sup>2186</sup> Jović went to get a truck which had been requisitioned by the military<sup>2187</sup> but the owner's mother and wife refused to hand over the keys. Jović then went and got Srećko Aćimović:

Srećko used his authority because he was a battalion commander, and he had to be respected. He didn't use force but he sternly ordered them to give us the keys to the truck.<sup>2188</sup>

839. Dragan Jović then took the truck and continued, as ordered by Aćimović, to take prisoners to the execution site at Kozluk.<sup>2189</sup> [REDACTED]<sup>2190 2191 2192 2193</sup>. Each round trip from the School to the execution site and back was no less than one hour.<sup>2194</sup> Dragan Jović testified that Aćimović himself remained at the School for five or six hours.<sup>2195</sup>

**Between 12:00 and 13:00 hours, [REDACTED] PW-174 arrived at the School and then went to the execution site.**

840. At around 12:00 or 13:00 hours,<sup>2196</sup> [REDACTED] PW-174 testified that he was [REDACTED],<sup>2197</sup> and taken to the Ročević School.<sup>2198</sup> [REDACTED] PW-174 saw Srećko Aćimović and Dragan Jović at the School,<sup>2199</sup> both of whom were in uniform.<sup>2200</sup> [REDACTED].<sup>2201 2202 2203 2204 2205</sup>

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<sup>2184</sup> D.JOVIĆ, T.18059-18060; V.IVANOVIC, T.18178.

<sup>2185</sup> D.JOVIĆ, T.18083:4-9.

<sup>2186</sup> D.JOVIĆ, T.18060.

<sup>2187</sup> D.JOVIĆ, T.18060:18-19.

<sup>2188</sup> D.JOVIĆ, T.18061:6-8.

<sup>2189</sup> D.JOVIĆ, T.18061:9-14.

<sup>2190</sup> [REDACTED].

<sup>2191</sup> [REDACTED].

<sup>2192</sup> [REDACTED].

<sup>2193</sup> [REDACTED].

<sup>2194</sup> D.JOVIĆ, T.18061.

<sup>2195</sup> D.JOVIĆ, T.18067:11-12.

<sup>2196</sup> [REDACTED] PW-174, T.21704:5-8.

<sup>2197</sup> [REDACTED].

<sup>2198</sup> [REDACTED] PW-174, T.32704:22 – 32705:1.

<sup>2199</sup> [REDACTED] PW-174, T.32705:4-8.

<sup>2200</sup> [REDACTED] PW-174, T.32703:25.

<sup>2201</sup> [REDACTED].

<sup>2202</sup> [REDACTED].

<sup>2203</sup> [REDACTED].

<sup>2204</sup> [REDACTED].

<sup>2205</sup> [REDACTED].

**Executions.**

841. [REDACTED] PW-174 testified that when the prisoners arrived at the execution site,<sup>2206</sup> the trucks backed up to a pit, which was lined with soldiers and MPs on either side.<sup>2207</sup> There were a total of 40 or 50 soldiers and MPs at the execution site,<sup>2208</sup> [REDACTED].<sup>2209</sup> Regular uniformed policemen were also there.<sup>2210</sup> The prisoners were unloaded from the truck, the soldiers and MPs would start shooting,<sup>2211</sup> [REDACTED].<sup>2212</sup>

842. [REDACTED] prisoners tried to escape during this process:

[REDACTED].<sup>2213</sup>

843. [REDACTED].<sup>2214</sup> <sup>2215</sup> Of these 254 men, **221** of them are recorded as missing from Potočari on 11 July 1995.<sup>2216</sup> Some of the murdered prisoners also had disabilities or signs of chronic disease, including arthritis, rigidity of the spine, amputated limbs, fused joints, a claw hand, and one individual had a glass eye.<sup>2217</sup> The age of these men, the recorded place of disappearance and the fact that some of them had obvious disabilities indicates that at least some of the men detained in Ročević and murdered at Kozluk were the elderly men separated from their families in Potočari on 12 and 13 July.

844. [REDACTED].<sup>2218</sup> <sup>2219</sup>

845. The executions at Kozluk clearly began after Vinko **PANDUREVIĆ** had returned to the Zvornik Brigade's zone of responsibility and consequently all Zvornik Brigade

<sup>2206</sup> See Exh. P2103, Exhibits of Jean-Rene Ruez, at pp.193-196 for photographs of the execution site.

<sup>2207</sup> [REDACTED] PW-174, T.32707.

<sup>2208</sup> [REDACTED] PW-174, T.32707.

<sup>2209</sup> [REDACTED].

<sup>2210</sup> [REDACTED] PW-174, T.32702:7.

<sup>2211</sup> [REDACTED] PW-174, T.32711.

<sup>2212</sup> [REDACTED].

<sup>2213</sup> [REDACTED] See Exh. P02063, Binder containing photographs of blindfolds and ligatures found at Kozluk and Cancari Road 3, p.149; MANNING, T.18951 ("You can see, from this image, that the man's hand is grasping the stems of a bush. When this grave was exhumed, the man was found to be holding that bush still, and his hand had to be pried away from that bush. What that indicates is that he had to have been alive at that stage.")

<sup>2214</sup> [REDACTED].

<sup>2215</sup> [REDACTED].

<sup>2216</sup> See Exh. P00566, ICTY Report - "Srebrenica Missing - Persons Reported Missing after the Take-Over of the Srebrenica Enclave by the Bosnian Serb Army on 11 July 1995," which shows that **221** of the **254** individuals aged over 60 who have been identified in Kozluk-related graves were reported missing from Potočari (**1** on 10 July; **51** on 11 July; **67** on 12 July; **96** on 13 July; **5** on 14 July; and **1** on 15 July). Of the other 33 men aged over 60 found in Kozluk-related graves: **1** was reported missing from Bratunac on 13 July; **1** from Buljim on 11 July; **3** from the Forest on 11/12 July; **1** from Konjević Polje on 12 July; **2** from Kravica on 11/13 July; **1** from Pasmilići on 11 July; **2** from Srebrenica on 11/12 July; and **22** unknown.

<sup>2217</sup> Exh. P00649, Dean Manning's report titled "Summary of Forensic Evidence - Execution Points and Mass Graves," at ERN: 0095-0973-0095-0974.

<sup>2218</sup> [REDACTED].

<sup>2219</sup> [REDACTED].



soldiers and MPs who participated in the detention, transport and execution of the Muslim prisoners did so under the authority of **PANDUREVIĆ**.

846. Veljko Ivanović testified that he made three or four trips [REDACTED],<sup>2220</sup> until it was getting dark.<sup>2221</sup> Dragan Jović testified that he [REDACTED] made [REDACTED],<sup>2222</sup> [REDACTED] one trip to deliver sandwiches, water and juice to the soldiers there.<sup>2223</sup> [REDACTED] PW-142 testified that the prisoners were all removed from the School by the evening,<sup>2224</sup> and that it later became “an open secret” that the prisoners were taken to Kozluk and executed there.<sup>2225</sup>

**Zvornik Brigade MP [REDACTED] was at the Kozluk execution site.**

847. [REDACTED] PW-174 recognised one of the MPs, nicknamed “Cigo,” who was present at the execution site that day.<sup>2226</sup> [REDACTED] PW-174 stated that “Cigo” was a member of the Zvornik Brigade;<sup>2227</sup> he was dressed in an MP uniform with a white belt;<sup>2228</sup> his real name was Milomir;<sup>2229</sup> he was approximately 35 years old, tall, dark and skinny;<sup>2230</sup> [REDACTED].<sup>2231</sup> [REDACTED] PW-174’s description of “Cigo” clearly matches Zvornik Brigade MP [REDACTED], whose name was one of those altered on the MP Roster in an attempt to conceal his presence at Ročević on 15 July (*see* para. 828).

848. [REDACTED].<sup>2232</sup> [REDACTED] PW-142, who testified that the MPs were deployed around the Ročević School to guard the prisoners.<sup>2233</sup> [REDACTED]. [REDACTED].

**Zvornik Brigade soldiers Zoran Simanić and Milorad Ristanović were at the Kozluk execution site.**

849. Zoran Simanić was the Commander of the Intervention Platoon of the 2<sup>nd</sup> Battalion of the Zvornik Brigade,<sup>2234</sup> known as “The Unbreakables.”<sup>2235</sup> [REDACTED].

2236      2237      2238

<sup>2220</sup> [REDACTED].

<sup>2221</sup> V.IVANOVIĆ, T.18179:19-22., [REDACTED]. At T.18179:17, Ivanović testified that the transportation finished by 14:30 or 15:00 hours, but this was clearly a mistake given his testimony that it was getting dark when he reached Malesić.

<sup>2222</sup> [REDACTED].

<sup>2223</sup> D.JOVIĆ, T.18067:22 – 18068:5.

<sup>2224</sup> [REDACTED] PW-142, T.6465.

<sup>2225</sup> [REDACTED] PW-142, T.6464. *See also* M. BIRČAKOVIĆ, T.11049.

<sup>2226</sup> [REDACTED] PW-174, T.32711:8.

<sup>2227</sup> [REDACTED] PW-174, T.32720:18-20.

<sup>2228</sup> [REDACTED] PW-174, T.32711:16.

<sup>2229</sup> [REDACTED] PW-174, T.32711:10.

<sup>2230</sup> [REDACTED] PW-174, T.32711:14.

<sup>2231</sup> [REDACTED].

<sup>2232</sup> [REDACTED].

<sup>2233</sup> [REDACTED] PW-142, T.6460-6464.

850. Milorad Ristanović was a member of the 3<sup>rd</sup> Company of the 2<sup>nd</sup> Battalion of the Zvornik Brigade.<sup>2239</sup> [REDACTED].<sup>2240</sup> 2241 2242

851. [REDACTED].<sup>2243</sup>

**Zvornik Brigade soldiers instigated and facilitated [REDACTED] PW-174's and Drašković's role in the murders.**

852. [REDACTED] PW-174 was not a member of the VRS at the time he took part in the Kozluk executions. However, [REDACTED] PW-174 was taken to the Ročević School by 2<sup>nd</sup> Battalion member Ljubo Ristanović;<sup>2244</sup> [REDACTED];<sup>2245</sup> and then given an automatic rifle by 2<sup>nd</sup> Battalion member Dragan Jović with which he shot at prisoners.<sup>2246</sup> Accordingly, [REDACTED] PW-174's participation in the executions was instigated and facilitated by members of the Zvornik Brigade's 2<sup>nd</sup> Battalion.

853. During the morning of 15 July, Srećko Aćimović, Commander of the 2<sup>nd</sup> Battalion, sent Dragan Jović to ask a man named "Drašković" to participate in the executions.<sup>2247</sup> Drašković lived approximately one and a half to two kilometres from the Ročević School.<sup>2248</sup> Dragan Jović claimed that Drašković refused;<sup>2249</sup> [REDACTED].<sup>2250</sup> [REDACTED].

**Burials**

854. Sometime before 08:00 hours on 16 July, Damjan Lazarević was at the Engineering Company compound when he received a message, either through Slavko Bogičević or Vojkan Sekonjić, that "the major" had ordered Lazarević to go to Kozluk.<sup>2251</sup> Lazarević understood that this order was the same as his task at Orahovac the

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<sup>2234</sup> Exh. 3D00171, Drinks Magazine article entitled "The Unbreakable," dated March 1995, at ERN: L003-9473. [REDACTED].

<sup>2235</sup> S.AĆIMOVIĆ, T.13038-13040.

<sup>2236</sup> [REDACTED].

<sup>2237</sup> [REDACTED].

<sup>2238</sup> [REDACTED].

<sup>2239</sup> TOMIĆ, T.26190. See also RADIĆ at T.26165, who testified that Milorad Ristanović was a member of the 3<sup>rd</sup> Company of the 2<sup>nd</sup> Battalion, but did not go by the name "Bećo."

<sup>2240</sup> [REDACTED].

<sup>2241</sup> [REDACTED].

<sup>2242</sup> [REDACTED].

<sup>2243</sup> [REDACTED].

<sup>2244</sup> [REDACTED] PW-174, T.32701, [REDACTED].

<sup>2245</sup> [REDACTED].

<sup>2246</sup> [REDACTED] PW-174, T.32702:4-5, [REDACTED], 32725:19-32726:2. [REDACTED].

<sup>2247</sup> D.JOVIĆ, T.18056-18057.

<sup>2248</sup> D.JOVIĆ, T.18057.

<sup>2249</sup> D.JOVIĆ, T.18057.

<sup>2250</sup> [REDACTED].

<sup>2251</sup> D.LAZAREVIĆ, T.14454-14455..

previous day; that is, to bury the bodies of execution victims.<sup>2252</sup> Lazarević then proceeded to Kozluk in a TAM 75 truck and arrived at the execution site at around 08:00 hours.<sup>2253</sup> On 16 July, a Zvornik Brigade TAM truck also made two trips between Orahovac to Kozluk,<sup>2254</sup> most likely to move personnel or equipment between those sites.<sup>2255</sup>

855. When Lazarević arrived at the execution site, he noticed pieces of green and white broken glass on the ground, which had been transported there from the nearby Vitinka Kozluk mineral water plant.<sup>2256</sup> Lazarević also testified that he saw three or four soldiers with painted faces.<sup>2257</sup>

856. At 08:00 or 09:00 hours on 16 July, Major Dragan Jokić came to the Zvornik Brigade Engineering Company compound and ordered excavator operator Miloš Mitrović and Engineering Company member Nikola Rikanović<sup>2258</sup> to go to Kozluk with the “Skip” (*i.e.*, the “Rovokopač” Torpedo excavator) and report to Damjan Lazarević.<sup>2259</sup> When Mitrović arrived at Kozluk, he met Damjan Lazarević on the road.<sup>2260</sup> Lazarević then led Mitrović and Rikanović to the execution site, where Mitrović saw the bodies of the executed prisoners, some of whom had uniforms on<sup>2261</sup> but many who were dressed in civilian clothes,<sup>2262</sup> lying in “two or three” holes from which sand and pebble stone had been previously excavated.<sup>2263</sup> This corroborates [REDACTED] PW-174’s description of how the prisoners were pushed off the trucks into pits and executed there.

857. Mitrović worked for approximately half an hour with the Torpedo before an ULT 220 arrived,<sup>2264</sup> driven by Rade Bošković.<sup>2265</sup> Mitrović testified that the ULT 220 belonged to the Josanica Quarry, but “when necessary it was commandeered for the needs of the Zvornik Brigade.”<sup>2266</sup> Damjan Lazarević testified that he “supposed” that the order

<sup>2252</sup> D.LAZAREVIĆ, T.14454.

<sup>2253</sup> D.LAZAREVIĆ, T.14455.

<sup>2254</sup> Exh. P00298, Zvornik Brigade Vehicle Log for TAM 75 (M-5264) (1 July 1995 – 31 July 1995).

<sup>2255</sup> Exh. P00686, at para.7.27.

<sup>2256</sup> D.LAZAREVIĆ, T.14456.

<sup>2257</sup> D.LAZAREVIĆ, T.14457.

<sup>2258</sup> Exh. P002851, Zvornik Brigade Engineering Company attendance roster for the month of July 1995.

<sup>2259</sup> M.MITROVIĆ, Exh. P02259, at T.5603. *See also* D.LAZAREVIĆ, T.14457, who only referred to Mitrović arriving at the site.

<sup>2260</sup> M.MITROVIĆ, Exh. P02259, at T.5604.

<sup>2261</sup> D.LAZAREVIĆ, T.14457.

<sup>2262</sup> M.MITROVIĆ, Exh. P02259, at T.5606.

<sup>2263</sup> M.MITROVIĆ, Exh. P02259, at T.5605.

<sup>2264</sup> M.MITROVIĆ, Exh. P02259, at T.5606; D.LAZAREVIĆ, T.14457-14458.

<sup>2265</sup> M.MITROVIĆ, Exh. P02259, at T.5607; ; D.LAZAREVIĆ, T.14458.

<sup>2266</sup> M.MITROVIĆ, Exh. P02259, at T.5607:23-24.

to send this machine came from the Engineering Company,<sup>2267</sup> and that the presence of the machine meant that Rade Bošković “must have been a member Šof the Zvornik BrigadeĆ at such times.”<sup>2268</sup>

858. Rade Bošković reported to Damjan Lazarević, who told Bošković what he needed to do.<sup>2269</sup> At that point, Mitrović moved aside with the “Rovokopač” Torpedo excavator and Bošković used the ULT 220 to continue covering the bodies with earth.<sup>2270</sup> The fact that both Mitrović and Bošković received instructions from Damjan Lazarević clearly indicates that Lazarević assisted in coordinating the burial operation at Kozluk.

859. Mitrović claims that he returned to the base in Karakaj with the Torpedo excavator approximately one and a half hours after the ULT 220 arrived;<sup>2271</sup> however, the vehicle log for the “Rovokopač” Torpedo excavator shows that it operated in Kozluk for 8 hours on 16 July.<sup>2272</sup> Significantly, the vehicle log specifically states that this work was done for the VRS.<sup>2273</sup>

860. On 18 July, the Zvornik Brigade Engineering Company Daily Orders Log Book records that a bulldozer was transported to Kozluk and “work on mending the trench” carried out.<sup>2274</sup> On 19 July, the Log Book records that this “trench mending” at Kozluk continued.<sup>2275</sup> Kozluk is several kilometres from the front lines, and from the area through which the Muslim column passed, and there were no known fortifications in the area which needed repairing at the time. The presence of the bulldozer at Kozluk is corroborated by the vehicle log for a bulldozer TG-75,<sup>2276</sup> assigned to Zvornik Brigade excavator operator Mićo Mirković,<sup>2277</sup> which records that the bulldozer performed 1.5 hours of “special purposes work in Kozluk” on 18 July and one additional hour of “special purposes work in Kozluk” on 19 July. Significantly, the vehicle log entries for 18 and 19 July both record that this “special purposes work” was performed for the VRS.

<sup>2267</sup> D.LAZAREVIĆ, T.14458:9-14: “I suppose that the order came from the unit. I suppose that they had realised that nothing could be done with the small machine, that that small machine was not fit for that job in that location, that it would take a very long time to accomplish the task, and I suppose that they had sent the big machine from the unit.”

<sup>2268</sup> D.LAZAREVIĆ, T.14522 (emphasis added). Counsel for PANDUREVIĆ asked: “He was not a member of the Zvornik Brigade, was he?” Lazarević answered: “Occasionally, when the machine was there, he was there with it so *he must have been a member at such times*” (emphasis added).

<sup>2269</sup> M.MITROVIĆ, Exh. P02259, at T.5610.

<sup>2270</sup> M.MITROVIĆ, Exh. P02259, at T.5610.

<sup>2271</sup> M.MITROVIĆ, Exh. P02259, at T.5610.

<sup>2272</sup> Exh. P00301, Zvornik Brigade Vehicle Log for Rovakopac Torpedo from Birac Holding.

<sup>2273</sup> Exh. P00301, Zvornik Brigade Vehicle Log for Rovakopac Torpedo from Birac Holding.

<sup>2274</sup> Exh. P00297, Zvornik Brigade Engineering Company Daily Orders Log Book at ERN: 0084-6765.

<sup>2275</sup> Exh. P00297 at ERN: 0084-6766.

<sup>2276</sup> Exh. P00295, Zvornik Brigade July 1995 Transportation Records at ERN: 0087-6037-0087-6038.

<sup>2277</sup> Exh. P002851, Zvornik Brigade Engineering Company attendance roster for the month of July 1995.

861. The “smoothing” work done by these engineering machines at Kozluk in the days following the executions can be clearly seen on the aerial photo of the area dated 27 July.<sup>2278</sup>

**Known Zvornik Brigade involvement at Ročević and Kozluk on 15-16 July.**

862. The following Zvornik Brigade personnel admitted being at or near the Ročević School on 15 July: Srećko Aćimović, Dragan Jović, Veljko Ivanović, MP [REDACTED] PW-142, MP Dragoje Ivanović, MP [REDACTED] PW-143, MP Stanoje Birčaković, MP [REDACTED] PW-165 and MP Milorad Birčaković. Dragan Jović and Veljko Ivanović also admitted driving prisoners to the Kozluk execution site.

863. The evidence has also shown that the following Zvornik Brigade members were present at the Ročević School and/or the Kozluk execution site: Zoran Simanić, Commander of the 2<sup>nd</sup> Battalion Intervention Platoon;<sup>2279</sup> MP Predrag Ristić;<sup>2280</sup> [REDACTED],<sup>2281</sup> [REDACTED],<sup>2282</sup> [REDACTED],<sup>2283</sup> [REDACTED],<sup>2284</sup> Milivoje Lazarević;<sup>2285</sup> Milorad Ristanović;<sup>2286</sup> Lt. Miomir Jasikovac;<sup>2287</sup> Milorad Trbić; and Drago NIKOLIĆ.

864. The following Zvornik Brigade personnel admitted being at the Kozluk execution and primary burial site on 16 July: Damjan Lazarević, platoon commander from the Engineering Company and Miloš Mitrović, excavator operator. The evidence has also shown that Nikola Rikanović, Engineering Company member; and Rade Bošković, mobilised Zvornik Brigade member, were present at Kozluk on 16 July.

**(I) On the evening of 15 July, BEARA and POPOVIĆ met with the Zvornik Brigade commander at the Zvornik Brigade HQ.**

865. As noted above at para. 828, MP [REDACTED] PW-165 was deployed to Ročević on 15 July. On the same (and only) day when he was at Ročević<sup>2288</sup> [REDACTED] PW-165 returned to the Zvornik Brigade HQ sometime after 18:00

<sup>2278</sup> Exh. P2103, Exhibits of Jean-Rene Ruez, at p.192.

<sup>2279</sup> [REDACTED]; Exh. 3D00171, Drinksi Magazine article entitled “The Unbreakable,” dated March 1995, at ERN: L003-9473 (states that Simonić was the commander of the intervention platoon).

<sup>2280</sup> Exh. P00354.

<sup>2281</sup> [REDACTED].

<sup>2282</sup> [REDACTED].

<sup>2283</sup> [REDACTED].

<sup>2284</sup> [REDACTED].

<sup>2285</sup> D.JOVIĆ, T.18063:12-13. [REDACTED].

<sup>2286</sup> [REDACTED]. See also TOMIĆ, T.26190, who testified that Milorad Ristanović was a member of the 3<sup>rd</sup> Company of the 2<sup>nd</sup> Battalion; and RADIĆ at T.26165, who testified that Milorad Ristanović was a member of the 3<sup>rd</sup> Company of the 2<sup>nd</sup> Battalion, but did not go by the name “Bećo.”

<sup>2287</sup> Exh. P00354.

<sup>2288</sup> [REDACTED] PW-165, T.9965:21 – 9966:13.

hours,<sup>2289</sup> where he could see some people walking around upstairs in camouflage uniforms.<sup>2290</sup> [REDACTED] PW-165 asked who these people were and one of his colleagues replied: “Well, the commander has a meeting with **POPOVIĆ** and **BEARA**.”<sup>2291</sup> [REDACTED] PW-165 then started talking about this until the MP Commander Lt. Jasikovac intervened, stating: “What do you need to know who’s up there, none of your business.”<sup>2292</sup>

866. [REDACTED] PW-165 testified that he did not personally know Vujadin **POPOVIĆ**,<sup>2293</sup> however, [REDACTED] PW-165 knew at the time that **POPOVIĆ** was a security officer in the Drina Corps;<sup>2294</sup> he saw **POPOVIĆ**’s profile as **POPOVIĆ** walked up the stairs and saw that **POPOVIĆ** had a moustache;<sup>2295</sup> and [REDACTED] PW-165 saw the “panorama and the warrant” after 1998 which confirmed that **POPOVIĆ** was the man he saw that night.<sup>2296</sup> The following entries in the Zvornik Brigade Duty Operations Officer Notebook also show that people were looking for **POPOVIĆ** in the Zvornik area on the evening of 15 July: “Communicate to **POPOVIĆ** that his proposal has been approved;”<sup>2297</sup> and “**Drago** and Lieutenant Colonel **POPOVIĆ** are to report to Major Golić early in the morning.”<sup>2298</sup>

867. [REDACTED] PW-165 also testified that he was not told the name of the commander with whom **POPOVIĆ** and **BEARA** met.<sup>2299</sup> At the time, [REDACTED] PW-165 believed that Obrenović was in command of the Brigade;<sup>2300</sup> however, Obrenović is known to have been at the 4<sup>th</sup> Battalion command near Baljkovica throughout the afternoon and evening of 15 July;<sup>2301</sup> [REDACTED] PW-165 confirmed that he did not see Obrenović that night;<sup>2302</sup> [REDACTED].<sup>2303</sup> Moreover, the evidence in this case has clearly established that **PANDUREVIĆ** returned to Zvornik from Žepa at

<sup>2289</sup> [REDACTED] PW-165, T.9973:16-19.

<sup>2290</sup> [REDACTED] PW-165, T.9962:15-19.

<sup>2291</sup> [REDACTED] PW-165, T.9962:15-19, 9965:8-9.

<sup>2292</sup> [REDACTED] PW-165, T.9965:8-20.

<sup>2293</sup> [REDACTED] PW-165, T.9962:22-23.

<sup>2294</sup> [REDACTED] PW-165, T.9963:4 – 9964:3. At T.9964:1-3, [REDACTED] PW-165 confirmed that he knew **POPOVIĆ** was a security officer in the Drina Corps prior to July 1995.

<sup>2295</sup> [REDACTED] PW-165, T.9962:23-25, 9964:13-25.

<sup>2296</sup> [REDACTED] PW-165, T.9967:23-24, 9962:23-25, 9968:5-7, 9975:4-8.

<sup>2297</sup> Exh. P00377 at ERN: 0293-5760.

<sup>2298</sup> Exh. P00377 at ERN: 0293-5761.

<sup>2299</sup> [REDACTED] PW-165, T.10011:20-25.

<sup>2300</sup> [REDACTED] PW-165, T.9966:17-24.

<sup>2301</sup> [REDACTED]; RISTIĆ, T.10090-10091.

<sup>2302</sup> [REDACTED] PW-165, T.10001:14-15.

<sup>2303</sup> [REDACTED].

around midday on 15 July; thus, any reference to a meeting with “the commander” on the evening of 15 July would have been a reference to Vinko **PANDUREVIĆ**.

**(li) 14 July – 17 July: Detention, murder and burial of Muslim prisoners at the Kula School near Pilica, the Branjevo Farm and the Pilica Dom.**

868. The village of Pilica is located within the Zvornik Brigade’s area of responsibility.<sup>2304</sup> The Nikola Tesla primary school (the “Kula School”) is in Kula, a hamlet of Pilica.<sup>2305</sup> The Kula School was used as a detention facility for Muslim prisoners following the fall of Srebrenica, between 14 and 16 July.<sup>2306</sup> Some prisoners were murdered at the school, while as many as 1,500 were summarily executed and buried at the Branjevo Military Farm on 16 July.

869. On 15 July, the Pilica Cultural Centre was also used as a detention facility. On 16 July, it became an execution site where over 500 Muslim prisoners were summarily executed. These prisoners were buried at Branjevo Military Farm on the following day.

870. The 1<sup>st</sup> Battalion of the Zvornik Brigade took part in the execution process. Other VRS formations, including the 10<sup>th</sup> Sabotage Detachment, were also involved. As set out more fully below, Vujadin **POPOVIĆ** directly oversaw this process.

**On the morning of 14 July, a telegram from the Zvornik Brigade Command arrived at the 1<sup>st</sup> Battalion, ordering soldiers to secure prisoners at the Kula School.**

871. In July 1995, Slavko Perić was the Assistant Commander for Intelligence and Security in the 1<sup>st</sup> Battalion of the Zvornik Brigade.<sup>2307</sup> Perić testified that on the morning of 14 July, the Battalion’s Deputy Commander, Capt. Momir Pelemiš,<sup>2308</sup> told the members of the command<sup>2309</sup> that he had spoken to someone at the Zvornik Brigade<sup>2310</sup> who conveyed the following message:<sup>2311</sup>

<sup>2304</sup> R.BUTLER, T.20019:19-21; P.PETROVIĆ, T.8555:12-14.

<sup>2305</sup> R.BABIĆ, T.10213:9-12; J.BOGDANOVIĆ, T.11319:19-24;

<sup>2306</sup> R.BUTLER, 20126: 15-18; *see also* Exh. P02820, Attachment A to OTP Interview Statement of Slavko Perić, dated 10 March 2003. A notebook containing a diary-calendar and handwritten notes – pages containing entries dated 30 June 1995 to 30 August 1995, at p.4 (indicating, “On Friday 14.07 a group of Muslims was brought to Kula who were captured in Srebrenica where they stayed until 16.07”).

<sup>2307</sup> S.PERIĆ, T.11369:4-5; S.PERIĆ, T.11371:4.

<sup>2308</sup> R.BABIĆ, T.10218:8.

<sup>2309</sup> S.PERIĆ, T.11371:17-24 (noting that in July 1995, the 1<sup>st</sup> Battalion Command comprised Dragan Pantić, Assistant Commander for Morale and Information, Rajko Babić, Officer for General Affairs, drivers Milan Jovanović and Milenko Pantić, as well as operations officers Jovan Babić, and Zoran Marković).

<sup>2310</sup> S.PERIĆ, T.11375:19-20.

<sup>2311</sup> S.PERIĆ, T.11375-11376.

. . . a group of around 200 Muslim prisoners would be arriving and they would be put up in the schoolhouse near Kula. They would just spend the night there and be exchanged the next day somewhere.<sup>2312</sup>

872. Not long after this message was conveyed through Capt. Pelemiš, a telegram arrived at the 1<sup>st</sup> Battalion Command and was entered in its duty officer logbook.<sup>2313</sup> Rajko Babić, the 1<sup>st</sup> Battalion Officer for General Affairs and a Duty Officer, testified that he read the communication sometime between 07:00 and 09:00 hours on 14 July.<sup>2314</sup> Babić recalled that the telegram was entitled “from the Command of the Zvornik Brigade to the 1<sup>st</sup> Battalion.”<sup>2315</sup> Significantly, at around this time, **BEARA, POPOVIĆ** and Drago **NIKOLIĆ** met at the Zvornik Brigade HQ to coordinate the murder operation.<sup>2316</sup>

873. In addition to the information provided by Capt. Pelemiš, the telegram indicated that the prisoners were from Srebrenica<sup>2317</sup> and ordered personnel to secure access to the Kula School by guarding the main and auxiliary entrances to the gym in order to prevent unauthorised access to the premises.<sup>2318</sup> Perić testified that the members of the command “were quite taken aback.”<sup>2319</sup> Nonetheless, the members of the command met to determine how to carry out the order.<sup>2320</sup>

**One hour later, Drago NIKOLIĆ called the 1<sup>st</sup> Battalion to follow up the telegram.**

874. As described in further detail at paras. 2676-2684, approximately one hour after the telegram arrived, Slavko Perić received a telephone call from Drago **NIKOLIĆ** in which **NIKOLIĆ** addressed matters similar in nature to the content of the telegram<sup>2321</sup> and specifically told Perić to go to the Kula School.<sup>2322</sup>

875. The nature of **NIKOLIĆ**’s call and his direction to Perić clearly demonstrate his involvement with the prisoners who were to be detained at the Kula School. Significantly, **NIKOLIĆ**’s telephone call to the 1<sup>st</sup> Battalion Command following its receipt of this telegram follows almost in lock-step the events of the early morning hours on 15 July when **NIKOLIĆ** made two telephone calls to the 2<sup>nd</sup> Battalion Command following its receipt of a telegram ordering the formation of an execution squad.

<sup>2312</sup> S.PERIĆ, T.11375:25 - 11376:3.

<sup>2313</sup> R.BABIĆ, T.10216:25 - 10217:5; 10241:6-16 (after the executions, Babić discovered that the page in the logbook containing the order/telegram had gone missing).

<sup>2314</sup> R.BABIĆ, T.10217:8-21.

<sup>2315</sup> R.BABIĆ, T.10215:25 - 10216:2.

<sup>2316</sup> See paras. 654-660.

<sup>2317</sup> R.BABIĆ, T.10216:7; 10221:11-12.

<sup>2318</sup> R.BABIĆ, T.10216:15-20.

<sup>2319</sup> S.PERIĆ, T.11381:2.

<sup>2320</sup> R.BABIĆ, T.10219:16-20.

<sup>2321</sup> S.PERIĆ, T.11376:2-14.

<sup>2322</sup> S.PERIĆ, T.11376:11-18.



**At around 12:00 hours on 14 July, 1<sup>st</sup> Battalion Soldiers arrived at the Kula School.**

876. Rajko Babić testified that Capt. Pelemiš sent some ten to fifteen 1<sup>st</sup> Battalion soldiers<sup>2323</sup> to go to the Kula School in anticipation of the prisoners' arrival.<sup>2324</sup> According to Slavko Perić, these soldiers had been tasked with "avoiding any disruption with the people who lived in the area."<sup>2325</sup> Together with Rajko Babić and Dragan Pantić of the 1<sup>st</sup> Battalion Command, Slavko Perić also went to the Kula School.<sup>2326</sup>

877. According to Perić, the 1<sup>st</sup> Battalion soldiers were dispatched about an hour or two after his conversation with Drago NIKOLIĆ.<sup>2327</sup> They arrived at the Kula School around noon<sup>2328</sup> and found nobody there.<sup>2329</sup> Members of the command were not armed, but the soldiers all had their weapons. Perić was unable to recall whether all were in uniform.<sup>2330</sup>

878. Perić and the other members of the Battalion Command then informed some of the local residents that a group of prisoners was to arrive, spend the night at the school and remain there through the following morning. They also advised them not to walk around the area or go to the School to watch what was happening there.<sup>2331</sup>

879. The evidence of Pero Petrović, a local resident who was [REDACTED] a member of 1<sup>st</sup> Battalion of the Zvornik Brigade<sup>2332</sup> [REDACTED],<sup>2333</sup> corroborates this sequence of events. [REDACTED].<sup>2334</sup> [REDACTED].<sup>2335</sup> <sup>2336</sup> [REDACTED], it is clear that this [REDACTED] must have occurred on 14 July.<sup>2337</sup>

880. [REDACTED]<sup>2338</sup> <sup>2339</sup> <sup>2340</sup> <sup>2341</sup> <sup>2342</sup> <sup>2343</sup> <sup>2344</sup> <sup>2345</sup>

<sup>2323</sup> S.PERIĆ, T.11381:1-5; S.PERIĆ, T.11383:21

<sup>2324</sup> R.BABIĆ, T.10219:16-10222:23 (Additional men, including a signalman, guard, and logistics man were also sent).

<sup>2325</sup> S.PERIĆ, T.11377:12-15.

<sup>2326</sup> S.PERIĆ, T.11380:16-20.

<sup>2327</sup> S.PERIĆ, T.11378:13-14.

<sup>2328</sup> S.PERIĆ, T.11381:7-14.

<sup>2329</sup> S.PERIĆ, T.11381:16.

<sup>2330</sup> S.PERIĆ, T.11396:9-14.

<sup>2331</sup> S.PERIĆ, T.11384:17-20; S.PERIĆ, T.11384:25.

<sup>2332</sup> P.PETROVIĆ, T.8551:8.

<sup>2333</sup> [REDACTED].

<sup>2334</sup> [REDACTED].

<sup>2335</sup> [REDACTED].

<sup>2336</sup> [REDACTED].

<sup>2337</sup> See Z.RADOSAVLJEVIĆ, T.22136:14-22137:3 ([REDACTED] Petrović mentioned to him having heard something from a woman about prisoners that were supposed to be coming to the school).

<sup>2338</sup> [REDACTED]

<sup>2339</sup> [REDACTED].

<sup>2340</sup> [REDACTED].

<sup>2341</sup> REDACTED].

<sup>2342</sup> [REDACTED].

<sup>2343</sup> [REDACTED].

<sup>2344</sup> [REDACTED].

881. [REDACTED], Pero Petrović went to his office, located among a complex of several buildings known as the Dom in Pilica.<sup>2346</sup> Slavko Perić testified that he went home soon after he spoke with the local residents.<sup>2347</sup> He denied having any knowledge of how the school was opened to the prisoners<sup>2348</sup> or any preparations that were made for the prisoners' arrival.<sup>2349</sup> Perić's testimony on this issue is not credible. First, his testimony suggests that he acted in direct contravention of the task that was assigned him and the other members of the Battalion Command. Second, his testimony is directly contradicted by the credible evidence of Rajko Babić, who testified that when the 1<sup>st</sup> Battalion members arrived, they divided into groups of four to prepare the School for the prisoners. Third, Babić testified that he, Perić and Dragan Pantić in fact went inside the Kula School to see the condition of the gym and to remove any equipment that might be a hazard.<sup>2350</sup>

**Around 14.00 hours on 14 July, the prisoners arrived.**

882. Rajko Babić testified that once the gym had been set up, at about 14.00 hours or soon thereafter, he saw an armed soldier from another unit standing at the door to the gym.<sup>2351</sup> Babić then saw "two or three civilians walking towards the school with their hands behind their heads."<sup>2352</sup> He knew they were from Srebrenica.<sup>2353</sup> Babić stood in the middle of the corridor leading to the gym with Pantić and Perić as the armed soldier ordered the civilians to enter one by one and proceed to the gym.<sup>2354</sup> The prisoners came in two or three metres apart from each other. Babić testified that from his vantage point, he was only able to see roughly three to five soldiers whom he did not recognise.<sup>2355</sup> Babić testified that the process continued for thirty to fifty minutes.<sup>2356</sup>

883. Perić claimed that he returned to the School some twenty minutes after he had gone home.<sup>2357</sup> However, Perić's testimony on this point is contradicted by credible evidence placing him at the school, if not in the gym itself, when the prisoners first began to arrive. Nevertheless, Perić's observations after the arrival of the prisoners are credible and substantially corroborated.

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<sup>2345</sup> [REDACTED].

<sup>2346</sup> [REDACTED]; see also Exh. P02471.

<sup>2347</sup> S.PERIĆ, T.11384:16-23

<sup>2348</sup> S.PERIĆ, T.11383:9-17.

<sup>2349</sup> S.PERIĆ, T.11382:18-22.

<sup>2350</sup> R.BABIĆ, T.10219:16-10220:23.

<sup>2351</sup> R.BABIĆ, T.10221:1-5.

<sup>2352</sup> R.BABIĆ, T.10221:7-9.

<sup>2353</sup> R.BABIĆ, T.10221:11-12.

<sup>2354</sup> R.BABIĆ, T.10221:15-20.

<sup>2355</sup> R.BABIĆ, T.10223:10-10223:22.

<sup>2356</sup> R.BABIĆ, T.10222:22-23.

<sup>2357</sup> S.PERIĆ, T.11381:16-19.

884. Perić testified that he saw a convoy of about ten vehicles, mostly buses and one or two trucks, in front of the school.<sup>2358</sup> Each vehicle had three or four soldiers designated to escort the prisoners into the school gym.<sup>2359</sup> He did not recognise these soldiers.<sup>2360</sup> He also testified that although the gym was already filled with prisoners who had disembarked,<sup>2361</sup> additional prisoners continued to be taken off the buses and crowded inside the gym.<sup>2362</sup> In addition to the gym, the Kula School also contained six classrooms<sup>2363</sup> where prisoners were held.

885. [REDACTED] PW-117 (Branjevo Survivor)<sup>2364</sup> was bused to the Kula School on the afternoon of 14 July.<sup>2365</sup> When the prisoners arrived, they were forced to disembark and enter the gym.<sup>2366</sup> Similarly, Ahmo Hasić (Branjevo Survivor) testified that when his bus arrived at the Kula School on 14 July,<sup>2367</sup> the prisoners were ordered into a room which held other Muslim men and boys aged 15 to 80 years old.<sup>2368</sup>

886. While Hasić did not immediately know how many other prisoners there were in the school, he surmised that there were many more Bosnian Muslim men in addition to those in the room where he was detained.<sup>2369</sup> Indeed, that number would easily have exceeded 1,000 men, based upon the number of dead following the executions at Branjevo Military Farm.

<sup>2358</sup> S.PERIĆ, T.11381:20-22; Z.RADOSAVLJEVIĆ, T.22119:19.

<sup>2359</sup> S.PERIĆ, T.11383.

<sup>2360</sup> S.PERIĆ, T.11381-11382.

<sup>2361</sup> S.PERIĆ, T.11382:25- T.11383:5.

<sup>2362</sup> S.PERIĆ, T.11383:1-5 (“had it been possible to put all of them inside the gym, they would have unloaded all of them”).

<sup>2363</sup> R.BABIĆ, T.10227:5

<sup>2364</sup> Exh. P02207 (Transcript of Witness Q - Case No. IT-98-33-T, 14 April 2000).

<sup>2365</sup> Exh. P02208 (Exhibit P-23/1.1 in Case No. IT-98-33-T and part of Exhibit P-784 in Case No. IT-02-60-T - Photograph, helicopter overview of the area of Pilica School, annotated to show execution site, water pipe etc.); [REDACTED] PW-117, Exh. P02207 at T.3030-3031; [REDACTED] PW-117 had been captured on 13 July by VRS soldiers near Nova Kasaba, where his personal belongings and food were confiscated from him. *Id.*, at T.3017; He was then taken to the football field in Nova Kasaba. *Id.*, at T.3020; and later taken to Bratunac, where he remained on a bus throughout the night of 13 July. *Id.*, at T.3027.

<sup>2366</sup> Exh. P02208 (Exhibit P-23/1.1 in Case No. IT-98-33-T and part of Exhibit P-784 in Case No. IT-02-60-T - Photograph, helicopter overview of the area of Pilica School, annotated to show execution site, water pipe etc.); [REDACTED] PW-117, Exh. P02207 at T.3031.

<sup>2367</sup> [REDACTED]; *but see* A.HASIĆ, T.1193:1-3 (indicating that Hasić was at Kula School “for one night or two nights, possibly for two nights” and that the executions occurred on 17 July); A.HASIĆ, T.1195:7-8 (“if I can remember correctly, we spent about two nights there”); A.HASIĆ, T.1227:9-12 (On the 14th and 15th, I was in Bratunac”). However, these chronologies, taken in the context of the proven events leading up to the executions at the Branjevo Military Farm considered as a whole, suggest Hasić likely arrived at the Kula School on 14 July.

<sup>2368</sup> A.HASIĆ, T.1193:16-1194:12. Hasić was equivocal about the date that he arrived at the Kula School.

<sup>2369</sup> A.HASIĆ, T.1192:20-22; A.HASIĆ, T.1194:12-15; T.1224:3-4.

**On the afternoon of 14 July, [REDACTED] spoke with Major Dragan Jokić, the Zvornik Brigade Duty Operations Officer, about the prisoners.**

887. [REDACTED].<sup>2370 2371 2372 2373 2374</sup>

888. [REDACTED]<sup>2375 2376</sup> [REDACTED].

889. [REDACTED].<sup>2377 2378</sup> [REDACTED]. The Zvornik Brigade Duty Operations Officer Notebook further confirms that Maj. Jokić was the Brigade Duty Officer on that afternoon.<sup>2379</sup>

890. [REDACTED].<sup>2380 2381 2382</sup>

**On the night of 14 July, 1<sup>st</sup> Battalion soldiers continued to guard prisoners in the School and four or five buses full of prisoners remained parked outside the School.**

891. Slavko Perić testified that throughout the night of 14 July, some four or five buses filled with prisoners remained parked outside the school under the guard of the soldiers who had brought them there.<sup>2383</sup> Unsurprisingly, he denied that the 1st Battalion soldiers participated in guarding prisoners. When questioned about the actual role of 1<sup>st</sup> Battalion soldiers at the school, Perić answered as follows:

A. Well, they were positioned at two or three points around the gym, and as to what their actual task was, it was to prevent any contact with the locals. There were quite a few curious people there who perhaps could even have gotten into the school building otherwise. There were many people in the immediate vicinity who had lost their closest kin. So all kinds of situations could have emerged. Those people may have been ready to do something, something worse.

Q. Are you suggesting that the men were protecting the prisoners from the local population?

A. Yes.

Q. Were the men also preventing the prisoners from escaping?

A. Well, it's a complex issue, in fact. The sole authority over these people was exerted by the men who escorted them. They had the power to take them out at any point and do whatever they wished with them. We were there simply as silent observers.

Q. Were your men also preventing the prisoners from escaping?

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<sup>2370</sup> [REDACTED].

<sup>2371</sup> [REDACTED].

<sup>2372</sup> [REDACTED].

<sup>2373</sup> [REDACTED].

<sup>2374</sup> [REDACTED].

<sup>2375</sup> [REDACTED].

<sup>2376</sup> [REDACTED].

<sup>2377</sup> [REDACTED].

<sup>2378</sup> [REDACTED].

<sup>2379</sup> See Exh. P000377 ERN0293-5744-ERN 0293-5753 Zvornik Brigade Duty Operations Officer Notebook; see also Exh. P2846, Report of Kate Barr, paras 5.3 and 5.4, confirming Maj. Jokić's handwriting. In addition Maj. Jokić was neither the Zvornik Brigade Duty Officer on either 15 or 16 July 1995. see *Id.*, see also Exh. P2846, Report of Kate Barr, paras 5.3 and 5.4

<sup>2380</sup> [REDACTED].

<sup>2381</sup> [REDACTED].

<sup>2382</sup> [REDACTED].

<sup>2383</sup> S.PERIĆ, T.11393; R.BABIĆ, T10236.17-24.

A. The prisoners never tried to escape at all.

Q. Was that one of their tasks?

A. I wouldn't agree with you.<sup>2384</sup>

892. Given Perić's admission that he remained at the Kula School with the 1<sup>st</sup> Battalion soldiers until around midnight,<sup>2385</sup> his attempt to portray the soldiers as playing a negligible and passive role in the detention of the Muslim prisoners is nothing more than a conscious effort to avoid any responsibility for the abuses suffered by the prisoners and their subsequent execution. Perić's explanation of the 1<sup>st</sup> Battalion soldiers' role is utterly implausible and his evasiveness on this issue supports a reasonable inference to the contrary.

893. Rajko Babić's testimony shows that there was considerable interaction between the 1<sup>st</sup> Battalion soldiers and the Muslim prisoners. He even acknowledged that one of the 1<sup>st</sup> Battalion's tasks was to "provide security for the villagers in case one of the prisoners decided to escape."<sup>2386</sup> It makes sense that the provision of this security would necessarily have entailed preventing the escape of prisoners in the first instance. Indeed, Babić testified that guards were positioned at the doors to the School.<sup>2387</sup> Had the purpose of 1<sup>st</sup> Battalion soldiers been limited to securing the prisoners against potential violence from local residents, they likely would have been assigned to patrolling the roads around the school, or establishing a perimeter.

894. The presence of the 1<sup>st</sup> Battalion soldiers was intended to, and in fact did, constitute an important and necessary implement of detention. Given Rajko Babić's testimony that a wounded escapee prisoner had probably been shot by 1<sup>st</sup> Battalion soldiers, it is clear that the 1<sup>st</sup> Battalion's presence at a minimum served as a significant deterrent and was instrumental to the continued detention of the prisoners.

***The appalling conditions of detention at the Kula School provide clear evidence that there was no intention to exchange the prisoners held there.***

895. The prevailing conditions at the Kula School would have made it obvious to even a passive observer that an exchange of the Muslim prisoners was never intended. The prisoners were detained under horrendous and life threatening conditions of overcrowding, and were subjected to physical abuse.

<sup>2384</sup> S.PERIĆ, T.11385:1-22

<sup>2385</sup> S.PERIĆ, T.11393:7-18.

<sup>2386</sup> R.BABIĆ, T.10252:18-20.

<sup>2387</sup> R.BABIĆ, T.10224:22-25 ("The guards started complaining that they couldn't stand at the door. They kept asking for replacements. So that every three or four minutes *we* had to change the guards") (emphasis added).

896. Although Slavko Perić testified that he went inside the school only once or twice on 14 and 15 July, he observed the conditions of squalor and fear in which the prisoners were detained:

A very unpleasant smell emanated from there, and you couldn't bear to be in the doorway for more than a minute or two. When the guard who was inside went out, they would shift and cover the entire floor. And when the guard would come in to tell them something, they would suddenly withdraw and only occupy one-third of the floor.<sup>2388</sup>

897. Rajko Babić confirmed that the terrible smell was the result of 30 degree heat and the absence of any ventilation in the school, as no windows in the gym had been opened.<sup>2389</sup> Ahmo Hasić testified that the prisoners were terrified to leave the classrooms for fear of being beaten with rifle butts, and were forced to urinate in the classrooms.<sup>2390</sup>

898. [REDACTED] PW-117 recalled that during the night of 14 July, the gym was so overcrowded and sweltering that "two or three men died there from lack of air."<sup>2391</sup>

899. There was no electricity or running water in the Kula School.<sup>2392</sup> According to Rajko Babić, prisoners were provided with containers to collect water and were escorted by 1<sup>st</sup> Battalion soldiers to a nearby spring.<sup>2393</sup> However, [REDACTED] PW-117's evidence demonstrates that only a handful of prisoners were selected and that the amount of water they were able to collect was simply not enough for everyone.<sup>2394</sup> Further, the prisoners were provided with no medical attention<sup>2395</sup> or food.<sup>2396</sup>

900. Rajko Babić testified that one prisoner was shot, likely by a 1<sup>st</sup> Battalion soldier, while allegedly trying to flee.<sup>2397</sup> Babić looked at the wound and without any medical supplies available, the prisoner was forced to dress the wound with use his own T-shirt before he was taken to one of the classrooms.<sup>2398</sup>

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<sup>2388</sup> S.PERIĆ, T.11391:16-23.

<sup>2389</sup> R.BABIĆ, T.10224:18-20; Z.RADOSAVLJEVIĆ, T.22122:21 (confirming that the windows at the school were closed).

<sup>2390</sup> A.HASIĆ, T.1193:18-25.

<sup>2391</sup> [REDACTED] PW-117, Exh. P02207 at T.3036.

<sup>2392</sup> R.BABIĆ, T.10228:20-21

<sup>2393</sup> R.BABIĆ, T.10228.

<sup>2394</sup> [REDACTED] PW-117, Exh. P02207 at T.3036-3037.

<sup>2395</sup> [REDACTED] PW-117, Exh. P02207 at T.3036.

<sup>2396</sup> R.BABIĆ, T.10240:17-21 ("... I asked them if they were hungry and they said that they did and I told them that I had only one loaf of bread at home and they said, "Thank you very much. Don't bring it to us because we will kill each other over it . . ."); See also A.HASIĆ, T.1195:2-7 (recalling how one prisoner who asked for food was told "we don't have anything to give you", and that the prisoners were brought a loaf of bread and given bite-sized pieces).

<sup>2397</sup> R.BABIĆ, T.10229:17-23 (Babić testified, "I asked him what happened. And he said, "They wounded me" . . . "I started to flee." And I said, "Why did you do that, for heaven's sake?" And he said, "They were shooting." And I said, "Well, were they shooting at you?" And he said, "No, but I got scared and I started running." And then probably *our soldiers prevented him from escaping and shooting at him as he was fleeing*, they probably hit him in the leg" (emphasis added).

<sup>2398</sup> R.BABIĆ, T.10228-10229.

**Prisoners were murdered at the Kula School.**

901. As one of four prisoners who volunteered to collect water for others,<sup>2399</sup> [REDACTED] PW-117 recalled hearing a bus pull up while he was outside the gym filling water containers. He later heard shooting and cries for help emanating from behind the school.<sup>2400</sup> Similarly, Ahmo Hasić testified that he could hear bursts of gunfire as well as “screaming, shouting, moaning from outside”<sup>2401</sup> incessantly throughout the day and night.<sup>2402</sup>

902. [REDACTED] PW-117 recalled that on the morning of 15 July, VRS soldiers entered the school gym and demanded that the prisoners hand over their personal valuables and money, under threat of death.<sup>2403</sup> That night, VRS soldiers took a number of prisoners from the gym. While some returned, others did not,<sup>2404</sup> and were presumably killed. This was long after the Zvornik Brigade Commander, Vinko **PANDUREVIĆ**, had returned to the Zvornik area from Žepa.

903. Zvornik Brigade MP Milorad Birčaković, Drago **NIKOLIĆ**’s driver, also testified that on 15 July, he drove with Lt. Miomir Jasikovac, Commander of the MP Company, to the 1<sup>st</sup> Battalion. On their way back to Zvornik, they stopped by the Kula School for approximately half an hour, during which time Birčaković saw a corpse lying on the ground outside the School.<sup>2405</sup> Drago **NIKOLIĆ** would have been informed about the conditions at the Kula School by both Birčaković and Jasikovac.

904. Jevto Bogdanović’s testimony confirms the fact that prisoners had indeed been killed in and around the Kula School during their detention. Bogdanović testified that when he was at the school on 16 July, he saw nine dead prisoners in civilian clothes some fifty meters from the school.<sup>2406</sup> Bogdanović recalled being ordered to help lift the bodies onto a tractor-trailer to be driven away.<sup>2407</sup>

905. In striking contrast to these testimonies, Slavko Perić staunchly denied seeing any bodies on 16 July or having received any reports concerning dead prisoners in and around

<sup>2399</sup> [REDACTED] PW-117, Exh. P02207 at T.3032.

<sup>2400</sup> [REDACTED] PW-117, Exh. P02207 at T.3033-3034; Exh. P02103, Documents tendered with statement of witness Jean-Rene RUEZ, pp. 199, 206, 207. Bullet traces still exist on the wall where the execution is alleged to have taken place. Shell casings from this area were collected by ICTY investigators in 1999.

<sup>2401</sup> A.HASIĆ, T.1192:24-25.

<sup>2402</sup> A.HASIĆ, T.1197:2-4.

<sup>2403</sup> [REDACTED] PW-117, Exh. P02207 at T.3037-3038.

<sup>2404</sup> [REDACTED] PW-117, Exh. P02207 at T.3038.

<sup>2405</sup> M.BIRČAKOVIĆ, T.11045-11046

<sup>2406</sup> J.BOGDANOVIĆ, T.11344:1-8.

<sup>2407</sup> J.BOGDANOVIĆ, T.11323-11324.

the area of the school or near the road.<sup>2408</sup> Perić further testified that he had been informed by Rajko Babić and Dragan Pantić that there had been no incidents involving the prisoners during the nights of 14 and 15 July,<sup>2409</sup> and that he did not observe any incidents involving the prisoners while he was at the school:

As for the treatment afforded those prisoners, this is something that was up to the people who were escorting them, but I was not present when there were any incidents on the parts that involved the soldiers who were escorting them, so they did not mistreat or abuse in any way those prisoners. They treated them in a -- like military men, but there were no problems.

906. Clearly, this aspect of Perić's testimony is a blatant fabrication. Given that the death of even a single prisoner, in a highly-charged climate of fear and desperation, could easily have provoked an attempted escape and/or revolt, it is inconceivable that the deaths of nine prisoners at the Kula School could have escaped Perić's knowledge.

907. As the 1<sup>st</sup> Battalion's Assistant Commander for Security and Intelligence, it would have been Perić's responsibility to know about any potential security threat to his own soldiers as well as the local residents whose safety he had been specifically directed to ensure by **NIKOLIĆ**. Perić must have known about these killings, and there is little doubt that this important information would have been conveyed to his superiors<sup>2410</sup> including his superior officer along professional lines, Drago **NIKOLIĆ**, and ultimately the Commander of the Zvornik Brigade, Vinko **PANDUREVIĆ**. Although Perić insisted that his unit had no knowledge of any plan to execute the prisoners "for quite a long time,"<sup>2411</sup> all the indications that the prisoners would not be exchanged were clear from the beginning.

908. Zoran Rodosavljević, a civilian from Pilica, saw the developing situation at the Kula School during the twenty minutes he spent there on the evening of 14 July.<sup>2412</sup> He testified that at about noon on 15 July, he was ordered<sup>2413</sup> to get his rifle and to go to the school to guard the prisoners.<sup>2414</sup> Instead, he got in his car and drove to Loznica, Serbia<sup>2415</sup> and then sent for his family whom he took some 250 to 300 kilometres away

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<sup>2408</sup> S.PERIĆ, T.11409:13-25.

<sup>2409</sup> S.PERIĆ, T.11407:19.24; S.PERIĆ, T.11409-11410; S.PERIĆ, T.11395:2 -7.

<sup>2410</sup> S.PERIĆ, T.11372:18-21 (requiring Perić to report any shortcomings or deficiencies concerning the units on the lines to the Battalion Commander or Deputy to take appropriate action). See also S.PERIĆ, T.11373:13-14 (noting that Perić had duties to conduct counter-intelligence functions).

<sup>2411</sup> S.PERIĆ, T.11389:1-6; S.PERIĆ, T.11388:4-7.,

<sup>2412</sup> Z.RADOSAVLJEVIĆ, T.22123:7.

<sup>2413</sup> Z.RADOSAVLJEVIĆ, T.22124-22125.

<sup>2414</sup> Z.RADOSAVLJEVIĆ, T.22123:19-25.

<sup>2415</sup> Z.RADOSAVLJEVIĆ, T.22123:24.



from Pilica to Vrnjacka Banja, Serbia.<sup>2416</sup> When pressed on cross-examination about the motive for his action, Radosavljević gave the following answer:

Q. Sir, let me just read to you what your answer was to a similar question in the Blagojevic trial. This is at page 12066, beginning at line 13 of that transcript.

"As Pero had told me to find a rifle and to come and guard the camp, I didn't want to get blood on my hands. I was afraid I might become a war criminal myself. And as I had managed to stay out of that up to that point, I wanted to go on like that."

A. What I said just before the things that you're reading out to me is the same thing, only in a somewhat milder form. Of course, I expected all sorts of things could happen, even to the point of me becoming a war criminal. So what I said then, and what I said now, is one and the same thing. Only today I used a somewhat milder form of expression for what essentially is the same thing.<sup>2417</sup>

909. Radosavljević's prescient reaction to what he observed at the school was hardly extraordinary; rather, it was firmly grounded in the realities of the prevalent circumstances, which unmistakably pointed to the fact that an exchange of the Muslim prisoners at the Kula School was never a genuine or credible prospect.

**On the late morning of 15 July, Slavko Perić and Capt. Pelemiš went to the Zvornik Brigade Command to ask that the prisoners be taken elsewhere.**

910. On the morning of 15 July, at approximately 06:00 hours, Slavko Perić returned to the Kula School.<sup>2418</sup> Later that morning, the prisoners who had remained overnight on buses outside the School were taken away.<sup>2419</sup> The prisoners inside the School remained, and Perić informed the 1<sup>st</sup> Battalion Deputy Commander Capt. Pelemiš about the developing situation.<sup>2420</sup> Capt. Pelemiš told Perić that he had spoken with someone from the Zvornik Brigade Command and had requested that the prisoners be taken elsewhere, but that his request "was not met with understanding."<sup>2421</sup> Together with Capt. Pelemiš, Perić decided to personally go to the Zvornik Brigade Command "to demand from somebody that those people be driven somewhere else."<sup>2422</sup>

911. At around 10:00 or 11:00 hours, Perić left for the Zvornik Brigade Command with his driver, Milan Jovanović.<sup>2423</sup> At the Zvornik Brigade Command, Perić spoke to four or

<sup>2416</sup> Z.RADOSAVLJEVIĆ, T.22139:14-22.

<sup>2417</sup> Z.RADOSAVLJEVIĆ, T.22139:14-22.

<sup>2418</sup> S.PERIĆ, T.11394:7-8.

<sup>2419</sup> S.PERIĆ, T.11393:4-14.

<sup>2420</sup> S.PERIĆ, T.11392:13-20.

<sup>2421</sup> S.PERIĆ, T.11392:13-20.

<sup>2422</sup> S.PERIĆ, T.11392:13-20.

<sup>2423</sup> S.PERIĆ, T.11395:14-17.

five “commanding officers”<sup>2424</sup> about the situation at the school, one of whom may have been Maj. Dragan Jokić.<sup>2425</sup> Perić stated:

I was trying to paint the situation in even more dramatic terms that it actually was. I think I even said that two of the prisoners had escaped . . . I was simply taken aback by the lack of concern they displayed about the problem I came to discuss with them . . . I came away from all that with a conclusion that it was possible that even this operation, I mean the school, was controlled from a level much higher than that of the brigade even, and I came away with that impression because my arrival and what I said to them barely registered with them.<sup>2426</sup>

912. The conversation took place inside “an office where the duty officer usually sits, the duty officer for the brigade.”<sup>2427</sup> At one point, one officer left the room briefly and claimed that he had spoken to Maj. Dragan Obrenović. This officer subsequently returned and stated that there was a “total lack of interest in that problem,”<sup>2428</sup> meaning the problem of the prisoners.

913. [REDACTED].<sup>2429 2430 2431</sup>

914. Faced with such pointed indifference to what Perić ostensibly considered a big problem concerning the prisoners, it would have been entirely reasonable, if not expected, for him to seek out the assistance of his professional superior, Drago **NIKOLIĆ**. Yet, in a transparent effort to avoid incriminating his former superior, Perić claimed that he neither saw **NIKOLIĆ** nor sought him out<sup>2432</sup> while he was at the Zvornik Brigade Command. Perić claimed:

I didn't want to go to see Mr. **NIKOLIĆ** because I knew that he could not do anything about this whole issue. The duty officer at the brigade command is a person who stands in for the brigade commander in his absence and he is the one who can make certain decisions, and that is the only reason why I went to the duty officer.

915. Having spoken directly with Perić the previous day about security issues related to the arrival of prisoners at the school, Drago **NIKOLIĆ** clearly would have had specific

<sup>2424</sup> S.PERIĆ, T.11398:23; S.PERIĆ, T.11399:4-5 (explaining “commanding” in the sense that the four or five officers “were employed in the brigade command”); S.PERIĆ, T.11399:16-17.

<sup>2425</sup> S.PERIĆ, T.11399:24-25 (Maj. Jokić’s presence at the command of the Zvornik Brigade on the morning 15 July 1995 is confirmed by entries made by him in the Zvornik Brigade Duty Operations Officer Notebook Exh. P000377 ERN0293-5753-ERN 0293-5758); *see also* Exh. P2846, Report of Kate Barr, paras 5.3 and 5.4.

<sup>2426</sup> S.PERIĆ, T.11397:4-19.

<sup>2427</sup> S.PERIĆ, T.11398:21-24.

<sup>2428</sup> S.PERIĆ, T.11400:11-14; S.PERIĆ, T.11401:13-16; S.PERIĆ, T.11402:7-9.

<sup>2429</sup> [REDACTED].

<sup>2430</sup> [REDACTED].

<sup>2431</sup> [REDACTED].

<sup>2432</sup> The evidence in this case shows that entries made in the Zvornik Brigade Duty Operations Officer’s Notebook on 15 July from 11.45 hours onward were made by Drago **NIKOLIĆ** and thus, it is probable that **NIKOLIĆ** was at or near the Brigade Command contemporaneously with Perić. *See* Exh. 7D00165 (Zvornik Brigade Duty Operations Officer Notebook ERN0293-5758-ERN 0293-5760); *see also* P02845 (Handwriting report titled, Milorad Trbić, Drago **NIKOLIĆ** and Ljubislav Strbac, dated 29 June 2006), para. 6.

information about what was to be done with the prisoners. There can be no doubt that Perić, as **NIKOLIĆ**'s immediate subordinate along the professional security chain, would have sought **NIKOLIĆ**'s guidance in this situation.<sup>2433</sup>

916. Though Perić continued to try to minimise his knowledge and responsibility concerning the prisoners, he testified that during his visit to the Zvornik Brigade Command, an officer asked:

... 'Are there any woods close to where you are,' something like that, like, 'Why aren't you killing them off?' I said that I and my men cannot kill a single person, and I think one of them responded something like, 'If you are not going to kill them, then let them drown you all down at the village.'<sup>2434</sup>

917. By this time, the Zvornik Brigade Command was obviously aware of the presence of the prisoners in Pilica. The prisoners at Petkovci and Orahovac had already been executed, and the executions at Kozluk, in which the Zvornik Brigade MPs and 2<sup>nd</sup> Battalion were heavily involved, were imminent.<sup>2435</sup> Thus, these remarks not only reflect a callous indifference to the lives of the prisoners, but tacitly reflect the knowledge of the Zvornik Brigade Command concerning their immediate fate.

**On the afternoon of 15 July, a senior VRS officer was present at the Kula School.**

918. Rajko Babić testified that on the afternoon of 15 July, he met a senior VRS Officer near the Kula School.<sup>2436</sup> At the time, 1<sup>st</sup> Battalion soldiers were around the officer<sup>2437</sup> and Babić heard him referred to as Colonel or Lieutenant Colonel.<sup>2438</sup> Babić described this officer as blond, fair, rather tall, neatly shaved with a strong build and receding hairline.<sup>2439</sup> Babić testified that he asked the officer what should be done with the prisoners. He was told "you are a farmer's unit, a battalion. We have brought Muslims to you and you don't know how to take them away . . . you are good for nothing."<sup>2440</sup> Babić, who knew some of the prisoners in the school, also asked whether he could keep one or two of them, to which the officer responded in no uncertain terms that "they can't stay, they had to be taken away, all of them."<sup>2441</sup> Babić testified that he knew

<sup>2433</sup> S.PERIĆ, T.11369:7 (describing his professional relationship with **NIKOLIĆ**, Perić stated: "we received from him guidelines and instructions").

<sup>2434</sup> S.PERIĆ, T.11399:12-18.

<sup>2435</sup> See paras. 810-864.

<sup>2436</sup> R.BABIĆ, T.10236:25-10237:5-6 ("I noticed him at the moment when he was sitting in front of the apartment where I had spent the night").

<sup>2437</sup> R.BABIĆ, T.10237:6-7 ("our soldiers who had stood guard were around him").

<sup>2438</sup> R.BABIĆ, T.10237:9-10.

<sup>2439</sup> R.BABIĆ, T.10237:1-4; R.BABIĆ, T.10240:17-19.

<sup>2440</sup> R.BABIĆ, T.10238:4-9.

<sup>2441</sup> R.BABIĆ, T.10239:25-10240:1.

at this moment that nothing good was going to happen to the prisoners<sup>2442</sup> and “that they would all be killed.”<sup>2443</sup>

**On the afternoon of 15 July, prisoners arrived at the Pilica Cultural Centre.**

919. Slavko Perić testified that after he left the Zvornik Brigade HQ, he headed back toward the Kula School. However, as he had received information by that time that Muslim prisoners were also being held at the Pilica Cultural Centre, he decided to go there first.<sup>2444</sup> From about fifty to sixty metres away, Perić saw security around the area of the Cultural Centre, including men in military and police uniforms.<sup>2445</sup> Unsurprisingly, Perić claims that he did not observe any 1<sup>st</sup> Battalion soldiers there,<sup>2446</sup> and that he only remained across the road observing for a few minutes<sup>2447</sup> before returning to the Kula School. However, according to Perić, he never communicated any of his observations to Capt. Pelemiš.<sup>2448</sup>

920. [REDACTED].<sup>2449 2450 2451 2452 2453 2454</sup>

921. [REDACTED].<sup>2455 2456 2457 2458</sup>

**On the night of 15 July and morning of 16 July, 1<sup>st</sup> Battalion reinforcements arrived at the Kula School.**

922. After going to the Pilica Dom, Slavko Perić went back to the Kula School, where he remained there until approximately 22.00 hours, before eventually going home.<sup>2459</sup> Perić testified that during this time, Deputy Commander Capt. Pelemiš substituted in some fifteen 1<sup>st</sup> Battalion soldiers for the ones who had been initially assigned to the

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<sup>2442</sup> R.BABIĆ, T.10240:5.

<sup>2443</sup> R.BABIĆ, T.10240:7-8.

<sup>2444</sup> S.PERIĆ, T.11404:12-14.

<sup>2445</sup> S.PERIĆ, T.11405:23.

<sup>2446</sup> S.PERIĆ, T.11404:18-25.

<sup>2447</sup> S.PERIĆ, T.11404:13-17; S.PERIĆ, T.11405:6; *see also* S.PERIĆ, T.11444-11445:8-12, and Exh. 4DPIC00108 (indicating Perić’s location across from the Cultural Centre as “X” and the Cultural Centre as “DK”).

<sup>2448</sup> S.PERIĆ, T.11405:11.

<sup>2449</sup> [REDACTED]; [REDACTED].

<sup>2450</sup> [REDACTED].

<sup>2451</sup> [REDACTED].

<sup>2452</sup> [REDACTED].

<sup>2453</sup> [REDACTED].

<sup>2454</sup> [REDACTED].

<sup>2455</sup> [REDACTED].

<sup>2456</sup> [REDACTED]; Exh. P02471, Diagram drawn by witness during proofing session on 1 December 2003, used during testimony in Case No. IT-02-60-T (B. Ex. 666).

<sup>2457</sup> [REDACTED].

<sup>2458</sup> [REDACTED].

<sup>2459</sup> S.PERIĆ, T.11406:1-2.

school.<sup>2460</sup> According to Rajko Babić, these 1<sup>st</sup> Battalion soldiers numbered closer to twenty, and were actually brought to the school by Perić.<sup>2461</sup> Babić estimated that there were approximately forty to fifty soldiers in total at the School that night.<sup>2462</sup>

923. Jevto Bogdanović, a member of the Zvorik Brigade 1<sup>st</sup> Battalion Workers Platoon,<sup>2463</sup> testified that a few days after St. Peter's Day in July 1995, he was told by fellow platoon members Stevo Ostojić and Rajo Jurosević that he was to report to Kula School, where prisoners had been brought.<sup>2464</sup> It is clear that the date of Bogdanović's assignment at the Kula School was 16 July.<sup>2465</sup>

924. The members of the Workers Platoon were ordered to stand guard at the School so that the prisoners could be loaded onto buses and driven away.<sup>2466</sup> Through the ground floor windows of the school, Bogdanović could see the prisoners crowded inside.<sup>2467</sup> Bogdanović could clearly see that the prisoners were hungry and thirsty.<sup>2468</sup> He confirmed that the prisoners were civilians<sup>2469</sup> and described how they had been dressed in whatever they happened to have on; some were dressed in civilian clothes and others wore nothing but their underwear.<sup>2470</sup> Rajko Babić further testified that not all of the men were fit for military service. Indeed, some were elderly.<sup>2471</sup> DNA identification data from the ICMP confirms that, of the remains exhumed from the Branjevo Military Farm and associated secondary graves so far identified, **141** individuals were over 60 years old.

**On the morning of 16 July, Drago NIKOLIĆ was in contact with the 1<sup>st</sup> Battalion and, in his capacity as the Duty Operations Officer, organised fuel and ammunition to be sent to the 1<sup>st</sup> Battalion..**

925. The supply of 1<sup>st</sup> Battalion reinforcements to the Kula School is corroborated by an entry in the Zvornik Brigade Duty Operations Logbook made between 04:00 hours and 06:00 on 16 July. The entry reflects a request of the 1<sup>st</sup> Battalion for fifty litres of oil and twenty litres of gasoline "for transport of troops to Kula" as well as for "ten crates of 7.62

<sup>2460</sup> S.PERIĆ, T.11405:22-25.

<sup>2461</sup> R.BABIĆ, T.10233:10-22.

<sup>2462</sup> R.BABIĆ, T.10233:17-18.

<sup>2463</sup> J.BOGDANOVIĆ, T.11314:10-12.

<sup>2464</sup> J.BOGDANOVIĆ, T.11320:22-24.

<sup>2465</sup> The day after his assignment at the Kula School, Bogdanović and other Workers Platoon members removed bodies from the Pilica Cultural Centre (see paras. 982-986). This occurred on 17 July, thus dating his assignment at the Kula School as 16 July.

<sup>2466</sup> J.BOGDANOVIĆ, T.11320:23-24, 11321:2-3.

<sup>2467</sup> J.BOGDANOVIĆ, T.11340:11341, 11322:1, 11321:20-21.

<sup>2468</sup> J.BOGDANOVIĆ, T.11322:16.

<sup>2469</sup> J.BOGDANOVIĆ, T.11322:7.

<sup>2470</sup> J.BOGDANOVIĆ, T.11322:5-7.

<sup>2471</sup> R.BABIĆ, T.10250:5-7; A.HASIĆ, T.1194:6.

mm ammunition,”<sup>2472</sup> amounting to over 11,000 bullets.<sup>2473</sup> The entry was made by Drago **NIKOLIĆ**, who was the Zvornik Brigade Duty Officer from at least 11:45 hours on 15 July through 06:35 hours on 16 July 1995. The entry demonstrates that **NIKOLIĆ** was in contact with the 1<sup>st</sup> Battalion Command and must have been apprised of the situation at the Kula School, including the murder of prisoners there.

**At 11:00 hours, Col. Cerović passed on an order to BEARA that “triage” must be done on the prisoners.**

926. The knowledge and involvement of the Drina Corps in the Pilica executions is highlighted in an intercepted conversation between **BEARA** and the Drina Corps Assistant Commander for Moral, Legal, and Religious Affairs, Col. Cerović, communicating the order to murder the prisoners. This intercept reads:

Channel3            1111 hrs  
Colonel Ljubo **BEARA** – CEROVIĆ - X

C:        Hey, listen to me. Triage has to be done today... ? ...taken prisoners. /as printed/  
X:        Yes.  
C:        ... (distorted modulation).  
X:        To do triage.  
C:        Triage has to be done on the prisoners.  
X:        Colonel **BEARA** is right here by me.  
C:        Give inc **BEARA**.  
X:        Go ahead.  
B:        Yes?  
C:        Ljubo.  
B:        I hear you.  
C:        Hello! CEROVIĆ speaking.  
B:        I hear you.  
C:        TRKULJA was here with me just now and he was looking for you. I don't know.  
B:        Yes.  
C:        So, he told me ... ? ... he got instructions from above.  
B:        Yes.  
C:        To do triage on those (he's interrupted).  
B:        I don't want to talk about it on the phone.  
C:        OK.  
B:        OK, take care.  
C:        Cheers.<sup>2474</sup>

927. In this intercepted conversation, Col. Cerović informs **BEARA** that “ŠtĆriage has to be done on the prisoners.”<sup>2475</sup> This clearly demonstrates that the Drina Corps had specific knowledge that prisoners were still alive in the Zvornik area. As the only prisoners alive by the morning of 16 July were in at the Kula School and Pilica Dom, the intercept further demonstrates the Drina Corps' specific knowledge of this fact, and

<sup>2472</sup> Exh. P00377 at ERN: 0293-5761.

<sup>2473</sup> **PANDUREVIĆ**, T.31304:25-31305:2 (acknowledging that one crate of such ammunition could contain either 1,260 bullets or 1,140 bullets).

<sup>2474</sup> Exh. P01187, Intercept dated 16 July 1995, 11:11 hours.

<sup>2475</sup> Exh. P01187, Intercept dated 16 July 1995, 11:11 hours.

implicitly, its knowledge that the murders of the thousands of Bosnian Muslim prisoners that were detained in Petkovci, Orahovac and Ročević had been completed.

928. Col. Cerović notes that the instruction to do “triage” came from above, implying that Gen. Mladić ordered the executions of the anywhere from 1,500 to 2,000 prisoners still alive in the Kula School and the Pilica Cultural Centre. The order was thus passed on by Cerović to Col. **BEARA** in the field. **BEARA** clearly acknowledged and understood the instruction as well as its nefarious purpose, which explains why he did not want to talk about the matter further on the phone.

929. There is absolutely no evidence to demonstrate that legitimate medical triage procedures were performed on Muslim prisoners, with the exception of the wounded men that were received at the Milići Hospital on 13 July. The term “triage,” as used in this intercept, singularly refers to an execution.<sup>2476</sup>

930. **BEARA**’s presence at the Zvornik Brigade HQ on the morning of 16 July and his conversation with Col. Cerović regarding the order to do “triage” is confirmed by the following entry on 16 July in the Zvornik Brigade Duty Operations Officer Notebook:

At 1115 hrs. It was reported from *Zlatar* that a triage of wounded and prisoners must be carried out (It was reported to **BEARA**).<sup>2477</sup>

**At approximately 12:00 hours on 16 July, BEARA and POPOVIĆ were present at the Kula School.**

931. On 16 July at around 08:00 or 09:00 hours, Slavko Perić was called by the 1<sup>st</sup> Battalion Deputy Commander Capt. Pelemiš who told him “[t]hat somebody from the Brigade Command had called him and that he had been told that we should not worry, that people would finally come and take those prisoners away from there.”<sup>2478</sup>

932. Perić recalled that at around 12:00 hours, two officers arrived at the school. He described one of the officers as “very tall, going bald, with striking features” and the other as “a bit shorter than the first, dark-haired.”<sup>2479</sup> Perić had previously described these officers in a 2003 statement as follows: “one being quite strongly built, quite bulky, with grey hair, and the other being quite shorter, wearing a moustache, with a dark complexion.”<sup>2480</sup> During his testimony, he reluctantly conceded that he had previously

<sup>2476</sup> R.BUTLER, T.20270-20280; see also Exh. P00686, Revised Narrative Report of Richard Butler, dated 1 November 2009.

<sup>2477</sup> Exh. P00377 at ERN:0293-5764.

<sup>2478</sup> S.PERIĆ, T.11408:11-16.

<sup>2479</sup> S.PERIĆ, T.11411:6-8

<sup>2480</sup> S.PERIĆ, T.11413:4-24 (stating that “this description . . . I believe, is not in dispute”).

also identified these two officers by name, to wit: **BEARA** and **POPOVIĆ**.<sup>2481</sup> In addition, Perić confirmed that he had heard a soldier refer to the shorter of the two officers as “Pope.”<sup>2482</sup>

933. While this evidence was challenged by the **POPOVIĆ** Defence as improbable, particularly to the extent that a subordinate might refer to his superior officer by a nickname,<sup>2483</sup> additional evidence categorically refutes this contention. This evidence includes an intercepted conversation in which Drago **NIKOLIĆ** refers to his superior, Lt. Col. **POPOVIĆ**, as “Pop,”<sup>2484</sup> and the testimony of [REDACTED] PW-172, who testified that although he had never spoken to **POPOVIĆ** before, he referred to him as “Pop,” as he was usually referred to among soldiers in conversation.<sup>2485</sup>

934. There is no plausible motive for Perić to have falsely identified either **BEARA** or **POPOVIĆ** in his 2003 statement. To the contrary, Perić’s clear unwillingness to name his former superiors at trial<sup>2486</sup> enhances the credibility of his prior identification. More importantly, Perić’s equivocation at trial concerning his present recollection of the officers he clearly saw at the Kula School on 16 July does not impact upon the accuracy and reliability of his previous identifications, which Perić never retracted.

935. Perić’s recollection at trial of the officers that he saw on 16 July 1995 at the Kula School, while indefinite, was in complete agreement with his prior identification, viz:

“... All that I can say about those men, I have already said in that [2003] description, and *I stand behind that*,”<sup>2487</sup>

“... [T]his description . . . is not in dispute,”<sup>2488</sup>

“...[T]hey bore some resemblance to those people,”<sup>2489</sup>

“To the best of my recollection, that’s what they looked like.”<sup>2490</sup>

“I am sure that they were not commanding officers from the Zvornik Brigade.”<sup>2491</sup>

<sup>2481</sup> S.PERIĆ, T.11414:21.

<sup>2482</sup> S.PERIĆ, T.11415:3-4.

<sup>2483</sup> S.PERIĆ, T.11424-11425.

<sup>2484</sup> Exh. P02437[REDACTED], Intercept dated 19 January 1995 at 10:57 hours (a conversation in which **NIKOLIĆ** refers to **POPOVIĆ**, his professional superior as, “Pop”); *see* P01218(a), Intercept dated 17 July 1995 at 12:42 (Maj. Golić, Drina Corps Intelligence officer refers to **POPOVIĆ** as “Pop”); *see also* P01189(a), Intercept dated 16 July 1995 at 11:58 (Capt. Milorad Trbić, a subordinate of **POPOVIĆ** refers to him as “Pop”).

<sup>2485</sup> [REDACTED] (PW-172), T.32573-32574.

<sup>2486</sup> S.PERIĆ, T.11414; S.PERIĆ, T.11423:7-11.

<sup>2487</sup> S.PERIĆ, T.11429:4-8 (emphasis added).

<sup>2488</sup> S. PERIĆ, T.11413:11.

<sup>2489</sup> S. PERIĆ, T.11414:24-25.

<sup>2490</sup> S.PERIĆ, T.11411:15-16.

<sup>2491</sup> S.PERIĆ, T.11413:12-13.



936. Given this litany of descriptors and affirmations, Perić's prior identification, by name, of **BEARA** and **POPOVIĆ** constitutes credible and reliable evidence of both their presence and involvement in the very heart of the killing operation that took place at Branjevo Military Farm.

**Transport of the prisoners from Kula School to the Branjevo Military Farm.**

937. According to Perić, after **BEARA** and **POPOVIĆ** arrived, a van carrying about a dozen soldiers also arrived, followed by an empty bus.<sup>2492</sup> Immediately thereafter, the prisoners were taken out of the school, loaded onto the bus and driven away.<sup>2493</sup>

938. Ahmo Hasić described how the prisoners were taken out of the school. He testified that on 16 July, the prisoners were told that those able to pay would be bussed to Sarajevo.<sup>2494</sup> Hasić recalled that one prisoner in particular announced that he had 100 marks and was willing to pay for his colleague, neighbour and friend.<sup>2495</sup> He and other men who said they could pay were taken out of the school in this manner.<sup>2496</sup> However, those who could not pay were told that they would be driven to Tuzla.<sup>2497</sup> [REDACTED] PW-117 was told that all young men in the gym would be released and exchanged.<sup>2498</sup> These deceptions were clearly devised to diffuse any potential resistance of the prisoners to their movement and ensure their compliance.

939. Hasić testified that at some point, two long sheets were brought into the room in which he was held. The prisoners were told that they were to be torn into strips to tie their hands behind their backs.<sup>2499</sup>

940. As he was being led out of the school, Hasić saw a dead prisoner on the ground floor. He described how "[t]here was blood, a pool of blood all around him. He was lying at the bottom of the stairs."<sup>2500</sup> Along with the other prisoners, Hasić was escorted to waiting buses by some ten VRS soldiers who swore at the prisoners as they ordered them forward, and occasionally struck them with the butts of their rifles in front of several officers.<sup>2501</sup>

<sup>2492</sup> S.PERIĆ, T.11409:3-6; S.PERIĆ, T.11410:3-7

<sup>2493</sup> S.PERIĆ, T.11415:9-10; S.PERIĆ, T.11410:16-17.

<sup>2494</sup> A.HASIĆ, T, 1195:9-11.

<sup>2495</sup> A.HASIĆ, T, 1195:11-12.

<sup>2496</sup> A.HASIĆ, T, 1195:13-14.

<sup>2497</sup> A.HASIĆ, T.1195:13-15.

<sup>2498</sup> [REDACTED] PW-117, Exh. P02207 at T.3039-3040.

<sup>2499</sup> A.HASIĆ, T.1195:16-20

<sup>2500</sup> A.HASIĆ, T.1195:25-1196:1.

<sup>2501</sup> A.HASIĆ, T.1198:12-18; A.HASIĆ, T.1199:20.

941. [REDACTED] PW-117 similarly testified that his hands were bound behind his back as he was taken from the School and placed on board a bus.<sup>2502</sup> Hasić testified that the buses each held about fifty people, and that the prisoners were tied up and told they were going to Tuzla.<sup>2503</sup>

942. Rajko Babić's testimony confirms these events. He testified that between 10:00 and 11:00 hours, he saw a bus parked on the school's playground.<sup>2504</sup> Though the bus partially obscured his view, Babić could see three Muslim men outside the school, facing the wall.<sup>2505</sup> They were blindfolded. Babić later learned that the prisoners had been brought out of the school in groups of eight.<sup>2506</sup> The first row of prisoners would have their hands tied and would be blindfolded by the next group of eight.<sup>2507</sup> Two or three soldiers would stand behind the second row of prisoners while this was being done.<sup>2508</sup>

943. Zvornik Brigade 1<sup>st</sup> Battalion soldier Jevto Bogdanović, who had been ordered to stand guard at school so that the prisoners could be put onto buses and driven away,<sup>2509</sup> also corroborates the manner of the prisoners' removal. Perić testified that there was only one bus involved in the operation,<sup>2510</sup> and that the transport of the prisoners from the school was carried out over four or five tours.<sup>2511</sup> However, the credible evidence in this case contradicts these claims and exposes Perić's testimony in this respect to have been yet another clear attempt to downplay his involvement and responsibility in the events.

944. Ahmo Hasić recalled that the prisoners were placed on at least two buses that he saw parked in front of the school.<sup>2512</sup> Similarly, Jevto Bogdanović testified that from his position near a large iron gate at the entrance to the school,<sup>2513</sup> he could see that the "the buses were crammed" with prisoners as they were loaded.<sup>2514</sup> Unknown to the prisoners at the time, they were in the process of being transported to the Branjevo Military Farm to be summarily executed.

<sup>2502</sup> [REDACTED] PW-117, Exh. P02207 at T.3040.

<sup>2503</sup> A.HASIĆ, T.1198:19.

<sup>2504</sup> R.BABIĆ, T.10235:23-10236:4.

<sup>2505</sup> R.BABIĆ, T.10234:13-20.

<sup>2506</sup> R.BABIĆ, T.10234:13-20.

<sup>2507</sup> R.BABIĆ, T.10235; S.PERIĆ, T.11415:20-25 (Perić noted that he could see that the prisoners were blindfolded on a bus he saw driven away from the school).

<sup>2508</sup> R.BABIĆ, T.10235.

<sup>2509</sup> J.BOGDANOVIĆ, T.11320:23-24; J.BOGDANOVIĆ, T.11321:2-3.

<sup>2510</sup> S.PERIĆ, T.11416:21-22.

<sup>2511</sup> S.PERIĆ, T.11418:9-17.

<sup>2512</sup> A.HASIĆ, T.1200:12-17; [REDACTED].

<sup>2513</sup> J.BOGDANOVIĆ, T.11321:14-16.

<sup>2514</sup> J.BOGDANOVIĆ, T.11322:1-3 (emphasis added).

**The Branjevo Military Farm.**

945. The Branjevo Military Farm was an asset of the Zvornik Brigade and within its zone of responsibility.<sup>2515</sup> In 1994, 1<sup>st</sup> Battalion Commander, Lt. Milan Stanojević,<sup>2516</sup> and Radivoje Lakić, Commander of the 1<sup>st</sup> Battalion's Workers Platoon,<sup>2517</sup> agreed on how to establish and administer the farm in accordance with an understanding between Lt. Stanojević and Vinko **PANDUREVIĆ**.<sup>2518</sup> The farm was initially owned by Agroprom Zvornik,<sup>2519</sup> a state-owned agricultural interest in Zvornik municipality,<sup>2520</sup> and its premises comprised some 1,450 hectares of arable land.<sup>2521</sup> Agroprom reallocated six hectares of land to the army for its own purposes.<sup>2522</sup>

946. In 1995, Capt. Lakić, a former Agroprom manager before the war, commanded ten (mostly elderly) men<sup>2523</sup> who comprised the 1<sup>st</sup> Battalion Workers Platoon.<sup>2524</sup> The Platoon's members were a daily presence on the farm and reported regularly for service.<sup>2525</sup> Roll call was conducted in the farm's infirmary building,<sup>2526</sup> and the men worked in two shifts and to the same extent as the 1<sup>st</sup> Battalion's regular soldiers.<sup>2527</sup> Capt. Lakić was responsible for organising the platoon's cultivation of crops on the plot of land appropriated by the Zvornik Brigade.<sup>2528</sup> The Platoon also used the premises to prepare food for distribution to the 1<sup>st</sup> Battalion troops,<sup>2529</sup> and would eat their regular meals at the infirmary building, or in one of the barns when it rained.<sup>2530</sup> They used one of the farm buildings to store maize<sup>2531</sup> as well as one of its stables for livestock.<sup>2532</sup>

<sup>2515</sup> R.BUTLER, T.20019:19-21; *see also* Exh. P00463, Drinski Magazine article, dated June 1995, para. 4. (ERN 0079-1799).

<sup>2516</sup> R.LAKIĆ, T.10264-10265 (The 1<sup>st</sup> Battalion was also known as the Lokanj-Pilica Battalion); Exh. P00686, Revised Narrative Report, dated 1 November 2002, at 7.46 (ERN 0113-4365).

<sup>2517</sup> R.LAKIĆ, T.10265:12-14-T.10265:16-17.

<sup>2518</sup> R.LAKIĆ, T.10265:12-14-T.10267:1-5.

<sup>2519</sup> R.LAKIĆ, T.10265:12-14-T.10268:15-17.

<sup>2520</sup> R.LAKIĆ, T. 10263:3-6.

<sup>2521</sup> R.LAKIĆ, T. 10292:4.

<sup>2522</sup> R.LAKIĆ, T.10268:15-17; R.LAKIĆ, T.10275:18-23 and Exh.P0205 (a planning map of the Branjevo Military Farm, marked by Lakić and indicating the military part of the farm in a triangular shaped area); *see also* J.BOGDANOVIĆ, T.11317:6-7. *But see* Exh. P00463, Drinski Magazine article, dated June 1995, paras.5-6. (ERN 0079-1799) (showing that the Military appropriated seven hectares of land).

<sup>2523</sup> R.LAKIĆ, T.10292:4; R.LAKIĆ, T.10266.

<sup>2524</sup> R.LAKIĆ, T. 10297:8-10. *see also* Exh. P02506 (Order appointing Capt. Lakić as manager of the Military Farm, ERN 0073-3281); R.LAKIĆ, T. 10266:16-21.

<sup>2525</sup> R.LAKIĆ, T. 10266:10-11.

<sup>2526</sup> J.BOGDANOVIĆ, T.11315-11316.

<sup>2527</sup> J.BOGDANOVIĆ, T.11318:22-24; J.BOGDANOVIĆ, T.11342:10-13.

<sup>2528</sup> J.BOGDANOVIĆ, T.11317:6-7; R.LAKIĆ, T.10266:1-3.

<sup>2529</sup> J.BOGDANOVIĆ, T.11315:13-15; J.BOGDANOVIĆ, T.11342:20-22; R.LAKIĆ, T.10287:10-14.

<sup>2530</sup> J.BOGDANOVIĆ, T.11318:16-17; J.BOGDANOVIĆ, T.11336:20-22 and Exh. PIC00107 (Photo of the Branjevo Farm buildings indicating with an arrow the building used for eating).

<sup>2531</sup> J.BOGDANOVIĆ, T.11335:6-7; Exh. PIC00107 (Photo of the Branjevo Farm buildings indicating the storage area with a circle)

**On the morning of 16 July, the 10<sup>th</sup> Sabotage Detachment was deployed to the Branjevo Military Farm.**

947. Dražen Erdemović testified that in April 1994 he became a member of a then newly formed 'Special Unit' of the VRS which was an asset of the Intelligence Service<sup>2533</sup> of the Main Staff.<sup>2534</sup> At that time, the 'Special Unit' consisted of only eight to ten men.<sup>2535</sup> By October 1994, that same unit, renamed the 10<sup>th</sup> Sabotage Detachment, had grown to around 50 or 60 men and consisted of two platoons located in Vlasenica<sup>2536</sup> and Bijeljina.<sup>2537</sup> Under the command of 2<sup>nd</sup> Lt. Milorad Pelemiš, Erdemović was assigned to the thirty-man-strong Bijeljina platoon.<sup>2538</sup>

948. On the morning of 16 July, Erdemović and seven other members of the 10<sup>th</sup> Sabotage Detachment were told to ready their weapons and to prepare for an assignment.<sup>2539</sup> After approximately half an hour, the small group of men, commanded by Brano Gojković, departed from the 10<sup>th</sup> Sabotage Detachment's base in Dragasevac<sup>2540</sup> for Zvornik.<sup>2541</sup> Later that morning, the group arrived at the Zvornik Brigade's Standard Barracks.<sup>2542</sup> Not long after their arrival, a tall corpulent Lieutenant Colonel with greyish hair in a VRS uniform emerged,<sup>2543</sup> accompanied by two members of the Drina Corps Military Police.<sup>2544</sup> Following a brief discussion with Gojković, the three got into what Erdemović described as an "olive-green-grey" Opel Cadet car. The van carrying Erdemović and his group then followed the Opel Cadet to the Branjevo Military Farm.<sup>2545</sup>

<sup>2532</sup> R.LAKIĆ, T. 10300-10301 and Exh. PIC0093 (indicating the stable where pigs were kept for military use).

<sup>2533</sup> ERDEMOVIĆ, T.10931:15-18 (noting that the unit was under the command of the Security Service of the VRS Main Staff, but acknowledging that the Security and Intelligence services "all fit into the Security Service", T.10935:11-14); *see* ERDEMOVIĆ, T.10934:22-25 (observing that Main Staff Chief of Intelligence, Col. Petar Salapura, had supervisory responsibility for the unit); *see also* OBRADOVIĆ, T.28356:14-16; R.BUTLER, T.20264:10-16.

<sup>2534</sup> ERDEMOVIĆ, T.10931:15-18.

<sup>2535</sup> ERDEMOVIĆ, T.10931:16

<sup>2536</sup> D.TODOROVIĆ T.13992:17-22 (noting that the Vlasenica Platoon's base was actually located in Dragasevac, some 4 or 5 kilometres from Vlasenica).

<sup>2537</sup> ERDEMOVIĆ, T.10931:25- T.10932:2

<sup>2538</sup> ERDEMOVIĆ, T.10934:13-14; ERDEMOVIĆ, T.10935:6

<sup>2539</sup> ERDEMOVIĆ, T.10962:15-18

<sup>2540</sup> ERDEMOVIĆ, T.10962:21; Dragasevac is located on the road from Vlasenica towards Kladanj, *see* ERDEMOVIĆ, T.10961:1-2.

<sup>2541</sup> ERDEMOVIĆ, T.10962:20-23; ERDEMOVIĆ, T.10963:3-4

<sup>2542</sup> ERDEMOVIĆ, T.10964:15-20; *see* EXH. P01915 (indicated by the witness as to where he and his unit stopped before proceeding to the Branjevo Military Farm on 16 July 1995); Exh. PIC00100 (indicated by the witness as the location where his unit parked their vehicle before proceeding to the Branjevo Military Farm on 16 July 1995); and EXH. P01916 (depicting the Zvornik Brigade Headquarters guardhouse).

<sup>2543</sup> ERDEMOVIĆ, T.10966:2-10.

<sup>2544</sup> ERDEMOVIĆ, T.10966:15-19; ERDEMOVIĆ, T.10967:6-7.

<sup>2545</sup> ERDEMOVIĆ, T.10969:17-19.

At the Farm, Erdemović saw a tractor, trailers, agricultural machinery, as well as men in military uniform inside an office, located in a long one-storey building.<sup>2546</sup>

949. The Lieutenant-Colonel went inside the office. He then spoke with Brano Gojković, who announced that buses carrying “civilians”<sup>2547</sup> from Srebrenica would start arriving in a few minutes<sup>2548</sup> and that they were to be killed.<sup>2549</sup> To reluctant members of Erdemović’s unit, Gojković added: “ŠiĆf you think that they would not shoot you, give me your rifle and stand in the same line with them.”<sup>2550</sup>

950. Soon thereafter, the Lieutenant-Colonel and two military policemen got back into the Opel Cadet. As they were about to drive away from the area, the first buses with Muslim prisoners arrived.<sup>2551</sup>

**The executions at the Branjevo Military Farm.**

951. From the Kula School, the bus carrying Ahmo Hasić drove about 2.5 kilometres, climbing a hill before reaching the nearby execution site.<sup>2552</sup> As the bus neared the Branjevo Military Farm, Hasić could hear bursts of gunfire.<sup>2553</sup> When his bus finally arrived, VRS soldiers ordered several men off at a time, cursing their mothers.<sup>2554</sup> When describing the scene, Hasić said, “you could see death in their eyes.”<sup>2555</sup>

952. As the prisoners disembarked from the bus, they formed a column.<sup>2556</sup> They were then taken down a path and shot.<sup>2557</sup> This happened with each group of prisoners that emerged from the buses.<sup>2558</sup> By the time Hasić’s bus arrived, dead men could be seen lying on the ground on the path to the execution site.<sup>2559</sup>

953. [REDACTED] PW-117 similarly saw a meadow strewn with dead bodies<sup>2560</sup> from the bus which transported him to the Branjevo Military Farm. He saw prisoners from a previous bus led away, marched to the killing field, and summarily executed:

When the buses stopped, soldiers started taking out groups of people who were tied up. They were taking them in one column. They had to put their hands behind their backs. Those were groups of

<sup>2546</sup> ERDEMOVIĆ, T.10969:21-10970:1-5.

<sup>2547</sup> ERDEMOVIĆ, T.10971:3-4.

<sup>2548</sup> ERDEMOVIĆ, T.10970:14-21.

<sup>2549</sup> ERDEMOVIĆ, T.10971:4.

<sup>2550</sup> ERDEMOVIĆ, T.10971:7-9.

<sup>2551</sup> ERDEMOVIĆ, T.10971:11-13.

<sup>2552</sup> A.HASIĆ, T.1200:20-24; A.HASIĆ, T.1201:1.

<sup>2553</sup> A.HASIĆ, T.1201:2-4.

<sup>2554</sup> A.HASIĆ, T.1201:4-6.

<sup>2555</sup> A.HASIĆ, T.1201:7.

<sup>2556</sup> A.HASIĆ, T.1201:19.

<sup>2557</sup> A.HASIĆ, T.1201:12-14.

<sup>2558</sup> A.HASIĆ, T.1201:14.

<sup>2559</sup> A.HASIĆ, T.1201:19-21.

<sup>2560</sup> [REDACTED] PW-117, Exh. P02207 at T.3040.

ten people which were taken to the area where the dead bodies were, on the meadow, and this is where they were killed. And then they would shoot at each one of them individually, and this is what I could observe from the bus.<sup>2561</sup>

954. Erdemović's evidence fully corroborates the accounts of these two survivors of the Branjevo executions. Erdemović testified that at the very beginning of the operation, two members of the 10<sup>th</sup> Sabotage Detachment approached the first buses to arrive and talked to VRS military policemen who had accompanied them. The members of the 10<sup>th</sup> Sabotage Detachment were then instructed to line up in order to escort the prisoners to the execution site.<sup>2562</sup>

955. The first group of approximately ten prisoners was taken off a bus, blindfolded and with their hands tied behind their backs.<sup>2563</sup> They were marched off some 100-200 metres.<sup>2564</sup> Once the prisoners were in position, with their backs to their executioners, Brano Gojković gave the order to shoot.<sup>2565</sup> Erdemović, along with the other seven members of the 10<sup>th</sup> Sabotage Detachment, opened fire on the prisoners with automatic weapons.<sup>2566</sup> A second group of prisoners then followed the first to their deaths.<sup>2567</sup> Erdemović testified that the executions continued in this way from approximately 10:00 hours until 15:00 or 16:00 hours,<sup>2568</sup> with fifteen to twenty busloads of prisoners<sup>2569</sup> ultimately being executed.

956. Erdemović testified that in the early in the afternoon, eight to ten soldiers in VRS uniforms arrived in a TAM truck.<sup>2570</sup> He believed that these men had come from Bratunac because two members of the 10<sup>th</sup> Sabotage Detachment had recognised some of them as such.<sup>2571</sup>

957. As the executions progressed, these soldiers kicked, punched and cursed the prisoners. They also beat them with rifle-butts and metal bars.<sup>2572</sup>

958. Ahmo Hasić testified that, as he was marched down to the killing site with a group of prisoners guarded by about eight VRS soldiers, one soldier demanded money from

<sup>2561</sup> [REDACTED] PW-117, Exh. P02207 at T.3040-3041.

<sup>2562</sup> ERDEMOVIĆ, T.10971:15-20.

<sup>2563</sup> ERDEMOVIĆ, T.10971:24-T.10972:1.

<sup>2564</sup> ERDEMOVIĆ, T.10972:3-5.

<sup>2565</sup> ERDEMOVIĆ, T.10972:6-7.

<sup>2566</sup> ERDEMOVIĆ, T.10972:8-13.

<sup>2567</sup> ERDEMOVIĆ, T.10972:16-17.

<sup>2568</sup> ERDEMOVIĆ, T.10972:21-22; *see also* J.BOGDANOVIĆ, 11325:3-5 (testifying that he went home from an assignment to guard the prisoners that were taken away from the Kula School at 4.00 pm.)

<sup>2569</sup> ERDEMOVIĆ, T.10983:16-19.

<sup>2570</sup> ERDEMOVIĆ, T.10982:2-3.

<sup>2571</sup> ERDEMOVIĆ, T.10974:4-6.

<sup>2572</sup> ERDEMOVIĆ, T.10975:2-4.

him.<sup>2573</sup> Without money to give, Hasić was kicked in the stomach by the soldier which caused him to double over.<sup>2574</sup> After regaining his footing, the soldier asked Hasić whether he wanted to “convert to and register [as a Serb] to survive.”<sup>2575</sup>

959. When Hasić finally reached the killing site, he was marched through rows of dead.<sup>2576</sup> On an incline where prisoners had already been killed, Hasić was lined up among a group prisoners. They were ordered: “‘turn around, turn your backs to us’ . . . and then . . . they commanded, ‘lie down’.”<sup>2577</sup> Before the prisoners could comply, fire was opened upon them. Hasić fell immediately, as did the others under fire.<sup>2578</sup> As bullets landed all around him, Hasić was uninjured, but lay still as he witnessed seven more columns of men gunned down.<sup>2579</sup>

960. Similarly, [REDACTED] PW-117 was taken off the bus that brought him to the killing field and fired upon by Serb soldiers with automatic weapons and machine guns.<sup>2580</sup> [REDACTED] PW-117 described the scene:

When they opened fire, I threw myself on the ground. My hands were still tied behind my back and I fell on my stomach, face down. And one man fell on my head. I think that he was killed on the spot. And I could feel the hot blood pouring over me. The shooting continued and then they ordered soldiers to shoot people individually. And I could hear a voice saying that they shouldn't shoot people in their heads, so that their brains wouldn't spill out, but rather to shoot them in their backs.<sup>2581</sup>

961. [REDACTED] PW-117 testified that ten soldiers participated in the executions, while another three to four soldiers escorted the prisoners from buses to the execution site.<sup>2582</sup>

962. [REDACTED] PW-117 specifically recalled that an M-84 machine gun was used to carry out the executions<sup>2583</sup>, a point corroborated by Dražen Erdemović. Erdemović testified that at a certain point during the course of the executions, a fellow member of the 10<sup>th</sup> Sabotage Detachment, Aleksandar Cvetković, suggested that they use the M-84 high powered sub-machine gun<sup>2584</sup> in order to speed up the executions.<sup>2585</sup>

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<sup>2573</sup> A.HASIĆ, T.1201:23-24.

<sup>2574</sup> A.HASIĆ, T.1201:25.

<sup>2575</sup> A.HASIĆ, T.1202:4-6.

<sup>2576</sup> A.HASIĆ, T.1202:19-22.

<sup>2577</sup> A.HASIĆ, T.1202:22-23.

<sup>2578</sup> A.HASIĆ, T.1202:25-T.1203:2

<sup>2579</sup> A.HASIĆ, T.1203:16-18.

<sup>2580</sup> [REDACTED] PW-117, Exh. P02207 at T.3041.

<sup>2581</sup> [REDACTED] PW-117, Exh. P02207 at T.3041.

<sup>2582</sup> [REDACTED] PW-117, Exh. P02207 at T.3043-3044.

<sup>2583</sup> [REDACTED] PW-117, Exh. P02207 at T.3044.

<sup>2584</sup> D.TODOROVIĆ 14031:9-13.

<sup>2585</sup> ERDEMOVIĆ, T.10973:10-12; Exh. P02868, Pages containing entries dated 14, 15 and 16 July 1995 from notebook containing handwritten entries from 1995 relating to logistical support issued to the VRS

963. Erdemović pointedly explained how the powerful weapon “just butchered those people”<sup>2586</sup> and how those who did not die “lay on the ground and begged for someone to come and kill them.”<sup>2587</sup>

964. Ahmo Hasić testified that when the shooting subsided, he heard a Serb soldier ask whether there were any survivors. Those who responded were then shot in the head.<sup>2588</sup> [REDACTED] PW-117 similarly recalled how he “could hear [the soldiers] ask if anybody was wounded. They said that they would be bandaged. And some people spoke up and then they were finished off.”<sup>2589</sup>

965. In one incident typifying the cruelty with which these executions were carried out, [REDACTED] PW-117 recalled how at a certain point he could “hear one man crying for help. He was begging them to kill him and they simply said, žlet him suffer. We’ll kill him later’.”<sup>2590</sup>

966. The sound of gunfire emanating from the execution site could be heard all around. Capt. Lakić testified that on Sunday (16 July 1995), he could hear shots from his home, located immediately behind the farm, across the road the Bijeljina – Zvornik road.<sup>2591</sup> He took shelter indoors for fear of stray bullets.<sup>2592</sup> He could not estimate for how long the sound of gunfire continued, and once inside, did not see anything. Nevertheless, he concluded without reservation that “those people were being killed . . . there was a liquidation going on.”<sup>2593</sup>

967. Slavko Perić similarly testified that after the bus which shuttled the prisoners away from the school returned for the third or fourth time, he heard shots fired at a distance.<sup>2594</sup> Though he claimed that he assumed that “somewhere not far away, an execution was being carried out,”<sup>2595</sup> under the circumstances, he obviously knew what was happening. Perić testified that the killings were carried out over as little as two hours,<sup>2596</sup> but credible evidence establishes that the process was significantly longer.

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10th Sabotage Detachment, Vlasenica Platoon. ERN: 0423-4937 (indicating 1200 pieces of ammunition for M-84).

<sup>2586</sup> ERDEMOVIĆ, T.10973:16-18.

<sup>2587</sup> ERDEMOVIĆ, T.10973:20-21.

<sup>2588</sup> A.HASIĆ, T.1202:2-6.

<sup>2589</sup> [REDACTED] PW-117, Exh. P02207 at T.3042.

<sup>2590</sup> [REDACTED] PW-117, Exh. P02207 at T.3042.

<sup>2591</sup> Exh. P02505 (indicating Capt. Lakić’s home with an “x”).

<sup>2592</sup> R.LAKIĆ, T.10271:3-8.

<sup>2593</sup> R.LAKIĆ, T.10271:17-19.

<sup>2594</sup> S.PERIĆ, T.11416:4-5.

<sup>2595</sup> S.PERIĆ, T.11416:18-19.

<sup>2596</sup> S.PERIĆ, T.11418:9-17.



968. [REDACTED] PW-117 recalled that the executions continued for approximately four hours, into the afternoon of 16 July.<sup>2597</sup> As mentioned above, Erdemović estimated that the executions went on for 5 or 6 hours.<sup>2598</sup> Jevto Bogdanović, who was on duty at the school guarding prisoners as they were loaded onto the buses that brought them to the execution site, corroborates both estimates. He testified that he remained on duty at the school that afternoon through 16:00 hours.<sup>2599</sup>

969. In all, Hasić estimated that approximately 1,000 to 1,500 men were executed at the Branjevo Military Farm that day.<sup>2600</sup> Similarly, Dražen Erdemović estimated that by the time the mass execution at Branjevo Military Farm had ended, some 1,000 to 1,200 men lay dead.<sup>2601</sup>

**The survivors of the Branjevo Farm executions.**

970. Sometime close to dusk, Ahmo Hasić made his escape. He saw two prisoners heading into some shrubbery close to the execution site and, at an opportune moment, followed suit. He came upon another two survivors.<sup>2602</sup> The four other survivors ranged in age from 16 to 25 years old<sup>2603</sup> and together with Hasić, they remained hidden in the shrubs until nightfall.<sup>2604</sup> When they emerged, they crossed a field, coming upon dead prisoners from the Kula School whom Hasić recognised as among those who had presumably paid to get to Sarajevo.<sup>2605</sup>

971. He eventually made it to a nearby forest with the four other men.<sup>2606</sup> However, as his pace was slower, Hasić was left behind and continued alone.<sup>2607</sup> He recalled that one of the young men told him he was from Jagonje village. He later learned that the four men had been captured.<sup>2608</sup>

972. [REDACTED].<sup>2609 2610 2611 2612 2613</sup>

<sup>2597</sup> [REDACTED] PW-117, Exh. P02207 at T.3042.

<sup>2598</sup> ERDEMOVIĆ, T.10972:21-22; see also J.BOGDANOVIĆ, T.11325:3-5 (testifying that he went home from an assignment to guard the prisoners that were taken away from the Kula School at 4.00 p.m.).

<sup>2599</sup> J.BOGDANOVIĆ, T.11325:3-5.

<sup>2600</sup> A.HASIĆ, T.1205:15-16.

<sup>2601</sup> ERDEMOVIĆ, T.10972:14-22. ERDEMOVIĆ, T.10983:10.

<sup>2602</sup> A.HASIĆ, T.1204:1205.

<sup>2603</sup> A.HASIĆ, T.1206:4.

<sup>2604</sup> A.HASIĆ, T.1205:21-22.

<sup>2605</sup> A.HASIĆ, T.1205:22-25.

<sup>2606</sup> A.HASIĆ, T.1205:21-1206-5.

<sup>2607</sup> A.HASIĆ, T.1206:4-6.

<sup>2608</sup> A.HASIĆ, T.1206:15-16.

<sup>2609</sup> [REDACTED].

<sup>2610</sup> [REDACTED].

<sup>2611</sup> [REDACTED].

<sup>2612</sup> [REDACTED].

973. The day after the executions, Hasić passed a truck driving along a tarmac road that was loaded with bodies.<sup>2614</sup> [REDACTED].<sup>2615</sup>

974. The day after the executions, [REDACTED] PW-117 hid under a bridge for some time and “heard the sounds of machines . . . I could hear vehicles moving, non-stop, towards that place, and going back again. This went on all day.”<sup>2616</sup> The sounds were coming from the Branjevo Military Farm.<sup>2617</sup> [REDACTED] PW-117’s testimony is consistent with Milenko Tomić, a member of the Zvornik Brigade “R” Battalion.

975. [REDACTED]<sup>2618 2619 2620</sup>

976. Hasić [REDACTED] ultimately surrendered to Bosnian Serb authorities on 26 July<sup>2621</sup> and [REDACTED] detained in the Batkovići camp. [REDACTED] released on 24 December 1995<sup>2622</sup> and 26 December 1995, [REDACTED].<sup>2623</sup> Less fortunate were those Muslim prisoners detained in the Pilica Cultural Centre, where the executions left no known survivors.

**On the afternoon of 16 July, the prisoners at the Pilica Cultural Centre were murdered.**

977. Dražen Erdemović testified that as the last busload of prisoners was being executed at Branjevo Military Farm on the afternoon of 16 July, the Lieutenant-Colonel and the two military police officers whom the 10<sup>th</sup> Sabotage Detachment members had accompanied to the Branjevo Military Farm that morning returned.<sup>2624</sup> The Lieutenant-Colonel then told the members of Erdemović’s unit that some 500 prisoners at the Pilica Cultural Centre were also to be executed.<sup>2625</sup>

978. Erdemović, as well as some other members of his squad, refused this order.<sup>2626</sup> Instead, members of the unit from Bratunac left the farm with the Lieutenant Colonel and the two military policemen. Erdemović’s unit, which had been instructed to meet the Lieutenant Colonel in a coffee bar in Pilica, readied their weapons.<sup>2627</sup>

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<sup>2613</sup> [REDACTED].

<sup>2614</sup> A.HASIĆ, T.1207:11-25.

<sup>2615</sup> [REDACTED].

<sup>2616</sup> [REDACTED] PW-117, Exh. P02207 at T.3045.

<sup>2617</sup> [REDACTED] PW-117, Exh. P02207 at T.3044-3045.

<sup>2618</sup> [REDACTED].

<sup>2619</sup> [REDACTED].

<sup>2620</sup> [REDACTED]..

<sup>2621</sup> A.HASIĆ, 1214:3-25.

<sup>2622</sup> A.HASIĆ, T.1215:4-6.

<sup>2623</sup> [REDACTED] PW-117, Exh. P02207 at T.3046.

<sup>2624</sup> ERDEMOVIĆ, T.10975:17-18.

<sup>2625</sup> ERDEMOVIĆ, T.10982:18-22; See Exh. P01820, Video of the Pilica Cultural Centre.

<sup>2626</sup> ERDEMOVIĆ, T.10982:23.

<sup>2627</sup> ERDEMOVIĆ, T.10983:5-7.

979. When Erdemović's squad arrived at the coffee bar across the road from the Pilica Cultural Centre, there was a checkpoint set up and manned by two or three members of the MUP.<sup>2628</sup> Despite this, several dead bodies could be seen in front of the Cultural Centre.<sup>2629</sup> Although the sound of gunfire and explosions could be heard coming from the Cultural Centre, Erdemović saw vehicles passing by normally and people wandering about.<sup>2630</sup> The use of these weapons in carrying out the executions in the Cultural Centre is corroborated forensically.<sup>2631</sup>

980. Erdemović sat in the coffee bar with two other members of the 10<sup>th</sup> Sabotage Detachment, Brano Gojković and Franc Kos.<sup>2632</sup> They conversed with the Lieutenant-Colonel. Soon afterwards, one of the soldiers from the Bratunac unit, which had earlier been at the Branjevo Military Farm, arrived.<sup>2633</sup> Addressing the Lieutenant-Colonel, the soldier reported, "everything is finished."<sup>2634</sup> Erdemović recalled the Lieutenant-Colonel's response; he stood up and said "who remained alive has remained alive."<sup>2635</sup>

**On 17 July, Zvornik Brigade 1<sup>st</sup> Battalion soldiers removed the bodies from the Pilica Cultural Centre.**

981. [REDACTED].<sup>2636 2637 2638 2639</sup>

982. Jevto Bogdanović, member of the 1<sup>st</sup> Battalion Workers Platoon, participated in the removal of the dead prisoners from the Cultural Centre [REDACTED]. Bogdanović testified that on the day following his assignment at the Kula School (*i.e.*, on 17 July 1995<sup>2640</sup>), Capt. Lakić called the Workers Platoon to muster at the Branjevo Military Farm. There, Bogdanović and other members of the Platoon were ordered by Capt. Lakić to go to Pilica, as "some people had been brought there."<sup>2641</sup>

983. In addition to Bogdanović, fellow Workers Platoon members Jovan Ilić, Rajo Jurosević, Stevo Ostojić, Vojo Lakić, and Capt. Lakić all set out for Pilica.<sup>2642</sup> As they

<sup>2628</sup> ERDEMOVIĆ, T.10984:21-T.1098:3.

<sup>2629</sup> ERDEMOVIĆ, T.10983:25-T.10984:3.

<sup>2630</sup> ERDEMOVIĆ, T.10984:13-20.

<sup>2631</sup> Exh. P01817, Photo at back of room of the Pilica Cultural Centre

<sup>2632</sup> ERDEMOVIĆ, T.10985:18-22.

<sup>2633</sup> ERDEMOVIĆ, T.10985:18-22.

<sup>2634</sup> ERDEMOVIĆ, T.10985:24-25.

<sup>2635</sup> ERDEMOVIĆ, T.10986:11-12.

<sup>2636</sup> [REDACTED].

<sup>2637</sup> [REDACTED].

<sup>2638</sup> [REDACTED].

<sup>2639</sup> [REDACTED].

<sup>2640</sup> See para. 923 supra; J.BOGDANOVIĆ. T.11339:13-15 (referring to having seen bodies at the Kula School, the day before removing the bodies from the Pilica Cultural Centre).

<sup>2641</sup> J.BOGDANOVIĆ. T.11323:15-16.

<sup>2642</sup> J.BOGDANOVIĆ. T.11326:24-T.11327:7.

walked from the Branjevo Military Farm, Bogdanović recalled that, near the road, he saw about ten bodies of people who had been shot to death in civilian clothes.<sup>2643</sup>

984. When the Workers Platoon members arrived at the Pilica Cultural Centre that morning, Bogdanović saw soldiers he did not recognize securing the area.<sup>2644</sup> Capt. Lakić then ordered the men to begin loading the dead bodies<sup>2645</sup> that were scattered and piled up on each other in a huge pile<sup>2646</sup> inside the Cultural Centre.<sup>2647</sup> The corpses were in civilian clothes, and all but two were men. To Bogdanović, it appeared that these people had all been killed on site.<sup>2648</sup>

985. Bogdanović described how the bodies were loaded into two yellow tipper trucks,<sup>2649</sup> which were manoeuvred into position. Wooden planks were laid down, and the twelve platoon members<sup>2650</sup> accompanying Bogdanović grabbed each body by the arms and legs<sup>2651</sup> and dragged the body up planks into the trucks.<sup>2652</sup> This work continued until about 15:00 hours,<sup>2653</sup> during which time the Workers Platoon drank rakija offered by local villagers to help them through the gruesome task. Bogdanović estimated that there had been 550 bodies at the Cultural Centre<sup>2654</sup> and he recalled having come home that day covered in blood.<sup>2655</sup>

986. The engagement of the Zvornik Brigade's 1<sup>st</sup> Battalion Workers Platoon to remove the bodies from the Pilica Cultural Centre could only have occurred with the knowledge and authorisation of the Zvornik Brigade Commander, Vinko PANDUREVIĆ.

#### **The burials at Branjevo Military Farm**

987. The massive operation at the Branjevo Military Farm to bury the murdered Muslim prisoners who had been executed both there and at the Pilica Cultural Centre began in earnest on 17 July. An entry made by Capt. Milorad Trbić in the Zvornik Brigade Duty Operations Officer Notebook on 16 July at 22:10 hours reads:

<sup>2643</sup> J.BOGDANOVIĆ. T.11327:8-18.

<sup>2644</sup> J.BOGDANOVIĆ. T. 11328

<sup>2645</sup> J.BOGDANOVIĆ. T. 11329:2-3

<sup>2646</sup> J.BOGDANOVIĆ. T. 11332:8-10

<sup>2647</sup> J.BOGDANOVIĆ. T. 11330:17-20

<sup>2648</sup> J.BOGDANOVIĆ. T. 11330:17-11331:7.

<sup>2649</sup> J.BOGDANOVIĆ. T. 1132:13-14;

<sup>2650</sup> J.BOGDANOVIĆ. T. 11329:20-23 ("... [t]here were 12 of them and I don't know why it is that not one of them wants to admit to that fact. It will turn out in the end that I was the only one who was doing that, that I was the only man there doing that. And yet there were 12 of us").

<sup>2651</sup> J.BOGDANOVIĆ. T. 11329:6-10.

<sup>2652</sup> J.BOGDANOVIĆ. T. 11332:14-16.

<sup>2653</sup> J.BOGDANOVIĆ. T. 11332:23.

<sup>2654</sup> J.BOGDANOVIĆ. T. 11333:6-12.

<sup>2655</sup> J.BOGDANOVIĆ. T. 11343:11.

At 2210 hrs. the 1<sup>st</sup> pb asked for one loader,  
one excavator and a dump-truck with a tarpaulin  
to be in Pilica at 0800 hrs.<sup>2656</sup>

988. The entry indicates that the request was conveyed to Maj. Dragan Jokić, Chief of Engineering, and to Capt. Sreten Milošević, Assistant Commander for Logistics.

989. On 17 July, Milenko Tomić, a member of the Zvornik Brigade R Battalion, testified that he received a travel order from Radislav Pantić.<sup>2657</sup> As Tomić's superior,<sup>2658</sup> Pantić ordered Tomić to go to Pilica and then to Kula "to pick up the military."<sup>2659</sup> Tomić set out in a TAM-130,<sup>2660</sup> which he described as a large freight truck approximately six metres in length with a tarpaulin.<sup>2661</sup>

990. Tomić found no one to report to when he arrived in Pilica. He then continued on to Kula.<sup>2662</sup> Finding no one there as well, Tomić returned to Pilica.<sup>2663</sup> Just short of downtown Pilica, Tomić was stopped by a young soldier who told him to report to the Dom.<sup>2664</sup> Tomić followed the soldier in his truck and positioned it as directed, next to a side door at the Cultural Centre.<sup>2665</sup>

991. Tomić saw approximately six soldiers around 50 years old, wearing uniforms without any insignia, working.<sup>2666</sup> Meanwhile, he went to a nearby house and had coffee and rakija.<sup>2667</sup> About half an hour later, Tomić returned to his truck with the young soldier. He was told that they would be "going up there," meaning the Branjevo Military Farm.<sup>2668</sup> Tomić recalled that when he asked the soldier what they would be driving there, the soldier replied after some hesitation that they would be driving dead bodies.<sup>2669</sup>

<sup>2656</sup> Ehx. P00377, ERN 0293-5771 (emphasis added); Exh. P02844, Handwriting report titled, Milorad TRBIĆ, dated 10 January 2007.

see also **PANDUREVIĆ**. T.31533:4-5 (indicating that the requested machinery was to be sent to Branjevo).

<sup>2657</sup> M.TOMIĆ, T.21001:11-3.

<sup>2658</sup> M.TOMIĆ, T.21022:9-11.

<sup>2659</sup> M.TOMIĆ, T.21003:8-9.

<sup>2660</sup> M.TOMIĆ, T.21022:19-22.

<sup>2661</sup> M.TOMIĆ, T.21009:25-21010:1.

<sup>2662</sup> M.TOMIĆ, T.21001:7-10.

<sup>2663</sup> M.TOMIĆ, T.21001:10.

<sup>2664</sup> M.TOMIĆ, T.21001:8-13.

<sup>2665</sup> M.TOMIĆ, T.21001:13-15; Exh. P03226 (indicating the position of the TAM 130 truck relative to the Cultural Centre door, marked "V").

<sup>2666</sup> M.TOMIĆ, T.21004:16-20.

<sup>2667</sup> M.TOMIĆ, T.21002:17-18.

<sup>2668</sup> M.TOMIĆ, T.21001:23-25.

<sup>2669</sup> M.TOMIĆ, T.21001:22-25.

He then drove to the Branjevo Military Farm. This evidence corroborates Ahmo Hasić's testimony that he saw a truck loaded with bodies on the day following the executions.<sup>2670</sup>

992. After Tomić reached Branjevo Military Farm and had parked his truck, he joined a group of workers near one of the cattle barns and drank with them.<sup>2671</sup> Not long afterwards, Tomić went back to the Pilica Cultural Centre. Approximately half an hour later, he again departed for Branjevo Military Farm.<sup>2672</sup>

993. When Tomić reached the farm and approached the site where he had previously been, he saw corpses lying farther away.<sup>2673</sup> After he parked the truck and stepped out, he saw five or ten bodies lying on the ground at the back.<sup>2674</sup> At that point, Tomić recalled being sickened and needing to get away as he watched some civilians that he had seen at the farm eating<sup>2675</sup> in the midst of the death around them. After approximately half an hour, Tomić again set off for Pilica. However, he was stopped by a soldier who then discharged him.<sup>2676</sup>

994. Tomić's testimony is confirmed by a Zvornik Brigade vehicle log which records five trips between Zvornik, Pilica and Kula on 17 July by a Tam-130.<sup>2677</sup> This evidence is also consistent with other testimony showing how the burial operation was carried out.

995. The Commander of the Zvornik Brigade Engineering Company's Road and Bridge Platoon, Damjan Lazarević, testified that on the morning of 17 July, he received an assignment from Vojkan Sekonić, Desk Officer of the Engineering Company and Deputy Commander Slavko Bogičević. Having been assigned previously to the burial operations in Orahovac and Kozluk, Lazarević was ordered to go to the Branjevo Military Farm pursuant to the execution that had just taken place there on 16 July.<sup>2678</sup> Lazarević was instructed that "a pit was supposed to be dug out to dump the bodies in,"<sup>2679</sup> and that members of the utility company were to assist with loading the bodies.<sup>2680</sup>

996. Lazarević arrived at the Branjevo Military Farm at around 8:30 or 09:00 hours.<sup>2681</sup> Shortly thereafter, earth-moving equipment began to arrive at the farm, which included a

<sup>2670</sup> A.HASIĆ, T.1207:11-25.

<sup>2671</sup> M.TOMIĆ, T.21002:2-7.

<sup>2672</sup> M.TOMIĆ, T.21002:9-16.

<sup>2673</sup> M.TOMIĆ, T.21002:18-19.

<sup>2674</sup> M.TOMIĆ, T.21005:13.

<sup>2675</sup> M.TOMIĆ, T.21005:12-16.

<sup>2676</sup> M.TOMIĆ, T.21002:22-24.

<sup>2677</sup> Exh. P00305, Zvornik Brigade Vehicle Log, dated 17 July 1995 (reflecting five trips, "Zvornik-Pilica-Kula-Pilica-Zvornik").

<sup>2678</sup> D. LAZAREVIĆ, T.14459:9-14460.

<sup>2679</sup> D. LAZAREVIĆ, T.14459:21-23.

<sup>2680</sup> D. LAZAREVIĆ, T.14459:23-24.

<sup>2681</sup> D. LAZAREVIĆ, T.14460:10-11.

BGH loader<sup>2682</sup> that had been brought in on a trailer truck. A ULT soon followed.<sup>2683</sup> Later, Lazarević saw a few men from the Rear Battalion of the Zvornik Brigade<sup>2684</sup> and also spent some time near an “outpatient clinic” close to the farm with a person he described as a Captain 1<sup>st</sup> Class and member of the Lokanj Battalion of the Zvornik Brigade (likely Capt. Lakić, Commander of the 1<sup>st</sup> Battalion’s Workers Platoon).<sup>2685</sup>

997. The burial pit was excavated as far as possible from the farm buildings,<sup>2686</sup> and the corpses were placed within it using a loader that was filled mainly manually.<sup>2687</sup> The burial process continued throughout the day. By Damjan Lazarević left the farm at 19:00-20:00 hours, only a few bodies remained.<sup>2688</sup> Once the operation was completed the machines were returned to the base of the Engineering Company.<sup>2689</sup>

998. While Lazarević implausibly denied issuing any orders to his men concerning the burial operation,<sup>2690</sup> his evidence was nonetheless substantially corroborated by the evidence of Cvijetin Ristanović, an excavator operator in the Road and Bridge Platoon. Ristanović testified that on 17 July, he was sent by Damjan Lazarević to the Branjevo Military Farm with a G-700 backhoe excavator<sup>2691</sup> where he saw many bodies on the meadow.<sup>2692</sup> There, Lazarević directed Ristanović to dig a grave roughly equivalent in size to those previously created in Orahovac.<sup>2693</sup> Similarly to Lazarević’s testimony, Ristanović recalled that a yellow loader later arrived,<sup>2694</sup> and that the operation was completed late in the day, sometime before nightfall.<sup>2695</sup> When the operation was complete, Ristanović left the farm and returned to the base with the G-700.<sup>2696</sup>

999. The Zvornik Brigade equipment and fuel logs reflect the extensive involvement of Zvornik Brigade engineers and engineering equipment in the burials that took place on 17

<sup>2682</sup> See e.g., Exh. P02069, Photo of a BGH 500.

<sup>2683</sup> D. LAZAREVIĆ, T.14460:20-21.

<sup>2684</sup> D. LAZAREVIĆ, T.14462:2-16.

<sup>2685</sup> D. LAZAREVIĆ, T.14463; J.BOGDANOVIĆ, T.11316:16-19 (noting that Capt. Lakić’s house was approximately 50 metres from the infirmary near the Branjevo Military Farm).

<sup>2686</sup> D. LAZAREVIĆ, T.14460:22-25 (referring to the farm buildings as pig “sties”; see Exh. P00143, Photo of the Branjevo Military Farm with pigsties marked with “X”, T.14464:10-14); See also Exh. P00144, Aerial Image of the Branjevo Military Farm and Exh. P00142, Photograph of the Branjevo Military Farm, depicting area initial burial area marked with a circle, T.14453: 1-3, 18-25.

<sup>2687</sup> D. LAZAREVIĆ, T.14461:21-14462:1

<sup>2688</sup> D. LAZAREVIĆ, T.14454:2-18.

<sup>2689</sup> D. LAZAREVIĆ, T.14454:19-20.

<sup>2690</sup> D. LAZAREVIĆ, T.14466:15-14667:6..

<sup>2691</sup> Exh. P02256, at T. 5389-5392.

<sup>2692</sup> Exh. P02256, at T. 5393.

<sup>2693</sup> Exh. P02256, at T. 5392.

<sup>2694</sup> Exh. P02256, at T. 5394 (witness confirmed he saw the loader depicted in Exh. P02071, Photocopy of brochure for ULT-200 (denominated, P.Ex. 63 in IT-02-60)).

<sup>2695</sup> Exh. P02256, at T. 5395:18-19.

<sup>2696</sup> Exh. P02256, at T. 5395.

July 1995. The records show that a ULT-220 backhoe excavator from “Birac-Holding” was mobilised on 17 July.<sup>2697</sup> The machine was fueled with 100 litres of diesel fuel and was active for eight and one-half hours “digging trenches at Branjevo.”<sup>2698</sup> The records further reflect additional heavy equipment that was deployed to the burial site, including a “700” loader, which was towed to the site.<sup>2699</sup>

1000. The engagement of these significant Zvornik Brigade resources from the 1<sup>st</sup> Battalion, the R Battalion, the Engineering Company and the Logistics Battalion, which was coordinated by the Zvornik Brigade Duty Operations Officer and carried out with the knowledge of Dragan Jokić, Chief of Engineering, and Sreten Milošević, Assistant Commander for Logistics, could only have occurred with the knowledge and authorisation of the Zvornik Brigade Commander, Vinko **PANDUREVIĆ**.

### **Forensic Corroboration**

1001. The execution and burial of Muslim prisoners as set out above is corroborated by data obtained from the ICMP, which as of 31 January 2009, had identified 960 unique DNA profiles from the Branjevo Military Farm (Pilica) primary mass grave and the associated secondary mass graves of Čančari Road 9 (Kamenica 9); Čančari Road 10 (Kamenica 10); Čančari Road 11; and Čančari Road 12.<sup>2700</sup>

1002. Aerial imagery from 17 July 1995<sup>2701</sup> shows a mass of bodies strewn across the execution site and located near the farm buildings.<sup>2702</sup> Track marks consistent with the use of heavy earth moving equipment are also plainly visible.<sup>2703</sup> In addition, crime scene photographs of the Pilica Cultural Centre depict blood and human tissue on the walls as well as evidence of damage caused by explosions from which traces of explosive residue were collected.<sup>2704</sup>

<sup>2697</sup> See Exh. P02070, Photo of an ULT 220.

<sup>2698</sup> Exh. P00302, Zvornik Brigade Vehicle Log for Birać-Holding ULT 220 (ERN 0069-8069-0069-8070).

<sup>2699</sup> Exh. P00299, Zvornik Brigade Vehicle Log for Mercedes 2626 (indicating that a 700 loader was towed by a truck observing the following route: “Base-Standard-Branjevo-Base”); See Exh. P00281, Zvornik Brigade Fuel Dispersal Log (indicating a 100 litre disbursement of D-2 for a BGH-700).

<sup>2700</sup> Exh. P04490, Update to the Summary of Forensic Evidence – Exhumation on the Graves Related to Srebrenica – March 2009,” dated 13 March 2009 (ERN: X0194272) p.42; [REDACTED].

<sup>2701</sup> Exh. P01799; Exh. P03009, Aerial Image, dated 17 July 95.

<sup>2702</sup> Exh. P01799.

<sup>2703</sup> Exh. P01799; Exh. P03009, Aerial Image, dated 17 July 95.

<sup>2704</sup> Exh. P01817, Photograph of the interior Pilica Cultural Centre; D.MANNING, T.18982:13-17.



(lii) **19 July: Murder of Muslim prisoners at Nežuk**

**On 15 July, MILETIĆ coordinated reinforcements to be sent from the 1<sup>st</sup> Krajina Corps to Zvornik.**

1003. On the night of 15 July, Gen. **MILETIĆ**, who was standing in for the Chief of Staff of the VRS Main Staff, sent Main Staff report 03/4-1654 to the 1<sup>st</sup> Krajina Corps, the Drina Corps and the Zvornik Brigade Commander or Chief of Staff (personally) advising them that on 16 July, an infantry company from the 1<sup>st</sup> Krajina Corps would report to the Zvornik Brigade Command to assist the Zvornik Brigade in “breaking up and destroying fleeing Muslim groups in the general area of Kamenica.”<sup>2705</sup> Gen. **MILETIĆ** directed the Zvornik Brigade to include the Krajina Corps soldiers on its logistics support list.<sup>2706</sup>

1004. On 16 July, the 1<sup>st</sup> Krajina Corps ordered the Command of the 16<sup>th</sup> Krajina Brigade to dispatch of an infantry company to Zvornik pursuant to Main Staff document 03/4-1654.<sup>2707</sup> The 16<sup>th</sup> Krajina Brigade was ordered to send an officer in advance to report to the Zvornik Brigade Command and “obtain the necessary instructions and orders from the Brigade Commander.”<sup>2708</sup>

1005. At 17:25 hours on 16 July, an entry in the Zvornik Brigade Duty Operations Officer Notebook recorded that Major Dragičević from the “18<sup>th</sup> [sic] Krajina” arrived at the Operations Centre and was sent to the IKM at Kitovnice to be tasked.<sup>2709</sup> At 18:30 hours, an entry in the Notebook recorded that the unit from the “16<sup>th</sup> Krajina” had arrived and that the Zvornik Brigade Commander at the IKM and the Commander of the 16<sup>th</sup> Krajina unit were both informed.<sup>2710</sup> As Vinko **PANDUREVIĆ** was at the IKM at this time, this entry shows that the unit from the 16<sup>th</sup> Krajina Brigade received its orders directly from **PANDUREVIĆ**. At 19:40 hours on 16 July, the unit from the 16<sup>th</sup> Krajina Brigade was dispatched with Obrenović to “search the terrain.”<sup>2711</sup>

<sup>2705</sup> Exh. P02754, VRS Main Staff doc. no. 03/4-1654, Report on the dispatch of an infantry company, type-signed by Radivoje Miletić, dated 15 July 1995 (received by the Zvornik Brigade on 16 July).

<sup>2706</sup> Exh. P02754.

<sup>2707</sup> Exh. P00405, 1st Krajina Corps Order No. 270-1/95, dispatching an infantry company to the Zvornik area, signed by Momir Talić, dated 16 July 1995.

<sup>2708</sup> Exh. P00405.

<sup>2709</sup> Exh. P00377 at ERN: 0293-5768.

<sup>2710</sup> Exh. P00377 at ERN: 0293-5769.

<sup>2711</sup> Exh. P00377 at ERN: 0293-5769.

**On 19 July, six Muslim men were captured by soldiers from the Krajina; four were murdered, one survived being shot and one was later exchanged.**

1006. [REDACTED].<sup>2712 2713 2714 2715 2716 2717 2718</sup>

1007. [REDACTED].<sup>2719 2720</sup>

1008. [REDACTED] PW-139 stated that one of his Serb captors stated that “they were from the Krajina.”<sup>2721</sup> [REDACTED].<sup>2722</sup> Some of the Serb soldiers also had insignia which said “Military Police.”<sup>2723</sup>

1009. [REDACTED].<sup>2724 2725 2726 2727 2728 2729 2730 2731</sup>

1010. [REDACTED].<sup>2732 2733 2734 2735 2736 2737 2738</sup>

1011. [REDACTED].<sup>2739 2740 2741 2742 2743</sup>

1012. [REDACTED].<sup>2744 2745</sup>

1013. [REDACTED].<sup>2746 2747 2748</sup>

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<sup>2712</sup> [REDACTED].  
<sup>2713</sup> [REDACTED].  
<sup>2714</sup> [REDACTED].  
<sup>2715</sup> [REDACTED].  
<sup>2716</sup> [REDACTED].  
<sup>2717</sup> [REDACTED].  
<sup>2718</sup> [REDACTED].  
<sup>2719</sup> [REDACTED].  
<sup>2720</sup> [REDACTED].  
<sup>2721</sup> [REDACTED] PW-139, T.3680; [REDACTED].  
<sup>2722</sup> [REDACTED].  
<sup>2723</sup> [REDACTED] PW-139, T.3680:9-13.  
<sup>2724</sup> [REDACTED].  
<sup>2725</sup> [REDACTED].  
<sup>2726</sup> [REDACTED].  
<sup>2727</sup> [REDACTED].  
<sup>2728</sup> [REDACTED].  
<sup>2729</sup> [REDACTED].  
<sup>2730</sup> [REDACTED].  
<sup>2731</sup> [REDACTED].  
<sup>2732</sup> [REDACTED].  
<sup>2733</sup> [REDACTED].  
<sup>2734</sup> [REDACTED].  
<sup>2735</sup> [REDACTED].  
<sup>2736</sup> [REDACTED].  
<sup>2737</sup> [REDACTED].  
<sup>2738</sup> [REDACTED].  
<sup>2739</sup> [REDACTED].  
<sup>2740</sup> [REDACTED].  
<sup>2741</sup> [REDACTED].  
<sup>2742</sup> [REDACTED].  
<sup>2743</sup> [REDACTED].  
<sup>2744</sup> [REDACTED].  
<sup>2745</sup> [REDACTED].  
<sup>2746</sup> [REDACTED].  
<sup>2747</sup> [REDACTED].

**The executions near Nezuk were carried out by soldiers from the 16<sup>th</sup> Krajina Brigade who were under the command of Vinko PANDUREVIĆ.**

1014. As noted above at paras. 1007-1008, [REDACTED]; one of the Serb soldiers told [REDACTED] PW-139 that they were “Krajišnici;” [REDACTED]. As outlined below, a significant amount of evidence indicates that these “Krajišnici” [REDACTED] were, in fact, soldiers from the VRS 16<sup>th</sup> Krajina Brigade.

1015. First, as noted above at paras. 1003-1005, a unit from the 16<sup>th</sup> Krajina Brigade arrived in Zvornik on 16 July and was placed under the command of Vinko **PANDUREVIĆ**. This unit remained under **PANDUREVIĆ**’s command until 21 July, when Gen. **MILETIĆ** ordered that it be withdrawn from the Zvornik Brigade’s area of responsibility and redeployed to the Trnovo front.<sup>2749</sup> **PANDUREVIĆ** also agreed that this unit was under his command on 19 July.<sup>2750</sup>

1016. Second, on 18 July, an entry in the Zvornik Brigade Duty Operations Officer Notebook notes that the IKM reported that the unit from the 16<sup>th</sup> Krajina Brigade was at trig point 602,<sup>2751</sup> which is near Križevici and approximately two kilometres from the area of Baljkovica / Nezuk,<sup>2752</sup> i.e., the same area where the executions occurred on 19 July.

1017. Third, the Zvornik Brigade Daily Combat Report for 19 July, the same day as the Nezuk executions, records that the unit from the 16<sup>th</sup> Krajina Brigade was searching the terrain “in order to cut off and destroy the remaining Muslim forces.”<sup>2753</sup> This unit was the only known unit from either the 1<sup>st</sup> or 2<sup>nd</sup> Krajina Corps who were searching the terrain in the Zvornik Brigade’s area of responsibility on this date.

1018. Fourth, the Zvornik Brigade Daily Combat Report for 19 July records that the unit from the 16<sup>th</sup> Krajina Brigade was searching the terrain in conjunction with other units, including the POSS (*a.k.a.*, the Drina Wolves).<sup>2754</sup> [REDACTED].<sup>2755 2756 2757</sup>

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<sup>2748</sup> See Exh. P00566, ICTY Report - “Srebrenica Missing - Persons Reported Missing after the Take-Over of the Srebrenica Enclave by the Bosnian Serb Army on 11 July 1995.”

<sup>2749</sup> Exh. P03923, Main Staff Order No. 03/4-1724, dispatch of a motorised company from the 16<sup>th</sup> Krajina Motorised Brigade to the area of Trnovo, signed by Radivoje **MILETIĆ**, dated 21 July 1995; Exh. P03068, Drina Corps order (04/156-18) for the dispatch of the 16<sup>th</sup> Krajina Motorised Company from tasks in the Zvornik Bde AoR to tasks in Trnovo; Exh. P01295(a), intercept dated 21 July 1995 at 13:23 hours, in which the Zvornik Brigade advised the Drina Corps that **PANDUREVIĆ** was returning “the Krajina men.”

<sup>2750</sup> **PANDUREVIĆ**, T.32257.

<sup>2751</sup> Exh. P00377 at ERN: 0293-5778.

<sup>2752</sup> See e.g. 3DIC00232, map on which trig point 602 was marked by witness Jovo Marković.

<sup>2753</sup> Exh. P00336, Zvornik Brigade Daily Combat Report No. 06-224, type-signed Vinko **PANDUREVIĆ**, dated 19 July 1995.

<sup>2754</sup> Exh. P00336. [REDACTED].

<sup>2755</sup> [REDACTED].

<sup>2756</sup> [REDACTED].

<sup>2757</sup> [REDACTED].

1019. The Serb soldiers who searched the terrain near Nezuk on 19 July, [REDACTED], who worked in coordination with the Drina Wolves, and who captured and executed the group of Muslim men near Nezuk, were the soldiers from the VRS 16<sup>th</sup> Krajina Brigade who were under the command of Vinko **PANDUREVIĆ**.

(liii) **On or about 22 July: Murder of Muslim prisoners at Snagovo**

1020. [REDACTED] PW-106 testified that after departing from Srebrenica town on 11 July with the head of the column, he and five neighbors made their way with to Jaglići and Sušnari, then past Buljim,<sup>2758</sup> [REDACTED], reaching Snagovo in the evening of approximately 20 July.<sup>2759</sup>

1021. The next day, as the group was preparing tea for one of his neighbors who was ill, Serb soldiers appeared, surrounded them and ordered them to raise their hands.<sup>2760</sup> The Serb soldiers then tied their hands behind their backs and walked them in a column some 200 metres away, where they were beaten and kicked.<sup>2761</sup> More Serb soldiers arrived and the prisoners were searched.<sup>2762</sup> [REDACTED].<sup>2763</sup>

1022. He was taken 200-300 metres away and then heard a burst of gunfire followed by individual shots, which caused him to panic, tremble and shake.<sup>2764</sup> When [REDACTED] saw his reaction, he tried to console him and calm him down; [REDACTED] told him that they would try to do something for him.<sup>2765</sup> [REDACTED].<sup>2766</sup>

1023. [REDACTED] on the first night his hands were tied to a stove, but after that he was not restrained.<sup>2767</sup> During the first night a vehicle arrived and a group of [REDACTED] soldiers rushed to it, after which there was a loud, unfriendly discussion.<sup>2768</sup> The [REDACTED] soldiers told him that the vehicle contained police from Zvornik who had received information that there was a boy [REDACTED] who had

<sup>2758</sup> [REDACTED] PW-106, T.3954, [REDACTED].

<sup>2759</sup> [REDACTED], PW-106, T.3959-3963.

<sup>2760</sup> [REDACTED], PW-106, T.3964-3965.

<sup>2761</sup> [REDACTED] PW-106, T.3966.

<sup>2762</sup> [REDACTED] PW-106, T.3966.

<sup>2763</sup> [REDACTED].

<sup>2764</sup> [REDACTED] PW-106, T.3970.

<sup>2765</sup> [REDACTED], PW-106, T.3970.

<sup>2766</sup> [REDACTED].

<sup>2767</sup> [REDACTED], PW-106, T.3970, [REDACTED].

<sup>2768</sup> [REDACTED], PW-106, T.3971.

been captured, and that the police from Zvornik wanted to take him and would have skinned him alive, but the [REDACTED] soldiers had prevented them.<sup>2769</sup>

1024. During the second night, he was not restrained and slept among the soldiers.<sup>2770</sup> After two days and two nights with the [REDACTED] soldiers, two buses arrived and all the soldiers boarded with their equipment and left; [REDACTED] PW-106 sat [REDACTED] as the buses drove [REDACTED].<sup>2771 2772 2773 2774</sup>

1025. [REDACTED] PW-107 testified that in July 1995 he was a [REDACTED] police officer stationed in the [REDACTED] public security station, [REDACTED]; the [REDACTED] public security station (SJB) was subordinated to the Bijeljina public security center (CJB).<sup>2775</sup> [REDACTED].<sup>2776 2777</sup> [REDACTED] ordered them to go to the Snagovo area to cleanse the terrain, saying that [REDACTED] “not even a fly should get out alive,” which he and his fellow policemen understood to mean killing [REDACTED].<sup>2778 2779 2780</sup>

1026. [REDACTED].<sup>2781</sup> The day after their arrival at Snagovo, their company commander, [REDACTED], came to tell them about their task to scour the terrain.<sup>2782</sup> They set up a starting position, from which they would set off each day for the next several days as they scoured the terrain.<sup>2783</sup>

1027. At one point during the search, he saw two Muslim men and a sixteen year-old boy, who raised their arms and said “Don’t shoot;” some of his fellow PJP officers told him that there were four captured there.<sup>2784</sup> The group looked exhausted and like they had been sleeping in the woods. They searched the group, but all they had was a rucksack belonging to the boy that contained some fruit and salt.<sup>2785</sup> Policemen from other stations arrived and at one point, someone he did not know and later heard was from

<sup>2769</sup> [REDACTED] PW-106, T.3971-3973.

<sup>2770</sup> [REDACTED] PW-106, T.3970.

<sup>2771</sup> [REDACTED].

<sup>2772</sup> [REDACTED].

<sup>2773</sup> [REDACTED].

<sup>2774</sup> [REDACTED].

<sup>2775</sup> [REDACTED] PW-107, T.4078-4080.

<sup>2776</sup> [REDACTED].

<sup>2777</sup> [REDACTED].

<sup>2778</sup> [REDACTED] PW-107, T. [REDACTED], 4250.

<sup>2779</sup> [REDACTED].

<sup>2780</sup> [REDACTED].

<sup>2781</sup> [REDACTED]. Exh. P00063/P00913, 15 July 1995 Dispatch from Dragomir Vasić regarding deployment of Bijeljina PJP companies.

<sup>2782</sup> [REDACTED] PW-107, T.4107-4109.

<sup>2783</sup> [REDACTED] PW-107, T.4107.

<sup>2784</sup> [REDACTED] PW-107, T.4112-4113.

<sup>2785</sup> [REDACTED] PW-107, T.4180.

Zvornik came up and shot the prisoners in the head.<sup>2786</sup> The shooter wore the same olive military uniform as he and his colleagues wore.<sup>2787</sup> [REDACTED] PW-107 and the boy were between five to twenty metres from the shooting, and he the boy behind him and left the area immediately with the boy, who was frightened and traumatised by seeing the execution.<sup>2788</sup>

1028. The boy did not have an identification [REDACTED].<sup>2789</sup> [REDACTED] appeared to be a young boy, a child in civilian clothes.<sup>2790</sup> [REDACTED].<sup>2791</sup> [REDACTED] PW-107 gave [REDACTED] some [REDACTED] clean underwear, [REDACTED].<sup>2792</sup>

1029. At one point during one of the nights, some soldiers arrived in a minivan and asked the [REDACTED] policemen to turn the boy over to them; when the policemen refused to turn the boy over, they argued and there was some pushing and shoving, after which the soldiers left.<sup>2793</sup>

1030. [REDACTED].<sup>2794 2795 2796 2797 2798 2799</sup>

1031. [REDACTED].<sup>2800 2801</sup>

(liv) **24 or 25 July: Murder of the "Milići patients."**

**On 13-14 July, Muslim men were treated at the Milići Hospital and then moved to the Zvornik Hospital on the orders of the VRS Main Staff.**

1032. On 13 July, 11 seriously wounded Muslim men -- Aziz Bećirović, Mensur Salkić, Behajja Kurtić, Izet Halilović, Behudin Lolić, Huso Salihović, Vahdet Suljić, Remzija Ibišević, Mujo Bečić, Sileman Begović and Mehmedalija Hamzabegović -- were admitted

<sup>2786</sup> [REDACTED] PW-107, T.4112, 4114-4115.

<sup>2787</sup> [REDACTED] PW-107, T.4112, 4171-4172.

<sup>2788</sup> [REDACTED] PW-107, T.4112, 4114-4115, [REDACTED], 4176.

<sup>2789</sup> [REDACTED] PW-107, T. [REDACTED] 4180.

<sup>2790</sup> [REDACTED] PW-107, T.4181-4182.

<sup>2791</sup> [REDACTED].

<sup>2792</sup> [REDACTED] PW-107, T. [REDACTED], 4181.

<sup>2793</sup> [REDACTED] PW-107, T. [REDACTED] 4188-4189, 4193-4197.

<sup>2794</sup> [REDACTED].

<sup>2795</sup> [REDACTED].

<sup>2796</sup> [REDACTED].

<sup>2797</sup> [REDACTED].

<sup>2798</sup> [REDACTED].

<sup>2799</sup> [REDACTED].

<sup>2800</sup> [REDACTED].

<sup>2801</sup> [REDACTED].

to Milići's *Sveti Nikola* War Hospital<sup>2802</sup> ("Milići Hospital") [REDACTED].<sup>2803 2804 2805</sup>  
2806

1033. These wounded men would have been members of the column of Muslims who departed from Jaglići and Šušnjari on the night of 11 July, many of whom were captured in the area of Nova Kasaba on 13 July. [REDACTED].<sup>2807</sup>

1034. In addition to these 11 Muslim men, the Milići Hospital visitors log indicates that a further three Muslim men -- Nenad Kozić, Redžo Mustafić and Šemsudin Memić -- were admitted to the Milići Hospital on 13 July.<sup>2808</sup> There are no detailed patient records for these three individuals.

1035. Dr. Yugoslav Gavrić, the former director of the Zvornik Hospital and member of the Zvornik Brigade,<sup>2809</sup> testified that in mid July, he received an order from Col. Ratko Rokvić, the Chief Medical Officer of the VRS (who was a member of the VRS Main Staff),<sup>2810</sup> to go to Milići and transfer all the wounded Muslims to the Zvornik Hospital.<sup>2811</sup> Pursuant to Col. Rokvić's order, Dr. Gavrić went to Milići with a nurse, a military driver and a police officer in a camouflage uniform and transported between 10 and 15 heavily wounded Muslims, with their patient files,<sup>2812</sup> to the Zvornik Hospital where they were placed under the care of Dr. Zoran Lazarević.<sup>2813</sup>

1036. The Main Staff's knowledge of these wounded Muslims and its order to move them to Zvornik shows the attention to detail paid to the Srebrenica victims. The Main Staff Operations Branch, under the command of Gen. **MILETIĆ**, would have known of, and been involved in, the order to send these wounded Muslims to Zvornik as Col. Rokvić would not have issued such an order on his own.

1037. Dr. Gavrić's testimony is corroborated by a memorandum dated 20 July 1995 by Dr. Davidović, the director of the Milići Hospital, which stated that a number of injured persons were transferred to the Zvornik Hospital on the orders of the VRS Chief of

<sup>2802</sup> Exh. P01887, Medical reports concerning surgical treatment of Muslim and Serb patients, dated 13 July 1995.

<sup>2803</sup> [REDACTED].

<sup>2804</sup> [REDACTED].

<sup>2805</sup> [REDACTED].

<sup>2806</sup> [REDACTED].

<sup>2807</sup> [REDACTED].

<sup>2808</sup> Exh. P01882, Two pages extracted from a hospital patient logbook with entries dated 13 July 1995, containing the names of 14 Muslim men.

<sup>2809</sup> Y.GAVRIĆ, Exh. P02482 at ERN: 0327-1013.

<sup>2810</sup> Exh. P03178, Main Staff personnel employment records at ERN: 0505-7641.

<sup>2811</sup> Y.GAVRIĆ, Exh. P02482 at ERN: 0327-1013.

<sup>2812</sup> Y.GAVRIĆ, T.9115.

<sup>2813</sup> Y.GAVRIĆ, Exh. P02482 at ERN: 0327-1013.

Medical Corps, the Head of the Municipality and the Chief of the Milići Public Security Centre; and that Dr. Gavrić had taken charge of those patients.<sup>2814</sup> Dr. Gavrić's evidence is also corroborated by a report dated 24 July from Dr. Davidović to Gen. Krstić which discussed the medical support for "Operation Srebrenica '95" and noted that: "Eighteen wounded enemy /soldiers/ have undergone surgery and have been transferred to the hospital in Zvornik on the orders of the Main Staff."<sup>2815</sup> As noted above, the names of 14 Muslims treated at the Milići Hospital are known; however, the identities and fate of the other four Muslim men referenced in Dr. Davidović's report are unknown.

1038. Dr. Gavrić stated that when the wounded Muslims arrived at the Zvornik Hospital, some local citizens and patients demonstrated about the presence of Muslims in their hospital.<sup>2816</sup> The Muslims were then placed in the Hospital's gynaecology ward under armed guard to prevent anyone besides the medical personnel from accessing them.<sup>2817</sup> Dr. Radivoje Novaković, a surgeon at the Zvornik Hospital, gave evidence that treatment history files were opened for each patient<sup>2818</sup> and that the wounded Muslims stayed there for more than one day.<sup>2819</sup> One of the wounded Muslims, Aziz Bećirović, died at the Hospital on or around 16 July.<sup>2820</sup>

**The wounded Muslims were then transferred from the Zvornik Hospital to the Zvornik Brigade infirmary.**

1039. Dr. Zoran Begović, the former Chief of the Medical Centre for the Zvornik Brigade,<sup>2821</sup> gave evidence that in July 1995, 10 to 15 wounded people were transferred from the Zvornik Hospital to the Zvornik Brigade infirmary.<sup>2822</sup> Dr. Novaković treated this group of wounded Muslims both at the Zvornik Hospital and the Zvornik Brigade infirmary and confirmed that it was the same group of prisoners who had originally come from the Milići Hospital.<sup>2823</sup> This conclusion is supported by Dr. Begović's evidence that one of the men in the Zvornik Brigade infirmary, whose surname was "Begović," had his leg amputated below the knee;<sup>2824</sup> which corresponds with the Milići Hospital's medical

<sup>2814</sup> Exh. 6DP01888, Note related to the release of injured persons to the hospital in Zvornik pursuant to the order of Chief of Medical Services of the VRS, signed by Dr. DAVIDOVIC, dated 20 July 1995.

<sup>2815</sup> Exh. P01880, Report entitled Medical Services in Srebrenica 95 Operation dated 24 July 1995 addressed to the Drina Corps Command, General Radislav Krstic, regarding activities of various medical service providers in Srebrenica and signed by Dr. Davidović, dated 24 July 1995.

<sup>2816</sup> Y.GAVRIĆ, Exh. P02482 at ERN: 0327-1014.

<sup>2817</sup> R.NOVAKOVIĆ, Exh. 2480, para. 2.

<sup>2818</sup> R.NOVAKOVIĆ, Exh. 2480, para. 2.

<sup>2819</sup> R.NOVAKOVIĆ, Exh. 2480, para. 2.

<sup>2820</sup> Exh. P00377 at ERN: 0293-5762; R.NOVAKOVIĆ, T.9039:11-23.

<sup>2821</sup> Z.BEGOVIĆ, Exh. P02481, OTP Witness Statement, dated 2 April 2003.

<sup>2822</sup> Z.BEGOVIĆ, Exh. P02481.

<sup>2823</sup> R.NOVAKOVIĆ, Exh. 2480, paras. 2-3.

<sup>2824</sup> Z.BEGOVIĆ, T.9146.



records showing that Sulejman Begović had his lower left leg amputated at the Milići Hospital before his transfer to the Zvornik Hospital.<sup>2825</sup>

1040. [REDACTED].<sup>2826 2827</sup> Obrenović went to the infirmary and ordered Dr. Begović that nobody should enter the Muslims' room, aside from the medical personnel, and a guard was placed at the door.<sup>2828</sup> Obrenović also told Dr. Begović that it was not necessary to register the patients in the logbook, and that any medical records that were created would travel with the prisoners once they left the Standard barracks.<sup>2829</sup>

1041. Every morning for the next few days, surgeons came from the Zvornik Hospital and tended the wounds of the Muslim men.<sup>2830</sup> [REDACTED].<sup>2831</sup>

**On 23 July, PANDUREVIĆ asked Cerović for a solution to the problem of the Muslims; POPOVIĆ delivered instructions on how the problem was to be resolved; and the Muslims disappeared within two days.**

1042. At 08:00 hours on 23 July, the ABiH intercepted a conversation between Vinko PANDUREVIĆ and Col. Cerović, the Assistant Commander for Moral Guidance and Legal Affairs in the Drina Corps, during which PANDUREVIĆ informed Cerović that he had some prisoners and some wounded and he did not know what to do with them.<sup>2832</sup> PANDUREVIĆ told Cerović that a letter had arrived stating that the wounded should be sent to the Zvornik Hospital; but he advised Cerović that there was a problem with that and requested a solution that day.<sup>2833</sup>

1043. Five minutes later, another intercepted conversation shows that Cerović called back and told "Ljubo" (clearly Ljubo Bojanović, the Zvornik Brigade Duty Operations Officer on 23 July)<sup>2834</sup> to pass on the following message to "Vinko:"

What Vinko and I were just talking about will arrive at your place by 1700 hrs. The boss, Lt. Col. POPOVIĆ, will arrive and say what needs to be done regarding the work we talked about.<sup>2835</sup>

1044. This intercept at 08:05 hours is corroborated by the following entry in the Zvornik Brigade Duty Operations Officer Notebook, written by Maj. Ljubo Bojanović:

<sup>2825</sup> Exh. P01184 at ERN: 0307-4277.

<sup>2826</sup> [REDACTED].

<sup>2827</sup> [REDACTED].

<sup>2828</sup> [REDACTED]. Z.BEGOVIĆ, T.9140:21-25, 9142:16-21.

<sup>2829</sup> Z.BEGOVIĆ, T.9144:8-20, 9155:22-9156:5.

<sup>2830</sup> Z.BEGOVIĆ, T.9143:23-9144:5.

<sup>2831</sup> [REDACTED].

<sup>2832</sup> Exh. P01309(a), intercept dated 23 July at 08:00 hours. At T.31146:12-13, Pandurević stated that he believed the other participant in the conversation to be Col. Cerović.

<sup>2833</sup> Exh. P01309(a), intercept dated 23 July at 08:00 hours.

<sup>2834</sup> See Exh. P00377 at ERN: 0293-5795, where Ljubo Bojanović noted down the contents of this intercept in the Duty Operations Officer Notebook.

<sup>2835</sup> Exh. P01310(a), intercept dated 23 July at 08:05 hours.

0830 hrs. – Lieutenant Colonel Cerović relayed a message for commander that LTC **POPOVIĆ** will arrive by 17:00 hours.<sup>2836</sup>

1045. This was an important message and **PANDUREVIĆ** would have received it. During his testimony, **PANDUREVIĆ** claimed that he did not remember receiving Col. Cerović's message from Ljubo Bojanović, instead stating that he had ordered Dragan Obrenović to stay in contact with the Corps on this issue.<sup>2837</sup> However, Cerović spoke with **PANDUREVIĆ** himself just minutes earlier about this issue and **PANDUREVIĆ** himself had requested a solution for the "problem" of the wounded Muslims. **PANDUREVIĆ** attended a meeting of Battalion Commanders at 10:00 hours that day in the operations room of the Zvornik Brigade command, right next to the office of the Operations organ.<sup>2838</sup> **PANDUREVIĆ** was clearly in a position to receive Cerović's message and he would have done so.

1046. On the same day, the vehicle log for a VW Golf assigned to Vujadin **POPOVIĆ** records that this vehicle made a trip from Vlasenica to Zvornik.<sup>2839</sup> When considered together with the intercept and the entry in the Duty Operations Officer Notebook, **POPOVIĆ** clearly did go to the Zvornik Brigade that day and convey instructions about the fate of the wounded Muslims.

1047. [REDACTED].<sup>2840</sup> Dr. Begović confirmed that the Muslims were taken away early in the morning<sup>2841</sup> without being escorted by any medical staff,<sup>2842</sup> despite this being standard practice when a patient was transferred.<sup>2843</sup> Significantly, the patients' medical records were also left behind at the infirmary.<sup>2844</sup> The lack of a medical escort and the failure to take their medical records was a clear sign that these Muslims were not exchanged.

1048. The evidence in this case has proven that of the 14 known Muslims who were admitted to the Milići Hospital on 13 July, Aziz Bećirović died at the Zvornik Hospital on

<sup>2836</sup> Exh. P00377 at ERN: 0293-5795.

<sup>2837</sup> **PANDUREVIĆ**, T.32263:21-32264:1.

<sup>2838</sup> **PANDUREVIĆ**, T.31150-31151. *See also* T.31157:23-24, where **PANDUREVIĆ** testified that he spent most of the day of 23 July at the command.

<sup>2839</sup> Exh. P00197, Vehicle log for VW GOLF P-7065 assigned to Vujadin **POPOVIC** in the period from 01 to 31 July 1995.

<sup>2840</sup> [REDACTED].

<sup>2841</sup> Z.BEGOVIĆ, T.9134-9135.

<sup>2842</sup> Z.BEGOVIĆ, T.9135:18.

<sup>2843</sup> Z.BEGOVIĆ, T..9148:7-12.

<sup>2844</sup> Z.BEGOVIĆ, T.9148:2-4.

or around 16 July;<sup>2845</sup> [REDACTED];<sup>2846</sup> and 12 men remain missing.<sup>2847</sup> The 12 Muslim men still listed as missing were taken away from the Zvornik Brigade HQ and murdered.

**POPOVIĆ's instructions were to kill the prisoners and PANDUREVIĆ was aware of those instructions.**

1049. [REDACTED].<sup>2848</sup> The evidence has clearly shown that **POPOVIĆ** went to Zvornik to deliver instructions about the wounded Muslims, who subsequently disappeared.<sup>2849</sup> **PANDUREVIĆ** also confirmed that he (**PANDUREVIĆ**) was at the Zvornik Brigade command for most of the day on 23 July before leaving around 20:00 hours.<sup>2850</sup> Thus, **PANDUREVIĆ** was clearly in a position to receive these instructions from **POPOVIĆ**. [REDACTED] **POPOVIĆ** did pass on an order to **PANDUREVIĆ** that the wounded prisoners were to be murdered.

1050. These victims were moved from the Milići Hospital to Zvornik on the orders of the VRS Main Staff. In this context, the Drina Corps would not have decided to summarily execute these patients without first obtaining the approval of the Main Staff. The delay between **PANDUREVIĆ**'s request for guidance on what to do with the patients and Col. Cerović's response was most likely Cerović or other senior Drina Corps officers checking with the Main Staff and receiving their orders on what to do with the patients. [REDACTED] Gen. **MILETIĆ** and the Operations Branch also would have been made aware of the request from the Drina Corps and would have been involved in passing on Mladić's order to kill the prisoners to the Corps.

**(iv) On or around 26 July 1995: Murder of the four Branjevo Farm Survivors**

1051. On 18 July 1995, Neško Đokić, a soldier from the 1<sup>st</sup> Battalion of the Zvornik Brigade, got up early in the morning and went to fetch grass for his cattle from a field approximately 150 metres from his house in Donji Lokanj,<sup>2851</sup> which is located very close to the mass execution site at Branjevo Farm.<sup>2852</sup> On his way to the field, under an apple tree, Đokić encountered three Muslim men and one Muslim boy who were covered in

<sup>2845</sup> Exh. P00377 at ERN: 0293-5762; R.NOVAKOVIĆ, T.9039:11-23.

<sup>2846</sup> [REDACTED].

<sup>2847</sup> See Exh. P00566, ICTY Report - "Srebrenica Missing - Persons Reported Missing after the Take-Over of the Srebrenica Enclave by the Bosnian Serb Army on 11 July 1995;" [REDACTED].

<sup>2848</sup> [REDACTED].

<sup>2849</sup> See para. 1046.

<sup>2850</sup> **PANDUREVIĆ**, T.31157:21-24 and T.31159:7-18.

<sup>2851</sup> Exh. P00343, Zvornik military police document, Statement of Neško Đokić.

<sup>2852</sup> Exh. P00686, Revised Narrative Report by Richard Butler, at para. 8.16.

blood.<sup>2853</sup> These four Muslims were later identified as Almir Halilović aged 14;<sup>2854</sup> Sakib Kivirić aged 31;<sup>2855</sup> Emin Mustafić aged 25;<sup>2856</sup> and Fuad Đozić aged 30.<sup>2857</sup>

1052. Neško Đokić went home and got some bread, bacon and onions for the Muslims to eat, as well as an old shirt and a sweater for them to wear.<sup>2858</sup> The Muslims then asked if Đokić would take them to the front lines.<sup>2859</sup> Đokić agreed to help and then went to the front line and told his son Slobodan Đokić about the Muslims.<sup>2860</sup> Slobodan Đokić went back to where his father had left the Muslims and gave them directions to Teočak.<sup>2861</sup>

1053. The following day, these four victims were captured by VRS or MUP forces, taken to Ugljevik and interrogated, then escorted by police to the Zvornik Brigade HQ.<sup>2862</sup> The victims were interrogated again, three of them by MP Nebojša Jeremić and one by MP Čedo Jović, lawyers who were members of the Brigade's crime prevention team, and statements were taken.<sup>2863</sup> The Muslims told their interrogators that they had been assisted by a father named Neško and an unnamed son, who were quickly identified as Zvornik Brigade soldiers Neško Đokić and his son, Slobodan Đokić. The victims then participated in a "line-up" in order to identify Neško and Slobodan Đokić,<sup>2864</sup> which was attended by Nebojša Jeremić, MP Goran Bogdanović and Drago **NIKOLIĆ**.<sup>2865</sup>

1054. Neško Đokić and Slobodan Đokić were also interviewed by the Zvornik Brigade MPs.<sup>2866</sup> Drago **NIKOLIĆ** was present during the interview of Slobodan Đokić, who confessed to helping the four Muslims after **NIKOLIĆ** slapped him.<sup>2867</sup> On 25 July, a Ruling was issued ordering detention of up to three days for Neško Đokić and Slobodan

<sup>2853</sup> Exh. P00343, Zvornik military police document, Statement of Neško Đokić.

<sup>2854</sup> Exh. P00392, Zvornik Military Police document, Statement of Almir Halilović.

<sup>2855</sup> Exh. P00389, Zvornik Military Police Document, Statement of Sakib Kivirić.

<sup>2856</sup> Exh. P00390, Zvornik Military Police Document, Statement of Emin Mustafić.

<sup>2857</sup> Exh. P00391, Zvornik Military Police Document, Statement of Fuad Đozić.

<sup>2858</sup> Exh. P00343/P00393.

<sup>2859</sup> Exh. P00343/P00393.

<sup>2860</sup> Exh. P00343/P00393.

<sup>2861</sup> Exh. P00343/P00393.

<sup>2862</sup> Exh. P00389; P00390; P00391; P00392.

<sup>2863</sup> Exh. P00389; P00390; P00391; P00392.

<sup>2864</sup> Exh. P00394, Zvornik Military Police document re identification of Nesko Đokić and Slobodan Đokić.

<sup>2865</sup> Exh. P00394.

<sup>2866</sup> JEREMIĆ, T.10427-10428.

<sup>2867</sup> JEREMIĆ, T.10427:23 – 10428:1.

Đokić for collaborating with the enemy.<sup>2868</sup> The Ruling ordering the detention was signed by Drago **NIKOLIĆ**.<sup>2869</sup>

1055. [REDACTED].<sup>2870</sup>

1056. [REDACTED] these four men -- Sakib Kivirić, Emin Mustafić, Fuad Đozić and Almir Halilović -- remain on the list of those missing from the fall of Srebrenica,<sup>2871</sup> and second, the evidence indicates that these four men actually *did* survive the executions at Branjevo Farm near Pilica.

1057. Ahmo Hasić (Branjevo Farm survivor) testified that after he escaped from the executions at Branjevo Farm on the night of 16-17 July, he met up with four other Muslim survivors of those executions who were approximately 16 to 25 years of age, one of whom was from the village of Jagonje.<sup>2872</sup> Later that night, Ahmo Hasić became separated from these four men.<sup>2873</sup> For the reasons outlined below, it is clear that the four Muslims from whom Ahmo Hasić became separated are the same four Muslims whom Neško Đokić found covered in blood in Donji Lokanj on 18 July.

1058. First, the ages of the four Muslims met by Neško Đokić corresponds with the approximate age range of the four individuals described by Ahmo Hasić. Second, Ahmo Hasić recalled that one of the Muslims was from Jagonje,<sup>2874</sup> and Sakib Kivirić is recorded as having come from the village of Jagodnja.<sup>2875</sup> Third, Ahmo Hasić heard that the four Muslims with whom he escaped Branjevo Farm were captured and taken to Zvornik;<sup>2876</sup> which is the exact same fate which befell the four Muslims met by Neško Đokić. Fourth, Neško Đokić described the four Muslims as covered in blood,<sup>2877</sup> which indicates that they had recently experienced some kind of major trauma like that which could be expected from surviving a mass execution. Fifth, the village of Donji Lokanj is

<sup>2868</sup> Exh. P00385, Judgement against Nesko Đokić and Slobodan Đokić. Jeremić testified that before any of the statements were taken, Drago **NIKOLIĆ** instructed him to file criminal charges against the father and son and to draft an order for the brigade commander's signature for up to 60 days' military imprisonment; however, Jeremić could not recall whether charges were filed or an order for 60 days' military imprisonment was written. JEREMIĆ, T.10427, 10438, 10473-10474, 10478-10479.

<sup>2869</sup> Exh. P00385. See also Exh. P00345 and Exh. P00386, Zvornik Brigade Report to Bijeljina Military Prosecutor, signed by Drago **NIKOLIĆ**, dated 26 July 1995.

<sup>2870</sup> [REDACTED].

<sup>2871</sup> See Exh. P00566, ICTY Report - "Srebrenica Missing - Persons Reported Missing after the Take-Over of the Srebrenica Enclave by the Bosnian Serb Army on 11 July 1995;" [REDACTED].

<sup>2872</sup> A.HASIĆ, T.1205:5 - 1206:16.

<sup>2873</sup> A.HASIĆ, T.1205-1206.

<sup>2874</sup> A.HASIĆ, T.1205:5 - 1206:16.

<sup>2875</sup> Exh. P00389.

<sup>2876</sup> A.HASIĆ, T.1205-1206

<sup>2877</sup> Exh. P00343/P00393, Zvornik military police document, Statement of Neško Đokić. When Nebojša Jeremić interviewed the prisoners in the Standard Barracks, he said they looked frightened, thin and their clothes were in shreds. JEREMIĆ, T.10431.

located very close to the mass execution site at Branjevo Farm but some 15-20 kilometres away from the area of Baljkovica where most of the Muslim column broke through to Muslim-held territory.<sup>2878</sup> As noted by Richard Butler, it would be “very surprising for any Muslims to have moved (on foot) that far to the north in an effort to cross the VRS lines into ABiH held territory.”<sup>2879</sup> Accordingly, the four Muslims who survived the Branjevo Farm executions and fled with Ahmo Hasić on 16-17 July were clearly the same four Muslims discovered by Neško Đokić on 18 July.

1059. [REDACTED]. Drago **NIKOLIĆ** found out that the Muslims had survived the Branjevo Farm executions and told Vinko **PANDUREVIĆ**. The four Muslims were subsequently murdered with **NIKOLIĆ**'s and **PANDUREVIĆ**'s full knowledge and authority.

**(Ivi) Murder of six Bosnian Muslim men and boys near the town of Trnovo**

1060. In July or August 1995, after the fall of the Srebrenica enclave, a Serbian MUP unit called the “Skorpions” summarily executed six Muslim men and boys near the town of Trnovo. Skorpions member Slobodan Stojković captured the executions on video.<sup>2880</sup>

1061. All six victims have been identified: Safet Fejzić, Azmir Alispahić, Smajil Ibrahimović, Sidik Salkić, Juso Delić and Dino Salihović.<sup>2881</sup> There is a Joint Defence stipulation regarding the victims’ identities; the fact that they were last seen by their families in the Srebrenica enclave in July 1995; and the basic facts concerning their murders.<sup>2882</sup>

1062. The video footage shows that the Skorpions unit brought the six Muslim men and boys by truck to an isolated location in Godinjske Bare, near Trnovo. The Skorpions unloaded the prisoners from the truck and forced them to lie face down in a ditch with their hands bound. A Skorpions member fired a rifle in the air. The prisoners were then marched to the execution site near two deserted buildings. Two of the prisoners were forced to lie face down while the other four were made to stand in a line where they were shot by Skorpions members, one by one, with automatic rifles.

<sup>2878</sup> Exh. P00686, Revised Narrative Report by Richard Butler, at para. 8.16.

<sup>2879</sup> Exh. P00686 at para. 8.16.

<sup>2880</sup> Exh. P03249, Skorpion video (V000-5095-V000-5095) and accompanying transcripts.

<sup>2881</sup> Exh. P03248, Stipulation: Statement of agreed facts concerning the execution video showing the killing of six Bosnian Muslim men near Trnovo.

<sup>2882</sup> Exh. P03248, Stipulation: Statement of agreed facts concerning the execution video showing the killing of six Bosnian Muslim men near Trnovo.

1063. The Skorpions then untied the hands of the two remaining prisoners and ordered them to carry the bodies of the four executed Muslim men and boys into a deserted building. Once the two men had carried the dead bodies inside the building, they were executed by the Skorpions using automatic rifles. The Skorpions then left the location.

1064. During the executions, the Skorpions abused and tormented their prisoners. One Skorpions member kicked Juso Delić's head as he was lying with the other Muslims in the back of a truck and asked him "What are you trembling for, motherfucker?" The Skorpions teased the youngest of the captives as they were lying face-down by the road, saying, "You haven't fucked either?" and "What have you never done?" The captors denied the prisoners' request for water and laughed and joked as Sidik Salkić and Smajil Ibrahimović carried the bodies of the executed prisoners into the woods, while they continued to fire at the dead bodies of the men lying on the ground.<sup>2883</sup>

**(lvii) Nova Kasaba**

1065. Between 1996 and 1999, eight undisturbed primary mass graves were exhumed in the area of Nova Kasaba.<sup>2884</sup> While the exact date of these executions is unknown, aerial imagery shows that these graves were created between 7 and 27 July 1995.<sup>2885</sup> There are no known survivors of, or witnesses to, these executions.

1066. The first four primary graves, NKS 1 through NKS 4, were exhumed in July 1996. These graves contained a minimum number of 33 individuals.<sup>2886</sup> The discovery of 27 ligatures at these gravesites<sup>2887</sup> shows that individuals in those graves were executed.<sup>2888</sup> Gunshot wounds were the cause of death established for the majority of victims exhumed.<sup>2889</sup> The area of Nova Kasaba was further investigated in August 1995 and another four primary graves were discovered; NK04, NK06, NK07, and NK08.<sup>2890</sup> The minimum number of individuals identified in these graves was 55.<sup>2891</sup> Gunshot wounds were the cause of death established for the majority of victims exhumed.<sup>2892</sup>

<sup>2883</sup> P03249, Skorpion video (V000-5095-V000-5095).

<sup>2884</sup> Exh. P00649, at ERN 0095-0940; Exh. P02993, at ERN 0095-0940.

<sup>2885</sup> Exhs. P01682 and P01683. *See also* Exh. P00649, at ERN 0095-0939.

<sup>2886</sup> Exh. P00621, at ERN 0149-2656; Exh. P00649, at ERN 0095-0908, and ERN 0095-0924; Exh. P02993, at ERN 0614-8659 (Manning's report from 2007 includes DNA identification of 38 Srebrenica victims identified within the NKS 1-4)

<sup>2887</sup> Exh. P00621, at ERN 0149-2656, ERN 0149-2672-2673, and Annex 1; Exh. P00649, at ERN 0095-0922; Exh. P02066.

<sup>2888</sup> Exh. 1D01070, at ERN 1D19-0933; DUNJIĆ, T. 22935:7-10, 22936:1-4.

<sup>2889</sup> Exh. P00621, at ERN 0149-2657; P00649, at ERN 0095-0940.

<sup>2890</sup> Exh. P00649, at ERN 0095-0987-0990; Exh. P02993, at ERN 0614-8659; Exh. P00577, at 0090-8195; Exh. P00560, at 0091-1897-1881.

<sup>2891</sup> Exh. P00649, at ERN 0095-0924; Exh. P02993, at ERN 0614-8659; Exh. P00577, at ERN 0090-8195.

<sup>2892</sup> Ext. P00649, at ERN 0095-0990; Exh. P00577, at ERN 0090-8195-8198.

1067. DNA matching by ICMP has identified a total of **32** persons within the Nova Kasaba 1996 graves<sup>2893</sup> and a total of **51** persons within the Nova Kasaba 1999 graves who were reported missing after the fall of Srebrenica.

**(lviii) August – October 1995: murder of other Muslim prisoners**

1068. The killing of captured Bosnian Muslim men from the Srebrenica enclave by VRS and MUP personnel continued through July and August. For example, in the Rogatica Brigade's Regular Combat Report of 8 August 1995, Rogatica Brigade Commander Rajko Kušić reported that five "Balijs" from Žepa were "liquidated."<sup>2894</sup> This Report also stated: "The same day, in the vicinity of Luke, an unarmed Ustasha, born in Srebrenica, 24 years old, was liquidated. Before he died he said that he fell behind the others and he was looking for a food." This unarmed, hungry Muslim man was alive when he was captured. He was murdered with the full knowledge and authorisation of Rogatica Brigade Commander Rajko Kušić.

1069. These opportunistic killings were the natural and foreseeable consequence of the Joint Criminal Enterprise to forcibly transfer the population of Srebrenica. They were also the natural and foreseeable consequence of the Joint Criminal Enterprise to murder all the able-bodied Bosnian Muslim men from Srebrenica.

**(lix) September – October 1995: the cover-up reburial operation**

1070. From about 1 August through about 1 November 1995, VRS and MUP personnel, ordered by the VRS Main Staff<sup>2895</sup> and coordinated by the VRS security organs,<sup>2896</sup> participated in an organised and comprehensive effort to conceal the murders in the Zvornik and Bratunac Brigade zones of responsibility by exhuming bodies from primary mass graves at Glogova, Lažete (Orahovac), the Dam near Petkovci, Branjevo Farm and Kozluk and transferring them to secondary graves at Zeleni Jadar (seven sites containing

<sup>2893</sup> Exh. P02993, Annex A, at ERN 0614-8685-8686 and ERN 8687-8688.

<sup>2894</sup> Exh. P00209, 1st Podrinje Light Infantry Brigade regular combat report to the Drina Corps Command, typesigned Lt Col Rajko Kušić, 8 August 1995.

<sup>2895</sup> See Exh. P00041, VRS Main Staff Order No. 03/4-2341 dated 14 Sept.95 (regarding the approval of 5 tones of D-2 fuel for carrying out engineering works in the zone of responsibility of the Drina Corps); Exh. P00042, VRS Main Staff Order No. 10/34/2-3-701 dated 14 Sep.95 (issuing 5,000 litres of D-2 diesel fuel). See also Exh. P00219, 1<sup>st</sup> Bratunac Brigade notes of Command Staff meeting, 16 October 1995.

<sup>2896</sup> See, e.g., [REDACTED]; D. LAZAREVIĆ, T.14467-14534; M. NIKOLIĆ, T.32961:13-32964:13. Exh. 7DP00379, Zvornik Brigade Duty Operations Officer Notebook covering the period 27 July 1995 to 29 October 1995 at ERN 0293-6523 (p. 115 in eCourt in English) (dated 14 September 1995, showing that P00041 and P00042 were received by the Zvornik Brigade) and ERN 0293-6548 (p. 150 in eCourt in English) (dated 27 September 1995, with a remark "remind the Commander about the construction work"). There was no known construction work or need for fuel in the Zvornik Brigade zone of responsibility during this period of time. See also Exh. P00219, 1<sup>st</sup> Bratunac Brigade notes of Command Staff meeting, 16 October 1995.



bodies from Glogova), Budak (two sites containing bodies from Glogova), Blječeva (three sites containing bodies from Glogova), Hodžići Road (seven sites containing bodies from Orahovac), Liplje (five sites containing bodies from the Petkovci Dam) and Čančari Road (twelve<sup>2897</sup> sites containing bodies from Branjevo Farm and Kozluk).<sup>2898</sup>

1071. Such extreme measures would not have been necessary had the bodies in the primary graves been combat victims. This reburial operation was a natural and foreseeable consequence of the execution and original burial plan conceived by the Joint Criminal Enterprise and was carried out on the orders of the VRS Main Staff.

**The reburial operation in the Zvornik Brigade zone of responsibility.**

1072. [REDACTED].<sup>2899 2900 2901</sup>

1073. Shortly afterwards, an order arrived at the Zvornik Brigade HQ from the VRS Main Staff specifying that five tonnes of fuel was to be provided for carrying out engineering works.<sup>2902</sup> The task of maintaining the records of fuel distribution was given to Milorad Trbić.<sup>2903</sup> The receipt of both telegrams concerning fuel was noted in the Duty Officer Notebook on 14 September 1995 with a remark “delivered to Pantić,” *i.e.*, the Head of the Zvornik Brigade Logistics Transport Service, Radislav Pantić.<sup>2904</sup>

1074. [REDACTED].<sup>2905 2906 2907</sup>

1075. [REDACTED].<sup>2908 2909 2910</sup>

<sup>2897</sup> A thirteenth known secondary mass grave - Čančari Road 1 – remains to be exhumed. See Exh. P00666, "Exhumations in Eastern Bosnia in 1998 Report to ICTY by Richard Wright," at ERN 0082-8221. See also Exh. P04490, Report titled, "Update to the Summary of Forensic Evidence – Exhumation on the Graves Related to Srebrenica – March 2009," by Dušan JANC, dated 13 March 2009, with public annexes A-C, Annex A at ERN X019-4244.

<sup>2898</sup> See Exh. P04990. See also P04492, Corrigendum to report titled "Update to the Summary of Forensic Evidence – Exhumation on the Graves Related to Srebrenica – March 2009," by Dušan JANC, dated 9 April 2009; Exh. 4DP04524, Updated map showing movement of primary to secondary mass gravesites based on DNA connections and forensic evidence; Exh. P02995, 17 IKONOS satellite images and overview map showing the locations of and links between primary and secondary graves.

<sup>2899</sup> [REDACTED].

<sup>2900</sup> [REDACTED].

<sup>2901</sup> [REDACTED].

<sup>2902</sup> See Exh. P00041, VRS Main Staff Order No. 03/4-2341 dated 14 Sept.95 (regarding the approval of 5 tones of D-2 fuel for carrying out engineering works in the zone of responsibility of the Drina Corps); Exh. P00042, VRS Main Staff Order No. 10/34/2-3-701 dated 14 Sep.95 (issuing 5,000 litres of D-2 diesel fuel).

<sup>2903</sup> See Exh. P00041; Exh. P00042[REDACTED].

<sup>2904</sup> See Exh. 7DP00379, Zvornik Brigade Duty Operations Officer Notebook covering the period 27 July 1995 to 29 October 1995 at ERN 0293-6523 (p. 115 in eCourt in English) (dated 14 September 1995, showing that P00041 and P00042 were received by the Zvornik Brigade); MILOŠEVIĆ, T.34022:11-34026:17 (stating that Pantić was the “traffic guy” who would be informed about fuel, but also stating that he did not know whether Pantić received this, and denying any knowledge of the fuel telegrams).

<sup>2905</sup> [REDACTED].

<sup>2906</sup> [REDACTED].

<sup>2907</sup> [REDACTED].

<sup>2908</sup> [REDACTED].

1076. Staff Sergeant Damjan Lazarević of the Zvornik Brigade Engineering Company testified that he was appointed to the reburial task by Zvornik Brigade Chief of Engineering Major Dragan Jokić and by Slavko Bogičević.<sup>2911</sup> Lazarević stated that Milorad Trbić coordinated the reburial operation.<sup>2912</sup> Two or three operators from the Engineering Company who had taken part in the original excavations of the graves, including Cvijetin Ristanović and Milovan Miladinović, took part in the reburials along with Zvornik Brigade personnel from other units.<sup>2913</sup>

1077. Lazarević testified that the first gravesite exhumed was Orahovac (Lažete 1 and 2), followed by Kozluk, and then Branjevo Farm.<sup>2914</sup> Vinko **PANDUREVIĆ** was present and in command of the Zvornik Brigade during the Branjevo Farm reburials. Lazarević also testified that he was tasked to be present at the three primary grave sites where the bodies had been buried in July 1995;<sup>2915</sup> and that he was present at these locations when the vehicles used to transport the bodies from the primary graves arrived at the locations.<sup>2916</sup> It took two nights to complete the Branjevo Farm reburials.<sup>2917</sup> All together it took five or six days to complete the reburial operation for all three graves.<sup>2918</sup>

**The reburial operation in the Bratunac Brigade zone of responsibility.**

1078. Momir Nikolić testified that he heard from Vujadin **POPOVIĆ** and his commander, Vidoje Blagojević, sometime in mid-September 1995 that a reburial operation had been ordered by the VRS Main Staff and was to be dubbed “asanacija.”<sup>2919</sup> **POPOVIĆ** told Momir Nikolić that the Main Staff had ordered the “relocation” of the Glogova grave.<sup>2920</sup> Pursuant to this order, the Drina Corps Command or security organ would need to ensure the necessary quantities of fuel for this operation.<sup>2921</sup> According to Momir Nikolić, the reburial operation took approximately one month to complete, with

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<sup>2909</sup> [REDACTED].

<sup>2910</sup> [REDACTED].

<sup>2911</sup> LAZAREVIĆ, T. 14468:3-23; 14525:14-18.

<sup>2912</sup> LAZAREVIĆ, T. T. 14488:9-17; 14489:17-14490:3; 14508:9-18.

<sup>2913</sup> LAZAREVIĆ, T. 14484:1-13; 14523:3-7.

<sup>2914</sup> LAZAREVIĆ, T. 14529:13-14.

<sup>2915</sup> LAZAREVIĆ, T. 14469:14-15.

<sup>2916</sup> LAZAREVIĆ, T. 14484:24-14485:25 (testifying also that the smell of the dug up bodies was unbearable).

<sup>2917</sup> LAZAREVIĆ, T. 14529:6-9.

<sup>2918</sup> LAZAREVIĆ, T. 14486:19-14487:2.

<sup>2919</sup> **NIKOLIĆ**, T. 32960:15-32961:15.

<sup>2920</sup> **NIKOLIĆ**, T. 32961:18-32962:14. [REDACTED] (PW-138) testified that he knew about

<sup>2921</sup> **NIKOLIĆ**, T. 32961:18-32962:14. [REDACTED] (PW-138) testified that he knew about

some interruptions.<sup>2922</sup> It was impossible to perform the reburials as a secret operation given the large number of people, machinery and vehicles involved.<sup>2923</sup>

1079. The reburials were further discussed at a working meeting of the Bratunac Brigade. This is reflected in the last entry in the notes of the Command Staff meeting for 16 October 1995, in which Momir Nikolić is reported as stating “we are currently engaged in tasks issued by the VRS Main Staff (“asanacija”).”<sup>2924</sup> Momir Nikolić confirmed that this notation was a reference to the reburial operation ongoing at that time in the Bratunac Brigade area of responsibility, which involved the “removal or relocation or re-digging of graves from the area of Glogova village and relocations to secondary graves in the area of Srebrenica municipality.”<sup>2925</sup> [REDACTED] PW-138, [REDACTED], testified that he also knew about the removal of bodies from Glogova because the Bratunac Brigade MPs had the job of securing the road from Bratunac towards Srebrenica.<sup>2926</sup> [REDACTED].<sup>2927</sup>

#### **The investigation and the connections.**

1080. It was not until January 1996 that OTP investigators were first allowed to visit the Srebrenica area. In April 1996, the OTP commenced forensic examinations of suspected execution points and exhumation of mass graves.<sup>2928</sup> It was soon observed that certain so-called “primary” mass graves had been disturbed and that the bodies from those primary mass graves were removed into so-called “secondary” mass graves.<sup>2929</sup> Forensic links between the primary gravesites and the secondary gravesites were confirmed.<sup>2930</sup> These connections have recently been further corroborated and supplemented by evidence of DNA connections between such gravesites.<sup>2931</sup>

<sup>2922</sup> NIKOLIĆ, T.32962:15-20.

<sup>2923</sup> NIKOLIĆ, T. 32964:3-13 (“As it turns out, everything was done openly, overtly, and publicly, and in a nutshell everyone knew what was going on and what was being done”).

<sup>2924</sup> Exh. P00219, 1<sup>st</sup> Bratunac Brigade notes of Command Staff meeting, 16 October 1995 at p. 25.

<sup>2925</sup> NIKOLIĆ, T.32959:6-32960:12.

<sup>2926</sup> [REDACTED] (PW-138), T. 3863:13-3864:2.

<sup>2927</sup> [REDACTED].

<sup>2928</sup> Prosecution Adjudicated Facts 473 and 474.

<sup>2929</sup> Prosecution Adjudicated Fact 475.

<sup>2930</sup> Prosecution Adjudicated Facts 476 and 488.

<sup>2931</sup> “A ‘DNA connection’ means that the remains of one individual were found in at least two different [disturbed] graves.” See Exh. P04490 at ERN X019-4235.

**Specific Primary to Secondary Connections**

*Glogova 1 and 2 primary mass graves (Kravica Warehouse executions) are connected to the Zeleni Jadar, Budak and Blječeva secondary mass graves*

1081. A variety of evidence including soil and pollen samples,<sup>2932</sup> a comparison of shell cases collected from the Zeleni Jadar 5 secondary mass grave and the Kravica Warehouse execution point,<sup>2933</sup> similar artefacts located in the Glogova 1 and 2 primary graves (GL-1 and GL-2) and Zeleni Jadar 5 and 6 secondary mass graves,<sup>2934</sup> and DNA connections,<sup>2935</sup> proves that the men executed at the Kravica Warehouse were first buried in the primary graves at Glogova and then reburied in the secondary graves at Zeleni Jadar, Budak and Blječeva.<sup>2936</sup>

1082. Aerial images taken on by 17 July 1995 show disturbed soil on either side of the road separating the GL-1 and GL-2 graves.<sup>2937</sup> A split aerial image shows a further disturbance between 27 July and 20 October 1995.<sup>2938</sup> By 30 October 1995, the GL-1 grave was refilled, while ongoing excavation by a front loader continued in the GL-2

<sup>2932</sup> See Exh. P00563, Report of Antony G Brown dated 29 November 1999 at ERN 0090-2579; Exh. P00649, Dean MANNING "Summary of Forensic Evidence - Execution Points and Mass Graves," dated 16 May 2000, Annex A at ERN 0095-0979-0984.

<sup>2933</sup> See Exh. P00676, Martin Ols' ATF Report on Automated Ballistic Comparison dated 24 February 2000; Exh. P00649 at ERN 0095-0982, 0095-0986.

<sup>2934</sup> A direct connection between the Kravica Warehouse and these graves is apparent through the distinctive nature of the debris found in the filling of the graves, which included pieces of masonry, barbed wire, bricks, tiles, china and hay, some of which originated from the Kravica Warehouse. Exh. P00649, Annex A, at ERN 0095-0984; Exh. P02994, Dean Manning "Srebrenica Investigation, Summary of Forensic Evidence- Execution Points and Mass Graves 2001," 24 August 2003, at ERN X016-7712; MANNING, T. 18980-18983, 19114:1-14; WRIGHT, T.7440:15-7442:20; Exh. P04525, "A Report of the Examination and Recovery of Evidence from Kravica Warehouse Bosnia and Herzegovina," by Michael J. HEDLEY, dated 9 March 2001, at ERN 0200-9116.

<sup>2935</sup> An analysis of DNA matching reports issued by ICMP ([REDACTED]) shows that multiple DNA connections exist between the Glogova primary mass graves and the Budak / Blječeva / Zeleni Jadar secondary mass graves, as well as between some of the secondary mass graves. Primary to secondary grave DNA connections exist between GL-1 and: Blječeva 3, both Budak graves, and all the Zeleni Jadar ("ZJ") graves; as well as between GL-2 and: Blječeva 1 and 2, and ZJ5. See, e.g., Exh. P4490, Annex A at ERN X019-4241-4242 and Annex C. For secondary to secondary grave DNA connections, see Exh. P04490, Annex A at ERN X019-4256-X019-4260 and Annex C. See also [REDACTED]. There are also 6 connections between the primary graves GL-1 and GL-2. See JANC, T.33532-33534.

<sup>2936</sup> Forensic evidence, such as building materials, shows that bodies from Kravica Warehouse were also buried in the Ravnice primary undisturbed mass grave, which, though designated as "Ravnice 1" and "Ravnice 2", is a single grave. Exh. P04490, Annex A at ERN X019-4242-4243; MANNING, T.18913:14-20; 18987:22-18988:2; 19109:15-23; 19110:18-19112:6.

<sup>2937</sup> Exh. P00649 at ERN 0095-0979-0980. However, subgraves E and L in GL-1 were not created until sometime between 17 and 27 July 1995. See Exh. P00648 at ERN X006-5671; see also Exh. P04488, Report titled "Interim Report on Excavation and Exhumations at Glogova Site 1, Grave L, Carried Out in September 2000," by Prof. Richard WRIGHT, dated 29 October 2000, at ERN X005-6754; Exh. P00674, Prof. Richard Wright "Report on Excavations and Exhumations at the Glogova 1 Mass Grave in 2000," dated 9 February 2001. JANC, T.33664:6-22, 33649:20-33652:10.

<sup>2938</sup> Exh. P01609, Aerial titled "Grave Exhumation Tatar-Bratunac Area" dated 27 Jul 95 and 20 Oct 95 (with markings GL-1). While all other subgraves in Glogova 1 were disturbed by the end of October 1995, subgraves E and L remained untouched, showing that they were dug after Kravica Warehouse bodies had been buried. See Exh. P00648 at ERN X006-5671. See also Exh. P04488 at ERN X005-6754; Exh. P00674 at ERN X006-4506. JANC, T.33664:6-22.

area.<sup>2939</sup> Aerial images of the Zeleni Jadar secondary gravesites show that they were excavated between 24 August and 12 October 1995 (with 5 excavations completed by 2 October 1995), and were refilled between 2 and 23 October 1995.<sup>2940</sup>

1083. GL-1 and GL-2 were forensically determined to be the primary mass graves connected to the secondary mass graves Zeleni Jadar 5 and 6, and to contain at least some of the individuals executed at the Kravica Warehouse.<sup>2941</sup> Numerous artefacts, including broken pieces of the wall and door of the warehouse, were found at the GL-1 gravesite (except in subgrave L) and positively indicate that this site was associated with the Kravica Warehouse executions.<sup>2942</sup> GL-1 and Zeleni Jadar 6 were also determined to contain fragments of grenades and shrapnel, consistent with the survivor accounts and other evidence of grenade and RPG fire at the Kravica Warehouse execution.<sup>2943</sup>

1084. Also consistent with survivor accounts and the forensic evidence is the fact that the individuals found in these graves died as a result of gunshot wounds, as well as high impact blast injuries.<sup>2944</sup>

<sup>2939</sup> Exh. P01610, Aerial titled "Disturbed Earth, Glogova" dated 30 Oct 95 (with markings GL-1 & GL2). *See also* P00649, Annex A at ERN 0095-0980, 0095-0984; MANNING, T.19149:11-19150:12.

<sup>2940</sup> For an overview of the area containing the Zeleni Jadar secondary mass graves, *see* Exh. P01649, Aerial titled "Zeleni Jadar Road Segment" A3-size panorama (with markings ZJ-1 to ZJ-6). *See also* Exh. P01650, Aerial titled "Disturbed Earth, Vrhovi" dated 7 Sep 95 and 2 Oct 95 (with markings ZJ-1); Exh. P01651, Aerial titled "Disturbed Earth, Vrhovi" dated 18 Oct 95 and 20 Oct 95 (with markings ZJ-1); Exh. P01652, Aerial titled "Disturbed Earth, Zeleni Jadar" dated 24 Aug 95 and 2 Oct 95 (with marking ZJ-2); Exh. P01653, Aerial titled "Disturbed Earth, Zeleni Jadar" dated 20 Oct 95 and 23 Oct 95 (with markings ZJ-2); Exh. P01654, Aerial titled "Disturbed Earth, Zeleni Jadar" dated 7 Sep 95 and 2 Oct 95 (with marking ZJ-3); Exh. P01655, Aerial titled "Disturbed Earth, Zeleni Jadar" dated 20 Oct 95; P01656, Aerial titled "Disturbed Earth, Zeleni Jadar" dated 7 Sep 95 and 12 Oct 95 (with markings ZJ-4 & ZJ-5); Exh. P01657, Aerial titled "Disturbed Earth, Zeleni Jadar" dated 18 Oct 95 (with markings ZJ-4 & ZJ-5); Exh. P01658, Aerial titled "Disturbed Earth, Ljeljendo" dated 7 Sep 95 and 27 Sep 95 (with marking ZJ-6) and Exh. P01659, Aerial titled "Disturbed Earth, Ljeljendo" dated 12 Oct 95 and 18 Oct 95 (with markings ZJ-6), for an indication of when each of these secondary mass graves was opened and closed. *See also* MANNING, T.18939:4-18942:25.

<sup>2941</sup> *See* Exh. P00649, Annex A at ERN 0095-0979. *See also* P02994 at ERN X016-7712-7713. *See also* Prosecution Adjudicated Fact 488. For dates of exhumations, gender and estimated numbers of bodies found in these graves, *see* Prosecution Adjudicated Facts 331-332, 326-327 and 336.

<sup>2942</sup> Prosecution Adjudicated Fact 329. Exh. P00648, Dean Manning "Summary of Forensic Evidence, Mass Graves Exhumed in 2000 – Lazete 1, Lazete 2C, Ravnice, Glogova 1" dated February 2001, at ERN X006-5670; Exh. P00674; Exh. P04488; Exh. P04525.

<sup>2943</sup> Prosecution Adjudicated Fact 330. *See* [REDACTED] PW-111, T.6996 (describing how he heard different weapons shooting into the Kravica Warehouse, including machine guns, automatic rifles, a praga, and grenades). *See also* M. ĐUKANOVIĆ, T.11768-9, 11784; P. ČELIĆ, T.13478-9 (hearing grenade explosions). *See* testimony of J. RUEZ, T.1468:10-20, 1469:6-1371:14 (describing the evidence found at the Kravica warehouse, including a number of grenade handles and shell casings); Exh. P01575, Video of Kravica Warehouse investigation; Exh. P00674 at ERN X005-6758-6759; Exh. P00599, de Bruyn "Forensic explosives analysis on samples from different sites in Srebrenica (Bosnia)" dated 2 March 2000; Exh. P00678, US Naval Criminal Investigative Service report Kravica Warehouse 30-Sep-96. *See also* MANNING, T.18978-18980; Exh. P02994 at ERN X016-7713 and Exh. P00648 at ERN X006-5670.

<sup>2944</sup> *See* Prosecution Adjudicated Fact 328, 330 and 337. *See also* Exh. P00646, Report by Dr. Lawrence on Autopsies of Human Remains from Zeleni Jadar Site 5, October 1998; Exh. P00648 at ERN X006-5671-5672. *See also* Exh. P00575, Report by Dr John Clark, titled "ICTY Operations in Bosnia-Herzegovina 1999 Season, Report of Chief Pathologist" dated 17 December 1999; Exh. P00598, Report titled "ICTY

1085. DNA evidence establishes that the Glogova primary mass graves are connected to each other, as well as to the secondary mass graves in the Zeleni Jadar/Blječeva/Budak region.<sup>2945</sup> Additionally, a direct DNA connection has also conclusively been established between the Kravica Warehouse execution site and the Zeleni Jadar 2 secondary mass grave, with DNA from a tooth found at the westernmost entrance doorway of the Warehouse<sup>2946</sup> matching the DNA extracted from a left femur and left humerus found in Zeleni Jadar 2 secondary grave.<sup>2947</sup> This corroborates the witness and video evidence about murders at the Kravica Warehouse, as well as forensic evidence which shows that bodies from Kravica Warehouse were reburied in secondary mass graves associated with the GL-1 and GL-2 gravesites.<sup>2948</sup>

1086. As of 31 January 2009, DNA matching by the ICMP has identified a total of **1319** persons who were reported missing after the fall of Srebrenica in July 1995 and whose remains were exhumed from the Ravnice, Glogova, Zeleni Jadar, Budak and Blječeva graves.<sup>2949</sup> The current total consists of 203 individuals identified from the Ravnice undisturbed primary mass grave; 392 individuals identified from GL-1 and GL-2 disturbed primary mass graves, and 724 individuals identified from secondary mass graves associated with Glogova.

1087. While the majority of the victims identified from these graves come from the Kravica Warehouse mass execution, these graves also contain bodies of Srebrenica-related victims killed in Bratunac,<sup>2950</sup> Potočari and along the Bratunac-Konjević Polje Road.<sup>2951</sup> These graves also contain the remains of at least ten Muslim men from Srebrenica who were captured in Serbia and whose remains were found in Grave L with ligatures binding the men together in pairs.<sup>2952</sup>

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Operations in Bosnia Herzegovina, 2000 Season, Report of Chief Pathologist, Srebrenica related grave sites" dated 24 Feb 2001; Exh. P02446, Report by Dr. John Clark titled "ICTY Operations in Bosnia Herzegovina, 2001 Season, Report of Chief Pathologist," dated 14 May 2003.

<sup>2945</sup> See *supra*, fn. 2935.

<sup>2946</sup> See e.g., Exh. P04525; Exh. P00598 at ERN 0200-5398.

<sup>2947</sup> See D. JANC, T.33487-33494; 33701-33702; 33547-33548. See also [REDACTED].

<sup>2948</sup> See Exh. 4DP04525, map of DNA and forensic connections. See also Exh. P04490. JANC, T.33487:12-33491:6; [REDACTED].

<sup>2949</sup> See [REDACTED]. For a breakdown of the most current numbers of bodies identified via DNA from each of the above primary and secondary mass graves, see Exh. P04490 at ERN X019-4232-4235, and Annex A at ERN X019-4271. [REDACTED].

<sup>2950</sup> See, e.g., testimony of [REDACTED] PW-169 concerning the murder of a captured civilian, Hamed Efendić, at the hangar behind the Vuk Karadžić School. [REDACTED] PW-169, T.17321, 17388. [REDACTED]. See also Exh. P04492.

<sup>2951</sup> See Exh. P04492. See also [REDACTED]; [REDACTED] PW-161, T. [REDACTED] 9555-9556, 9392 ("[M]ost of the bodies buried in Glogova, I believe, were from Kravica...") ; JANC, T.33638:8-33649:19.

<sup>2952</sup> Prosecution Adjudicated Fact 333. See also Exh. P04492. Evidence shows that, although the 12 individuals in subgrave L do not come from the Kravica Warehouse, all 12 were killed by a single gunshot

*Lažete 1 and 2 primary mass graves (Orahovac executions) are connected to the Hodžići Road secondary mass graves*

1088. On-site investigation of the Orahovac area confirmed that a mass execution took place near the primary mass graves named Lažete 1 and 2 (LZ-1 and LZ-2).<sup>2953</sup> Aerial images show that an initial disturbance of the earth at these sites occurred between 5 and 27 July 1995.<sup>2954</sup> A further disturbance occurred between 7 and 27 September 1995.<sup>2955</sup>

1089. Investigation of the secondary grave sites of Hodžići Road 1-7<sup>2956</sup> indicates that these sites are associated with the Lažete 1 and 2 primary graves. The accounts of Orahovac execution survivors, as well as VRS members, that the captured men at the Orahovac School were blindfolded with strips of cloth prior to being taken to the execution site<sup>2957</sup> is corroborated by the finding of such cloth at both Lažete 2 and the Hodžići 3, 4 and 5 secondary graves.<sup>2958</sup> Investigators located a total of **594** blindfolds at the Orahovac School and in and around Orahovac-related graves.<sup>2959</sup>

1090. A forensic connection based on soil and pollen samples, as well as matched shell cases, was established between the Lažete 2 primary mass grave and three Hodžići Road secondary mass graves (3, 4 and 5).<sup>2960</sup> The overwhelming majority of individuals

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injury to the back or side of the head; that the hands of these individuals were bound behind their backs, and then bound to each other in pairs. See Exh. P00648 at ERN X006-5671; see also Exh. P04488; Exh. P02446. Ten of the twelve subgrave L victims had been delivered to the Bratunac MUP from Serbian authorities on 20, 24 and 26 July 1995. See Exh. 4D00430-4D00435, Records of handover from Serbia to RS MUP Bratunac. See also 4DP04524, which should also contain arrows connecting the Glogova primary mass graves with Bratunac, Konjević Polje, the Bratunac-Konjević Polje Road, and Potočari, JANC, T. 33632:13-33633:8.

<sup>2953</sup> Prosecution Adjudicated Facts 364-365 and 369. See also paras. 667-767.

<sup>2954</sup> Exh. P01721, Aerial titled "Two Areas of Disturbed Earth, Orahovac" dated 5 Jul 95 and 27 Jul 95.

<sup>2955</sup> Exh. P01723, Aerial titled "Disturbed Earth, Orahovac" (with markings LZ-01 and LZ-01), 7 September 1995 and 27 September 1995; Exh. P01724, Aerial titled "Disturbed Earth, Orahovac" dated 7 Sep 95 and 27 Sep 95 (with markings LZ-02 and LZ-02). MANNING, T.18938-18939.

<sup>2956</sup> For an aerial overview of the area containing the Hodžići secondary mass graves, see Exh. P01822, Aerial titled "Hodžići Road Segment", A3-size panorama (with markings HZ-1 to HZ-7).

<sup>2957</sup> See paras. 707-708.

<sup>2958</sup> Prosecution Adjudicated Facts 367, 371, 373 and 375. See also Exh. P00675, Maljaars's textile investigation report, dated 11 February 2000. See also M.ORIĆ, T.949:4-11; [REDACTED] (PW-110), T.691:14-21; 708:24-709:7; 709:14-15; 716:15-18; [REDACTED] (PW-169), T.17335:17; 17359:8-11; [REDACTED] (PW-105), T.7746:2-7; MILOŠEVIĆ, T.33978:7-12; 33979:7-9; 33995:16-33996:2.

<sup>2959</sup> See Exh. P00649, Dean Manning's report titled "Summary of Forensic Evidence - Execution Points and Mass Graves," show that **107** blindfolds were recovered from Orahovac 2 and **102** probable blindfolds next to Orahovac 2 (ERN: 0095-0952); **16** blindfolds from Hodžići Road (ERN: 0095-0956); **40** blindfolds from Hodžići Road 4 (ERN: 0095-0963); and **34** blindfolds from Hodžići Road 5 (ERN: 0095-0960). See also Exh. P00648, Dean Manning's report titled "Summary of Forensic Evidence, Mass Graves Exhumed in 2000 – Lazete 1, Lazete 2C, Ravnice, Glogova 1," which shows that **138** blindfolds were recovered from Orahovac 1 (ERN: X006-5664), **117** blindfolds at the School (ERN: X006-5664), and an additional **40** blindfolds in Orahovac 2 (ERN: X006-5667). A photograph of some of the blindfolds found can be seen in Exh. P2103, Exhibits of Jean-Rene Ruez, at pp.133-134.

<sup>2960</sup> See Prosecution Adjudicated Facts 374. See also Exh. P00562; Exh. P00676; Exh. P00649 at ERN 0095-0950-0963; Exh. P00648 at ERN X006-5663-5667.

located in these graves died of gunshot wounds.<sup>2961</sup> Aerial images of creation and disturbance dates show that the Hodžići Road secondary mass graves were created by 2 October 1995.<sup>2962</sup> DNA evidence further establishes that the Lažete primary mass graves are connected to the Hodžići Road secondary mass graves.<sup>2963</sup>

1091. As of 31 January 2009, DNA matching by the ICMP has identified a total of **807** persons who were reported missing after the fall of Srebrenica in July 1995 and whose remains were exhumed from the Lažete 1 and 2 and Hodžići Road 1-7 graves.<sup>2964</sup> The current total consists of 283 individuals identified from the Lažete primary mass graves, and 524 individuals identified from the associated secondary mass graves.

*The Petkovci Dam primary mass grave is connected to the Liplje secondary mass graves*

1092. Aerial imagery indicates that the primary grave at the Dam was first dug between 5 and 27 July 1995.<sup>2965</sup> Aerial images also establish that this gravesite was again disturbed between 7 and 27 September 1995.<sup>2966</sup> Exhumation of the site revealed that this disturbance was comprehensive. All that remained in the grave were disarticulated body parts reflecting a minimum number of 43 individuals.<sup>2967</sup> Aerial images show that the

<sup>2961</sup> Prosecution Adjudicated Fact 375. For Dr. Lawrence's autopsy report concerning bodies found at the three Hodžići secondary graves, see Exhs. P00643 to Exh. P00645; see also Exhs. P00616 to P00620, for Dr. Haglund's report on the forensic investigation of the Lažete 2 primary mass grave.

<sup>2962</sup> Prosecution Adjudicated Fact 374. See Exh. P01823, Aerial titled "Disturbed Earth, Hodžići", dated 7 Sep 95; Exh. P01824, Aerial titled "Disturbed Earth, Hodžići", dated 2 Oct 95 (with marking HZ-2); P01825, Aerial titled "Disturbed Earth, Hodžići", dated 7 Sep 95; P01826, Aerial titled "Disturbed Earth, Hodžići", dated 2 Oct 95 (with marking HZ-3); P01827, Aerial titled "Disturbed Earth, Hodžići", dated 7 Sep 95; P01828, Aerial titled "Disturbed Earth, Hodžići", dated 2 Oct 95 (with markings HZ-4 & HZ-5); P01829, Aerial titled "Disturbed Earth, Cerik", dated 7 Sep 95; P01830, Aerial titled "Disturbed Earth, Cerik", dated 2 Oct 95 (with marking HZ-6); P01831, Aerial titled "Disturbed Earth, Cerik", dated 7 Sep 95; and P01832, Aerial titled "Disturbed Earth, Cerik", dated 2 Oct 95 (with markings HZ-7). See also MANNING, T.18943-18944.

<sup>2963</sup> DNA connections can be found between the Lažete 1 primary mass grave and the Hodžići Road 5 secondary mass grave, as well as between the Lažete 2 primary mass grave, and Hodžići Road 1, 2, 3, 4, 6, and 7 secondary mass graves. See, e.g. Exh. P04490, Annex A, at ERN X019-4238-4239 [REDACTED]. For secondary to secondary DNA connections between the Hodžići Road graves, see Exh. P04490, Annex A at ERN X019-4250-4253.

<sup>2964</sup> See [REDACTED]. For a breakdown of the most current numbers of bodies identified via DNA from each of the above primary and secondary mass graves, see Exh. P04490 at ERN X019-4232-4235, and Annex A, X019-4271-4272. [REDACTED].

<sup>2965</sup> Exh. P01746, Aerial titled "Site of Mass Execution," dated 5 July 1995.

<sup>2966</sup> Exh. P01747, Aerial titled "Disturbed Earth, Petkovci Dam," dated 7 September 1995 and 27 September 1995. MANNING, T.18934:12-18935:21.

<sup>2967</sup> Prosecution Adjudicated Facts 399-400. See Exh. P00649, Annex A at ERN 0095-0966; Exh. P02477, Jose Pablo Baraybar's "Calculation of the Minimal Number of Individuals Exhumed by the International Criminal Tribunal for the former Yugoslavia between 1996 and 2001," dated January 2004. The autopsy report indicated an anthropological assessment of a total of 46 individuals, see Exh. P00640, Report by Dr. LAWRENCE on Autopsies of Human Remains from the Dam Site June 1998. So far, 18 individuals have been identified from the Dam primary site via DNA matching. [REDACTED]; Exh. P04490 at ERN X016-4233.



associated secondary sites of Liplje 1-4 were created by 2 October 1995.<sup>2968</sup> An additional secondary grave (Liplje 7) is also associated with the Dam primary mass grave.<sup>2969</sup>

1093. Forensic evidence linking these secondary mass graves to the Dam primary mass grave includes matching characteristics of the bodies<sup>2970</sup> and the presence of large, unweathered blocks of limestone at Liplje 2.<sup>2971</sup> The accounts of both of the Dam execution survivors that the hands of the prisoners were bound with some type of string or rope<sup>2972</sup> is corroborated by the finding of one twine ligature at the primary Dam gravesite and 23 twine ligatures at the secondary Liplje 2 gravesite.<sup>2973</sup> At least 750 shell cases were recovered from the surface of the Dam site during the exhumation, and the shape of 464 skull fragments located during the exhumation is consistent with those caused by gunshot wounds.<sup>2974</sup> In addition, DNA connections have been found to exist between the Dam primary site, and the five Liplje graves.<sup>2975</sup>

1094. As of 31 January 2009, DNA matching by the ICMP has identified a total of **805** persons who were reported missing after the fall of Srebrenica in July 1995 and whose remains were exhumed from the Dam and Liplje 1-4 and 7 graves.<sup>2976</sup> The current total consists of 18 individuals identified from the Petkovci Dam primary mass grave, and 787 individuals identified from the associated secondary mass graves.

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<sup>2968</sup> Exh. P01834, Aerial titled "Snagovo-Liplje Road Segment" (with markings LP-1 to LP-4); Exh. P01835, Aerial titled "Two Areas of Disturbed Earth, Snagovo", 7 September 1995; Exh. P01836, Aerial titled "Two Areas of Disturbed Earth, Snagovo" (with markings LP-1 & LP-2), 2 October 1995; Exh. P01837, Aerial titled "Two Areas of Disturbed Earth, Snagovo" (with marking LP-3), 2 October 1995; Exh. P01838, Aerial titled "Two Areas of Disturbed Earth, Snagovo", 7 September 1995; Exh. P01839, Aerial titled "Two Areas of Disturbed Earth, Snagovo" (with marking LP-4), 2 October 1995. *See also* Exh. P02995, Satellite imagery showing the Liplje secondary mass graves. *See* Prosecution Adjudicated Fact 404 (for Liplje 2).

<sup>2969</sup> Note, too, that graves Liplje 5, 6, and 8 have been exhumed by the Bosnian Commission, but there is currently no information on DNA results, or on the details concerning the exhumations themselves. What is known is that the remains of one body each have been found in Liplje 6 and Liplje 8. *See* Exh. P04490, Annex A at ERN X019-4255-4256.

<sup>2970</sup> Exh. P00647, Dr. C.H. LAWRENCE, "Report on Autopsies of Human Remains from Liplje Site 2, October 1998," at ERN X003-8096 (indicating points similarity such as similar decomposition, weathering and post mortem damage and angular stones embedded in the bones).

<sup>2971</sup> Exh. P00666, Richard Wright's "Exhumations in Eastern Bosnia in 1998 Report to ICTY" at ERN 0084-8234. *See also* Prosecution Adjudicated Fact 40403.

<sup>2972</sup> *See* para. 788.

<sup>2973</sup> Prosecution Adjudicated Fact 408; Exh. P00649, Annex A at ERN 0095-0967; 0095-0971; Annex D, at ERN 0095-1024-1025; MANNING, T.18943-18944. *See also* Exh. P00640, Report by Dr. LAWRENCE on Autopsies of Human Remains from the Dam Site June 1998; Exh. P00647.

<sup>2974</sup> Prosecution Adjudicated Fact 407. Exh. P00649, Annex A at ERN 0095-0966.

<sup>2975</sup> For a list of DNA connections between the Dam primary site and Liplje 1, 2, 3, 4, and 7, *see* Exh. P04490, Annex A at ERN X019-4239-4240, [REDACTED]. For secondary to secondary DNA connections between the Liplje graves, *see* Exh. P04490, Annex A at ERN X029-4254-4256). [REDACTED].

<sup>2976</sup> *See* [REDACTED]. For a breakdown of the most current numbers of bodies identified via DNA from the primary and secondary mass graves linked to the Petkovci Dam execution, *see* Exh. P04490 at ERN X019-4232-4235, and Annex A at ERN 019-4271-4272. [REDACTED].

*Kozluk primary mass graves are connected to the Čančari Road secondary mass graves*

1095. On-site investigation of the site near Kozluk confirmed that a mass execution occurred there.<sup>2977</sup> Aerial imagery indicates that the Kozluk mass grave was created between 5 and 17 July 1995.<sup>2978</sup> Additional aerial images indicate a further disturbance to the site between 7 and 27 September 1995.<sup>2979</sup>

1096. A forensic connection based on soil and pollen samples,<sup>2980</sup> matching shell cases,<sup>2981</sup> as well as bottle labels and glass originating from the Vitinka bottling factory near the Kozluk mass grave,<sup>2982</sup> was first established between Kozluk and Čančari 3.<sup>2983</sup> Gunshot wounds accounted for the deaths of the victims in these graves.<sup>2984</sup>

1097. DNA connection evidence now further establishes that the Kozluk primary mass grave is linked with the secondary mass graves of Čančari Road 2, 3, 4, 5, 6, 7 and 13.<sup>2985</sup> Green glass, as well as ligatures and blindfolds, have also been located at these sites.<sup>2986</sup> Aerial imagery establishes that these related secondary mass graves were created between 7 September and 2 October 1995.<sup>2987</sup>

<sup>2977</sup> See paras. 810-864.

<sup>2978</sup> Exh. P01761, Aerial titled "Disturbed Earth, Kozluk" dated 5 Jul 95 and 17 Jul 95.

<sup>2979</sup> Exh. P01763, Aerial titled "Disturbed Earth, Kozluk", 7 September 1995 and 27 September 1995. MANNING, T.18933:9-18934:7.

<sup>2980</sup> Exh. P00562, Statement of Antony G Brown dated 26 February 1999.

<sup>2981</sup> Exh. P00676; Exh. P0665, Richard WRIGHT, "Report on excavations and exhumations conducted at Kozluk in eastern Bosnia in between 24 June and 6 August 1999;" Exh. P0649, Annex A at ERN 0095-0916, 0095-0972-0978.

<sup>2982</sup> Prosecution Adjudicated Fact 461. See Exh. P00666 at ERN 0084-8235-8236.

<sup>2983</sup> Prosecution Adjudicated Facts 459 and 461. Blindfolds and ligatures were also found at both sites. See Prosecution Adjudicated Facts 456 and 463.

<sup>2984</sup> Prosecution Adjudicated Facts 454 and 462. Exh. P00642, Lawrence "Report on Autopsies of Human Remains from Čančari Road Site 3, August-September 1998; Exh. P00575, Report by Dr. John CLARK, "Operations in Bosnia-Herzegovina 1999 Season, Report of Chief Pathologist."

<sup>2985</sup> See Exh. P04490 at ERN. X019-4272. For a list of DNA connections between the Kozluk primary site and the Čančari Road secondary sites, see Exh. P04490, Annex A at ERN X019-4240 and Annex C. For secondary to secondary DNA connections between the Čančari Road graves related to Kozluk, see Exh. P04490, Annex A, at ERN X019-4245-4247 and X019-4249 and Annex C. [REDACTED].

<sup>2986</sup> Because Čančari Road 6 secondary mass grave was only exhumed between 8 October and 11 December 2008, no DNA identifications appeared on the 31 January 2009 ICMP Update ([REDACTED]). However, see Exh. P04490, Annex A at ERN X019-4246, which refers to the Updated ICMP Summary Report on Čančari Road 6 (Kamenica 6 – KAM06ZVO) (Exh. P04498), indicating that green glass was found in the course of exhumations of this grave, thereby connecting it to the Kozluk primary site. Green glass has also been found in the Čančari Road 4 and 5 graves. See Exh. P04490, Annex A, at ERN X019-4245-4246. See also Exh. P04497, ICMP Summary Report on Čančari Road 4 (Kamenica 4 – KAM04ZVO). In addition, 12 ligatures and 2 blindfolds were found in the Čančari Road 6 grave. See Exh. P04498, at ERN X019-4320 and X019-4322-4323. See e.g., Prosecution Adjudicated Fact 456.

<sup>2987</sup> For an overview of the area containing the Čančari secondary mass graves, see Exh. P01843, Aerial titled "Čančari-Kamenica Road Segment", A3-size panorama (with markings CR-2 to CR-12). See also Exh. P02995, 17 IKONOS satellite images, Map 1, inset 2 titled "Čančari Road secondary graves 1-13" at ERN 0619-8500. Note that Čančari Road secondary mass graves 1-7 and 13 are clustered on the East part of the road, while the Čančari Road graves 8 through 12 are clustered on the West part of the road. Having concluded that Kozluk was the primary grave for Čančari 3, Wright concluded that "by implication, the same applies for the probed grave CR1" See Exh. P00665 at ERN 0091-2170. See also Exh. P01847,

1098. As of 31 January 2009, DNA matching by the ICMP has identified a total of **1040** persons who were reported missing after the fall of Srebrenica in July 1995, and whose remains were exhumed from the Kozluk primary grave and its related Čančari Road secondary mass graves (Čančari Road 2, 3, 4,<sup>2988</sup> 5, 7 and 13). The current total consists of 332 individuals identified from the Kozluk primary mass grave, and 708 individuals identified via DNA analysis from the associated secondary mass graves.<sup>2989</sup>

*Branjevo Farm primary mass graves are connected to the Čančari Road secondary mass graves*

1099. Aerial images taken of the Branjevo Farm on 17 July 1995 show a large number of bodies lying in a field near the farm, as well as an excavator engaged in the digging of a large pit.<sup>2990</sup> Further images dated 27 September 1995 show the disturbance of this primary mass grave, including a newly excavated trench at the site.<sup>2991</sup> In these images, a backhoe and a front loader can be seen parked at the farm. Aerial imagery also establishes that four of the related secondary mass graves were created between 27 September and 2 October 1995 (with Čančari 8 created between 7 September and 2 October 1995).<sup>2992</sup>

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Aerial titled "Disturbed Earth, Ravne" dated 7 Sep 95; Exh. P01848, Aerial titled "Disturbed Earth, Ravne" dated 2 Oct 95 (with marking CR-2); Exh. P01849, Aerial titled "Disturbed Earth, Ravne" dated 7 Sep 95; Exh. P01850, Aerial titled "Disturbed Earth, Ravne" dated 2 Oct 95 (with marking CR-3); Exh. P01851, Aerial titled "Disturbed Earth, Ravne" dated 7 Sep 95; P01852, Aerial titled "Disturbed Earth, Ravne" dated 2 Oct 95 (with markings CR-4 & CR-5); P01853, Aerial titled "Disturbed Earth, Redžići" dated 7 Sep 95; Exh. P01854, Aerial titled "Disturbed Earth, Redžići" dated 2 Oct 95 (with marking CR-6); Exh. P01855, Aerial titled "Disturbed Earth, Redžići" dated 7 Sep 95; Exh. P01856, Aerial titled "Disturbed Earth, Redžići" dated 2 Oct 95 (with marking CR-7). *See also* MANNING, T.18943-18944.

<sup>2988</sup> Ten individuals have been currently identified by DNA matching from the Čančari Road 4 grave, which was exhumed from 12 August to 26 September 2008. *See* Exh. P04490 at ERN X019-4233. Following the exhumation, a tentative preliminary MNI figure of 189 individuals was calculated from a total of 393 cases of human remains recovered. *See* Exh. P04497, ICMP Summary Report on Čančari Road 4 (Kamenica 4 – KAM04ZVO), para. 35. *See also* Exh. P04498, Updated ICMP Summary Report on Čančari Road 6 (Kamenica 6 – KAM06ZVO), para. 33, where a tentative preliminary MNI figure of 203 was calculated from a total of 1180 cases of human remains recovered in the Čančari Road 6 secondary mass grave. *See also* JANC, T.33621:8-33622:4 (concerning the fact that Čančari 4, 6, and 8 were only recently exhumed, and that the ICMP DNA matching process is still ongoing and should result in many more DNA identifications by the next ICMP update). Pending DNA identifications of the human remains from the Čančari 4 and 6 secondary mass graves, it is possible to estimate that the total number of victims of the Kozluk execution is at least 1400 persons.

<sup>2989</sup> *See* [REDACTED]. For a breakdown of the most current numbers of bodies identified via DNA from each of the above primary and secondary mass graves, *see* Exh. P04490 at ERN X019-4232-4235 and Annex A at ERN X019-4272. [REDACTED].

<sup>2990</sup> Exh. P01799, Aerial titled "Branjevo State Farm" dated 17 Jul 95 (with markings of buildings and areas); Exh. P03009, A-3 Aerial titled "Mass Burial at Branjevo Farm" dated 17 July 95 (with markings by the provider). *See also* paras. 987-1002.

<sup>2991</sup> Exh. P01800, Aerial titled "Area Before Excavation" dated 21 Sep 95 (with markings of the Bijeljina - Zvornik road); and Exh. P01801, Aerial titled "Excavation Activity" dated 27 Sep 95 (no markings). MANNING, T.18935:24-18937:16 and 19147:24-19149:10.

<sup>2992</sup> Prosecution Adjudicated Fact 434; Exh. P01857, Aerial titled "Disturbed Earth, Bakračići" dated 2 Oct 95 (with marking CR-8); Exh. P01858, Aerial titled "Disturbed Earth, Bakračići" dated 7 Sep 95; Exh. P01859,

1100. Forensic evidence, such as soil and pollen samples<sup>2993</sup> indicates that the grave known as Čančari Road 12 is a secondary mass grave to the Branjevo Farm primary mass grave. The discovery of 83 ligatures at the Branjevo Farm primary gravesite and 16 ligatures at the Čančari Road 12 secondary gravesite corroborates the recollections of both surviving witnesses that their hands were bound prior to the execution, as well as the recollection of various VRS members who saw the prisoners' hands tied up at the Kula School and at the execution site itself.<sup>2994</sup>

1101. Gunshot wounds accounted for the death of the victims in these graves.<sup>2995</sup> Significant numbers of bullets and shell cases were collected during the exhumation and autopsy processes.<sup>2996</sup>

1102. The 18 cloth and string ligatures recovered at the Čančari Road 8 secondary mass grave were observed to be consistent in terms of material, colour and make with the Branjevo Farm ligatures.<sup>2997</sup> In addition, although no DNA identification from the recent 20 October-19 November 2008 exhumation of the Čančari Road 8 grave appeared on the ICMP March 2009 Update, a drivers licence was found on one of the bodies exhumed from the Čančari Road 8 grave whose remains had already been identified via DNA matching in the Branjevo Farm primary mass grave.<sup>2998</sup> This combination of DNA and

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Aerial titled "Disturbed Earth, Bakrač" dated 27 Sep 95; Exh. P01860, Aerial titled "Disturbed Earth, Bakrač" dated 2 Oct 95 (with marking CR-9); Exh. P01861, Aerial titled "Disturbed Earth, Kamenica" dated 7 Sep 95; Exh. P01862, Aerial titled "Disturbed Earth, Kamenica" dated 27 Sep 95; Exh. P01863, Aerial titled "Disturbed Earth, Kamenica" dated 2 Oct 95 (with marking CR-10); Exh. P01864, Aerial titled "Disturbed Earth, Čančari" dated 7 Sep 95; Exh. P01865, Aerial titled "Disturbed Earth, Čančari" dated 27 Sep 95; Exh. P01866, Aerial titled "Disturbed Earth, Čančari" dated 2 Oct 95 (with marking CR-11); Exh. P01867, Aerial titled "Disturbed Earth, Čančari" dated 7 Sep 95; Exh. P01868, Aerial titled "Disturbed Earth, Čančari" dated 27 Sep 95; and Exh. P01869, Aerial titled "Disturbed Earth, Čančari" dated 2 Oct 95 (with marking CR-12). MANNING, T.19147:24-19149:10.

<sup>2993</sup> Prosecution Adjudicated Facts 432 and 434. *See also* Exh. P00562, Statement of Antony G Brown dated 26 February 1999; Exh. P00649, Annex A at ERN 0095-0947.

<sup>2994</sup> Prosecution Adjudicated Facts 433 and 437. *See also* HASIĆ, T.1195:16-23, 1198:18-19; 1201:18-20; 1203:7-10; [REDACTED] (PW-117), Exh. P02207 at T.3040:5-6; 3040:19-25; 3041:15-17; 3041:25-3042:1; D. ERDEMOVIĆ, T. 10971:24-10972:1; S. PERIĆ, T. 11415:22-25; R. BABIĆ, T. 10234:12-25 (also noting that men were blindfolded at the Kula school in Pilica). *See* Exh. P00649, Annex A at ERN 0095-0944 and 0095-0948; Exh. P00675, MALJAARS Report.

<sup>2995</sup> Prosecution Adjudicated Fact 432 and 436; Exh. P00622, Report by William HAGLUND - Forensic Investigation of the Pilica (Branjevo Farm) Grave Site - Volume I, dated 15 June, 1998; Exh. P00641, Lawrence - Report on Autopsies of Human Remains from Čančari Road Site 12, August 1998.

<sup>2996</sup> Exh. P00649, Annex A at ERN 0095-0944 and 0095-0948.

<sup>2997</sup> Exh. P04499, ICMP Summary Report on Čančari Road 8 (Kamenica 8 – KAM08ZVO), paras. 38 and 39. *See also id.*, at ERN X019-3671-3672 (for a listing of artifacts which were associated and unassociated with the recovered remains, including an unassociated blindfold) and ERN X019-3673 for a photographic comparison of ligatures found in Branjevo Farm and Čančari 8 secondary mass grave.

<sup>2998</sup> *See* Exh. P04490, Annex A at ERN X019-4247, concerning the identification document and driving license [REDACTED] found in the Čančari Road 8 grave attached to a body without a right and left ulna, designated with Case ID KAM08ZVO065T. [REDACTED]. *See also* P4504, Cantonal OTP in Tuzla, BiH – Record on exhumation (Kamenica locality - KAM08ZVO), dated 20 October 2008 at ERN X019-3598. JANC, T.33502:33505.

forensic evidence indicates that there is a connection between the Čančari Road 8 secondary mass grave and the Branjevo Farm primary mass grave.

1103. Although a direct DNA connection has not yet been established between Branjevo Farm and Čančari 12, a DNA connection has been established between Branjevo Farm and the Čančari 9, 10 and 11 secondary mass graves, as well as between the Čančari 10 and 11 graves and Čančari 12.<sup>2999</sup>

1104. As of 31 January 2009, DNA matching by the ICMP has identified a total of **960** persons who were reported missing after the fall of Srebrenica in July 1995 and whose remains were exhumed from the Branjevo Farm and associated secondary mass graves. The total consists of 123 individuals identified from the Branjevo Farm primary mass grave, and 837 individuals identified from the Čančari Road 9, 10, 11 and 12 secondary mass graves.<sup>3000</sup>

**(ix) Destruction of the Muslim women and children - victim impact.**

1105. The forcible transfer of the women and children as described in the Indictment and this Brief created conditions known to the Accused which would contribute to the destruction of the entire Muslim population of Eastern Bosnia, including but not limited to the failure of the population to live and reproduce normally and by ensuring that the Bosnian Muslim population of Srebrenica and Žepa would not return to, nor would it reconstitute itself in, those regions or anywhere else. This is established by the victim impact testimony outlined below.<sup>3001</sup>

1106. Additionally, the actions of the Accused in destroying the Muslim population of Eastern Bosnia in part by killing its men had the effect of destroying the remainder of the population of Bosnian Muslims in Srebrenica and Žepa, by, *inter alia*, causing serious bodily or mental harm. On the morning of 12 July 1995, General Mladić told the assembled civilian representatives of the Srebrenica enclave: “you can either survive or

<sup>2999</sup> For a list of DNA connections between the Branjevo Farm/Pilica primary mass grave, and Čančari Road 9, 10 and 11, *see* Exh. P04490, Annex A at ERN X019-4240, and Annex C. For secondary to secondary DNA connections between the Čančari Road mass graves related to Branjevo Farm, *see* Exh. P04490 Annex A, at ERN X019-4247-4249 and Annex C. [REDACTED].

<sup>3000</sup> Exh. P04490 at ERN X019-4272. [REDACTED]. A tentative preliminary MNI figure of 84 individuals has been calculated from a total of 340 cases of human remains recovered at Čančari 8. *See* Exh. P04499, ICMP Summary Report on Čančari Road 8 (Kamenica 8 – KAM08ZVO), paras. 35. Pending DNA identification of the human remains from the Čančari 8 secondary mass grave, it is possible to estimate that the total number of victims of the Branjevo Farm execution is at least a 1000 persons. Additionally, there may still be graves which have not yet been discovered.

<sup>3001</sup> *See e.g., Blagojević* TJ at paras 843-845 (taking into account for purposes of sentencing the victim impact testimony concerning the vulnerability of the victims, their position of helplessness and the fact that they were subject to cruel treatment at the hands of their factor as an aggravating circumstance).

disappear.”<sup>3002</sup> The women and children survivors of the horrors experienced in July 1995 in Srebrenica and Žepa walk a tenuous line between survival and disappearance as they struggle to continue living with great mental and physical trauma.

**Destruction through physical and psychological trauma of survivors**

1107. The women and child survivors suffered profound physical and psychological harm as a result of their personal losses arising out of the fall of Srebrenica. Survivors complained of insomnia, lack of appetite, weight loss and headaches caused by frequent bouts of crying. The symptoms manifested themselves physically through shaking, fainting, increased blood pressure and heart problems.<sup>3003</sup> One survivor recounted, “...after what happened in Potočari I am not the same, there was fear and there was sorrow and I don’t see very well now, I don’t hear very well, I do not walk very well.”<sup>3004</sup> Several survivors sought medical attention because their symptoms were incapacitating.<sup>3005</sup>

1108. In addition to tangible physical suffering, the psychological trauma suffered by the survivors was pervasive and debilitating. The women suffered feelings of fear, irritation, nervousness, aggressiveness, isolation, and loss of concentration; “they see the future in dark colours.”<sup>3006</sup> Their psychological suffering was the product of grief for their husbands, sons and brothers. [REDACTED].<sup>3007</sup>

1109. Survivors also reported repetitive nightmares, flashbacks and hallucinations about the events and the return of their lost family members.<sup>3008</sup> One survivor explained: “I sleep only one hour or two and then thoughts come to my head about what happened in Srebrenica and the people who disappeared...”<sup>3009</sup> Another recounted: “I see pictures of the fall of Srebrenica in my mind. The pictures of my children come to me.”<sup>3010</sup>

1110. The surviving children of Srebrenica displayed signs of extreme trauma. Pre-school age children showed an excessive attachment to their mothers, feelings of fear, bouts of crying, appetite and sleeping problems.<sup>3011</sup> One victim spoke about how her

<sup>3002</sup> Exh. P02047, Srebrenica Trial Video. See also Exh. P02048 at ERN L009-2447 (page 51 on eCourt).

<sup>3003</sup> M.GABELJIĆ, Exh. P03239 at ERN 0100-3583; KRDŽIĆ, Exh. P03237 at ERN 0100-3511; H.SALIHOVIĆ, Exh. P03232 at ERN 0100-3545; S.SULJIĆ, Exh. P03242 at ERN 0100-3553.

<sup>3004</sup> H.HAFIZOVIĆ, Exh. P03230 at ERN 0100-3534.

<sup>3005</sup> S.MEHMEDOVIĆ, Exh. P03241 at ERN 0100-3501.

<sup>3006</sup> IBRAHIMEFENDIĆ, Exh. P02228 at T.5816, 5832.

<sup>3007</sup> [REDACTED].

<sup>3008</sup> S.HAFIZOVIĆ, Exh. P03236 at ERN 0100-3527; MALKIĆ, Exh. P03229 at ERN 0100-3562; MEŠANOVIĆ, Exh. P03234 at ERN 0100-3612; S.SALČINOVIĆ, Exh. P03233 at ERN 0100-3590.

<sup>3009</sup> S.SALČINOVIĆ, Exh. P03233 at ERN 0100-3590.

<sup>3010</sup> MALKIĆ, Exh. P03229 at ERN 0100-3562.

<sup>3011</sup> IBRAHIMEFENDIĆ, Exh. P02228 at T.5820, 5822-5823.

young daughter “asks if we are going to return to Srebrenica because she thinks her father is there.”<sup>3012</sup> School-aged children had a generalized fear of people and sounds. They also experienced flashbacks, nightmares, bed-wetting, low concentration, and learning problems. Adolescents had high oscillations of mood and behaviour, varying from aggressiveness to withdrawal, isolation and lack of activity. Most children lacked male role models to set an example of healthy male behaviour.<sup>3013</sup>

**Srebrenica Syndrome: uncertainty and survivor guilt**

1111. The trauma inflicted on the survivors of the fall of Srebrenica is distinct from normal war trauma, and is described as the “Srebrenica Syndrome.”<sup>3014</sup> The situation among survivors is unique partly due to the collective and sudden nature of the suffering and partly as a result of the problem of the missing men.

1112. UNPROFOR Civil Affairs Officer Edward Joseph recalled that of the 20,000 refugees who arrived in Tuzla around the 12 or 13 July 1995, the majority of whom were women, were “quite distraught... their overwhelming source of distress was their concern about the fate of their men, be they husbands, fathers, sons or brothers, whom they had left behind.”<sup>3015</sup> Joseph remembered seeing a thin woman attempt to scale, with her bare hands, the barbed wire fence which surrounded the refugee centre. When he asked why she was doing this, she told him that “she was absolutely determined to scale because a rumour had circulated that ... some of the Srebrenica men were nearby there, and she was determined that she was going to go explore and see if – whether it was her son or husband was there.”<sup>3016</sup>

1113. Years after the fall of Srebrenica, many of the missing men of Srebrenica still have not been pronounced officially dead. Thus, the survivors continue to exist in a suspended state of perpetual uncertainty, unable to fully grieve in order to continue with life.<sup>3017</sup> Survivors continue to hope against hope that their loved ones have survived, which prevents them from completing the mourning process. Experts believe that many of these women will take longer to recover than other trauma victims or that they “will

<sup>3012</sup> MEŠANOVIĆ, Exh. P03234 at ERN 0100-3612.

<sup>3013</sup> IBRAHIMEFENDIĆ, Exh. P02228 at T.5820; 5823-24.

<sup>3014</sup> IBRAHIMEFENDIĆ, Exh. P02228 at T.5817, 5842.

<sup>3015</sup> JOSEPH, T.14151:5-14152:1.

<sup>3016</sup> JOSEPH, T.14152:6-20.

<sup>3017</sup> On the other hand, there is also trauma inherent in the context of identifying the missing men’s remains and pronouncing the missing men officially dead. See e.g., PARSONS, T. 33452:5-33456:11 (explaining how traumatic it is for the families of the Srebrenica missing to be presented with evidence of dismemberment of their loved ones).

never recover.”<sup>3018</sup> Mirsada Malagić testified: “We saw our sons and our husbands off to those woods and we never found anything about them again, whether they are alive or dead, where their bones are lying.”<sup>3019</sup>

1114. The survivors’ feelings of uncertainty have been mixed with tremendous guilt for not perishing with their loved ones. They lament not having foreseen what would happen, and survivor’s guilt inhibits them from trying to enjoy life now. These feelings result in self-destructive behaviour. One survivor reported, “After the fall of Srebrenica I didn’t bother to go to the doctors for myself.”<sup>3020</sup> [REDACTED].<sup>3021</sup>

1115. While few Srebrenica women were killed in the executions,<sup>3022</sup> many continue to suffer and believe that dying with their husbands would have been better than the waking nightmare they live today. One product of survivors’ guilt and trauma on the rise is suicidal feelings. One survivor said, “...if God showed me mercy tomorrow and I died I would be happy...We don’t feel like living.”<sup>3023</sup> Another said “Now when I get sick, I don’t consider going to the doctor because I simply want to die ... I will not feel good any more in my life.”<sup>3024</sup> The fate imposed on the women of Srebrenica in 1995 is so painful that many women feel paralyzed by their loss, and no longer have any appetite for life.

**Destruction through breakdown of family life, including decreasing birth rate**

1116. The Bosnian Muslim communities of Srebrenica and Žepa were traditional patriarchal communities in which men took the leadership roles in both the public and private sphere.<sup>3025</sup> The men generally had a higher level of education than the women, and they served as providers, protectors, and decision-makers of the family, often working outside the home in factories or mines or farms to generate income, dealt with public authorities, and managed the family finances.<sup>3026</sup> The women, on the other hand, were responsible for the home, children, and livestock.<sup>3027</sup> The families of this

<sup>3018</sup> IBRAHIMEFENDIĆ, Exh. P02228 at T.5818.

<sup>3019</sup> M.MALAGIĆ, Exh. P02218 at T.1995.

<sup>3020</sup> H.SALIHović, Exh. P03232 at ERN 0100-3545.

<sup>3021</sup> [REDACTED].

<sup>3022</sup> The number of women reported missing from Srebrenica is 68. See Exh.P02414; [REDACTED]. As the refugees arrived in Tuzla, there were stories of a woman boarding a bus, but not getting off at the other end, as well as of a woman who had been raped and who hung herself at the Tuzla air base. JOSEPH, T. 14153:4-13.

<sup>3023</sup> H.HAFIZović, Exh. P03230 at ERN 0100-3534-0100-3535.

<sup>3024</sup> MALKIĆ, Exh. P03229 at ERN 0100-3562.

<sup>3025</sup> IBRAHIMEFENDIĆ, Exh. P02228 at T.5856.

<sup>3026</sup> S. SULJIĆ, Exh. P03242 at ERN 0100-3533; S.SALČINOVIĆ, Exh. P03233 at ERN 0100-3590.

<sup>3027</sup> S. SULJIĆ, Exh. P03242 at ERN 0100-3533; S.SALČINOVIĆ, Exh. P03233 at ERN 0100-3590; H.HAFIZović, Exh. P03230 at ERN 0100-3534.



community described a life of plenty before the war. Many had livestock, land, and homes to which their identities and ways of life were closely linked.<sup>3028</sup>

1117. Removing the male members of the community and simultaneously uprooting the women, children, and elderly from their homes and land has resulted in the complete destruction of the pre-war familial and community structure of the Srebrenica Muslims. The women are forced to fulfil not only their traditional roles, but also the economic, emotional, and social roles of their missing husbands.<sup>3029</sup> Apart from the trauma suffered by most victims as a result of the events of the war, the shift in familial and community roles causes the greatest difficulty in achieving long term recovery and in forming new social relationships.<sup>3030</sup>

1118. An additional hindrance to recovery includes the particular bureaucratic and societal problems associated with the women's indeterminate status regarding marriage. The women whose husbands are still missing live in uncertainty.<sup>3031</sup> One witness describes this sense of limbo recounting, "I am married but I feel like a widow ... I don't have any accurate information about what happened to my husband."<sup>3032</sup> The women whose husbands still have not been declared dead have a slow recovery and face constant regression and re-emergence of trauma symptoms.<sup>3033</sup>

1119. Women also experience guilt over their inability to be fully engaged mothers in the midst of their own grief and uncertainty. Esma Palić, a Žepa survivor, testified:

I live in darkness, in constant suffering, with two children who need a healthy mother, after all ... Mladić ensured that I be left by myself at the age of 28, with two children ... This was not the life I chose for myself... How can I know that my husband is really dead if I can't see his bones?<sup>3034</sup>

1120. Many choose not to remarry because of the lack of similarly aged men; the loss of a husband's pensions upon remarriage; the social stigma of remarriage, and feelings of guilt.<sup>3035</sup> Few women have chosen to remarry and begin new lives; consequently, the birth rate in the community appears to be decreasing.<sup>3036</sup>

1121. For those women who do seek remarriage, bureaucratic hurdles can make the process very difficult. Having lost most of their possessions while fleeing Srebrenica,

<sup>3028</sup> See Exhs. P03228-P03245, 92bis Victim Impact Statements. [REDACTED].

<sup>3029</sup> See Exhs. P03228-P03245, 92bis Victim Impact Statements. *See in particular*, H.SALIHović, Exh. P03232 at ERN 0100-3545.

<sup>3030</sup> IBRAHIMEFENDIĆ, Exh. P02228 at T.5824.

<sup>3031</sup> IBRAHIMEFENDIĆ, Exh. P02228 at T.5834.

<sup>3032</sup> S.SALČINOVIĆ, Exh. P03233 at ERN 0100-3591.

<sup>3033</sup> IBRAHIMEFENDIĆ, Exh. P02228 at T. 5817-5819; PALIĆ, T.6924.

<sup>3034</sup> PALIĆ, T.6924-6925, 6928.

<sup>3035</sup> IBRAHIMEFENDIĆ, Exh. P02228 at T.5833, 5841-5842, 5848.

<sup>3036</sup> IBRAHIMEFENDIĆ, Exh. P02228 at T.5858-5859.

women often do not have sufficient documentation and must somehow prove the existence of their first marriage before being allowed to remarry. This may require a complicated process which involves declaring their husbands dead before they can remarry.<sup>3037</sup>

1122. Not only feeling the personal loss of their husbands and fathers, some women also feel a sense of loss that a family name might cease to exist because no male relatives remain to carry it forward. One woman described the enormity of the loss of the men of her community as follows:

It is no good talking about what it was like before the war ... all that before has gone. I lost my house, property, my husband and son... I know they say I can go back to Srebrenica now, but how, why? ... They burned the house, there are no stables, nothing, not just my house but my neighbours, everything, there is nothing there... Even our family name is going ... the name of Hafizović is ending, is gone. Of my father-in-law's family ... 18 male members are missing<sup>3038</sup>

**Destruction through forcible transfer: poverty and failure to live normally**

1123. In contrast to their lives before the war, the survivors have been living in conditions of abject poverty, far inferior to the quality of life they had prior to the fall of Srebrenica.<sup>3039</sup> Many saw their homes burned as they were being deported to other areas and others returned to find that none of their property remained.<sup>3040</sup>

1124. Many survivors continue to live in dire situations due to unemployment and meagre, insufficient income or aid to support themselves and their remaining family.<sup>3041</sup> Several generations of one family were living in one or two rooms in collective refugee settlements owned by the State or in forms of temporary housing.<sup>3042</sup> Often these accommodations did not even offer basic necessities to the tenants, such as running water or a toilet.<sup>3043</sup>

1125. Survivors, especially the elderly ones, also suffer a continuing sense of loss because many cannot or will not return to the sites of their former homes. Some worry that they cannot trust their neighbours in the old villages, while others simply cannot face the locations where the traumatic events occurred. One witness asked, "How can I go

<sup>3037</sup> IBRAHIMEFENDIĆ, Exh. P02228 at T.5834.

<sup>3038</sup> H.HAFIZOVIĆ, Exh.P03230 at ERN 0100-3533.

<sup>3039</sup> For examples of the striking contrast see [REDACTED]; H.HAFIZOVIĆ, Exh. P03230 at ERN 0100-3533; S.HAFIZOVIĆ, Exh. P03236 at ERN 0100-3527; and S.SALČINOVIĆ, Exh. P03233 at ERN 0100-3589-0100-3590.

<sup>3040</sup> See H.HAFIZOVIĆ, Exh. P03230 at ERN 0100-3533; See also S.SULJIĆ, Exh. P03242 at ERN 0096-9383.

<sup>3041</sup> See e.g. S.SULJIĆ, Exh. P03242 at ERN 0100-3553; H.HAFIZOVIĆ, Exh. P03230 at ERN 0100-3534.

<sup>3042</sup> See e.g., [REDACTED]; KRDŽIĆ, Exh. P03237 at ERN 0100-3511; S.SULJIĆ, Exh. P03242 at ERN 0100-3553; PAŠAGIĆ, Exh. P03243 at ERN 0100-3490; BEKTIĆ, Exh. P03245 at ERN 0100-3519.

<sup>3043</sup> MALKIĆ, Exh. P03229 at ERN 0100-3562.

back there when half of my family is not there?...I don't want to go back to my village. I can't take going back through Kravica because that's where my son was killed. People tried to return but the Serbs stoned them."<sup>3044</sup> The young "dream of leaving Bosnia, leaving it all behind."<sup>3045</sup>

### **Conclusion**

1126. The traditional patriarchal societal structure of the Bosnian Muslims of Eastern Bosnia was well known throughout Eastern Bosnia. The Accused were either originally from this region, or employed in this region from at least 1992. The Accused **PANDUREVIĆ**, in recounting his childhood relationships with Muslims, described a neighbourhood system whereby when Serbs celebrated holidays "it was customary ... that all of 'the' neighbours attended one person's celebration, and these people obviously included all the Muslim neighbours."<sup>3046</sup> Furthermore, many survivors attested to a pre-war relationship between Muslim and Serb neighbours where frequent interaction was commonplace.<sup>3047</sup> These interactions occurred to such an extent that Salih Mehmedović could convey in his witness statement that, "because we had such contact with the Serbs they well knew how we lived and what our families were like."<sup>3048</sup> Before the outbreak of hostilities, society in Eastern Bosnia consisted of communities where Muslims and Serbs intermingled and comprehended the lifestyles of their neighbours. One witness recounted that his closest neighbour was a Serb and each family knew how the other lived.<sup>3049</sup>

1127. Consequently, the Accused, based on their experiences living and working in Eastern Bosnia, were aware of the societal structure of the group and understood the essential role occupied by men in the Muslim family structure. Their participation in the JCEs to murder the Muslim men and to forcibly transfer the women and children must be viewed in light of this awareness. By committing the criminal acts charged in the Indictment, the Accused had to have known that the effect would be the destruction of the group.

1128. The forcible transfer of the women and children of Srebrenica and Žepa also created conditions contributing to the destruction of the entire Muslim population of

<sup>3044</sup> MALKIĆ, Exh. P03229 at ERN 0100-3562.

<sup>3045</sup> IBRAHIMEFENDIĆ, Exh. P02228 at T.5832.

<sup>3046</sup> **PANDUREVIĆ**, T.30665:8-11.

<sup>3047</sup> See e.g. MEHMEDOVIĆ, Exh. P03241 at ERN 010-3500; A.MALAGIĆ, Exh. P03240 at ERN 0100-3620; KRĐIĆ, Exh. P03237 at ERN 0100-3511; MALKIĆ, Exh. P03239 at ERN 0100-3562; S.HAFIZOVIĆ, Exh. P03236 at ERN 0100-3527.

<sup>3048</sup> MEHMEDOVIĆ, Exh. P03241 at ERN 0100-3500.

<sup>3049</sup> MALAGIĆ, Exh. P03240 at ERN 0100-3620.

Eastern Bosnia, including but not limited to the failure of the population to live and reproduce normally, within the meaning of Article 4(2)(c) and (d). The separations of able-bodied men from their families also caused “serious bodily or mental harm” within the meaning of Article 4(2)(b).<sup>3050</sup>

**(F) CONCLUSIONS REGARDING THE TWO JOINT CRIMINAL ENTERPRISES**

1129. As demonstrated above, each of the two Joint Criminal Enterprises charged in the Indictment had a plurality of persons and a common criminal purpose. Each of the Accused made significant contributions to the execution of the common purpose of both JCEs and shared the intent with the other members of the JCEs to commit the crimes that fell within the common purpose of the JCEs. The significant contributions and intent of each Accused is discussed in further detail below.

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<sup>3050</sup> See *Blagojević* TJ, paras. 645, 651-654.

**(IV) RELIABILITY OF THE PROSECUTION'S EVIDENCE**

**(Ixi) Reliability of forensic, demographic and DNA methodology**

1130. The final number and identity of all persons killed in the mass executions following the fall of Srebrenica will likely never be known. However, demographic evidence shows that a minimum of **7,661** persons went missing from Srebrenica following the enclave's fall in July 1995. DNA evidence shows that as of March 2009, at least **6,006** persons reported as missing from Srebrenica have been identified from Srebrenica-related graves or surface remains. The number of DNA identifications is still growing. Forensic evidence shows that Muslim men and boys from Srebrenica were systematically executed, buried in mass graves and, in many cases, reburied in an equally organized manner in order to hide the executions. The combined demographic, DNA and forensic evidence is reliable and accurate and is further corroborated by witness testimony as well as documentary evidence.

1131. Prosecution forensic experts Jose Baraybar, John Clark, William Haglund, Christopher Lawrence, Freddy Peccerelli and Richard Wright gave evidence about the exhumations and the resulting forensic findings. Their evidence corroborates the extensive body of other testimonial and documentary evidence concerning the organized mass executions of thousands of Muslim men.<sup>3051</sup> Demographic experts Helge Brunborg and Ewa Tabeau gave evidence concerning their calculation of the numbers of missing and dead persons following the fall of Srebrenica.<sup>3052</sup> Thomas Parsons testified about the methodology and reliability of the DNA identification process conducted by the International Commission for Missing Persons (ICMP).<sup>3053</sup> Prosecution investigators Dean Manning and Dušan Janc summarized the massive amounts of forensic and DNA data generated by this enormous undertaking.<sup>3054</sup>

1132. All of the Prosecution experts are seasoned professionals who possess one or more higher degrees in their respective fields of expertise. Each of them works in a high-responsibility position, has published peer-reviewed articles, is a member of various

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<sup>3051</sup> Professor Jose Baraybar (anthropologist), Exh. P02474, and 14 March 2007 testimony; Dr. John Clark (forensic pathologist) Exh. P02128 and 19-20 February 2007 testimony; Professor William Haglund, (pathologist/anthropologist), Exh. P02150 and 15 March 2007 testimony; Dr. Christopher Lawrence (pathologist), Exh. P02160 and 21 February 2007 testimony; Freddy Peccerelli (anthropologist) 13 March 2007 testimony; and Professor Richard Wright (archaeologist), Exh. P02162 and 20-21 March 2007 testimony.

<sup>3052</sup> Dr. Helge Brunborg, 1 February and 9-10 May 2007 testimony and Dr. Ewa Tabeau, 5 February 2008 testimony.

<sup>3053</sup> See Dr. Thomas Parsons, 1 February 2008 and 29 April 2009 testimony.

<sup>3054</sup> See Dean Manning, 10-12 December 2007 testimony and Dušan Janc, 28 April and 1, 4-5 May 2009 testimony.

professional associations and has throughout their professional life engaged in work similar to that carried out in the course of the Srebrenica-related exhumations.<sup>3055</sup> They work for or with accredited organizations.<sup>3056</sup> In addition, their evidence has been fully tested on cross-examination before this Tribunal. The conclusions drawn in their reports are credible and reliable. Their conclusions corroborate each other as well as other evidence in this case. No evidence of a material deviation from the established methodologies and procedures by the Prosecution experts has been elicited at trial.

1133. The Defence challenges to the conclusions reached by the Prosecution experts demonstrated primarily that the Defence teams rarely gave their own experts<sup>3057</sup> access to all evidence relevant for a complete analysis. Where evidence deemed necessary by the Defence experts was not in the Defence's possession, the Defence often did not request access to such evidence in a timely manner, if at all. These challenges confirmed the reliability of the conclusions drawn by the Prosecution's experts.

**Demographic Evidence: Number of Srebrenica Missing Persons Presumed Dead**

*Summary of Conclusions*

1134. According to a comprehensive study by expert demographers, the minimum number of persons who went missing or died following the fall of Srebrenica in July 1995 is **7,661**.<sup>3058</sup> This figure was revised to **7,826** in January 2008, when the list was cross-referenced with the then-current ICMP DNA matching data.<sup>3059</sup> This revised number took into account 165 persons who had previously not been reported missing in the ICRC or PHR data.<sup>3060</sup>

<sup>3055</sup> See e.g., CVs of Prosecution experts, including: Exh. P00549 (Baraybar); Exh. P00564 (Brunborg); Exh. P00574 (Clark); Exh. P00635 (Haglund); Exh. P00637 (Lawrence); Exh. P01372 (Parsons); Exh. P02460 (Peccerelli); Exh. P03158 (Tabeau); and Exh. P02453 (Wright).

<sup>3056</sup> See PARSONS, T.20872:7-12, 20891:5-9.

<sup>3057</sup> Debra Komar (anthropologist), 23-24 July 2008 testimony; Miladin Kovačević (Demographer), 23-24 June 2008 testimony; Svetlana Radovanović (Demographer), 29-31 July 2008 testimony; Dušan Dunjić (pathologist), 25-27 June and 4-5 November 2008 testimony and Exh. 1D01447; Radovan Stojković (DNA Expert), 29-30 June 2008 testimony; Elliott Moore (anthropologist), Exh. 2D00535.

<sup>3058</sup> See BRUNBORG T.6783:23-25. For a list of the missing individuals, see Exh. P02414, the 2005 Report and List on the Number of Missing and Dead from Srebrenica ("Srebrenica Missing and Dead List"). See also Exh. P00571 (for a detailed discussion of methodology used in the creation of the original list); Exhs. P02410, P02411, P02412, P02413, P02414, P02415, [REDACTED] (updates of report and list); and Exhs. P03159 [REDACTED] (most recent Srebrenica Missing and Dead List cross-referenced with ICMP DNA identifications of human remains from graves). The figure is a conservative one, as there may be some persons believed to have been killed but who were not reported as missing. (Exh. P00571 at ERN 0092-6381). In some cases, entire families went missing, leaving no surviving family member to register information with the ICRC. (Exh. P00571 at ERN 0092-6378).

<sup>3059</sup> [REDACTED]; see also Exh. P03159 at ERN 0626-5765; BRUNBORG, T.11223:8-13 (describing ICMP DNA matching data as the "third primary source").

<sup>3060</sup> [REDACTED]. See also Exh. P03159 at ERN 0626-5771; [REDACTED].

1135. The reliability of the demographic results concerning the number of missing or dead persons is corroborated by increasing overlaps with the ICMP DNA matching data as the numbers of DNA-identified persons continues to grow.<sup>3061</sup> The demographics results are also close to and consistent with the number of **7,789** victims registered as reported missing from Srebrenica in the ICMP database of blood donors.<sup>3062</sup>

1136. All the available information – and in particular the ICMP’s DNA data - indicates that the people found on the OTP Missing or Dead List are in fact dead.<sup>3063</sup> Almost all of the “missing presumed dead” are male [REDACTED].<sup>3064</sup> **78** of those reported as missing on the OTP Missing or Dead List were boys aged 15 years old and younger. [REDACTED].<sup>3065</sup> **668** individuals reported missing on the OTP Missing or Dead List were aged 61 or older. The oldest male reported missing from Srebrenica was 87 years old.<sup>3066</sup> 68 of the missing are women (0.9%), [REDACTED].<sup>3067</sup>

1137. Of the Srebrenica missing persons, 3,155 (or 41.2%) were reported to the ICRC as missing from either Potočari (2,070 persons) or the forest (1,085 persons).<sup>3068</sup> 2,338 persons (or 30.5%) were reported as missing from Kravica, Konjević Polje and Kamenica.<sup>3069</sup> The vast majority of those reported missing (between 85.7% and 99%) are of Muslim ethnicity.<sup>3070</sup> They all lived in the Srebrenica area before 1995.<sup>3071</sup>

#### *Methodology and Protocols*

1138. With respect to the methodology used to arrive at the Srebrenica Missing or Dead List, the Prosecution demographic experts used a standard demographic procedure of matching and merging cases from different data sources in order to obtain a single unified list.<sup>3072</sup> The Srebrenica Missing and Dead List was created by analyzing two existing lists of persons missing from Srebrenica compiled by the International Committee of the Red Cross (“ICRC”) and the Physicians for Human Rights’ (“PHR”) *ante mortem* database.

<sup>3061</sup> See [REDACTED] Exh. P03159 [REDACTED]. See also BRUNBORG, T.6785:23-6786:3. [REDACTED]. See Exh. 3D00457 at 0636-1550.

<sup>3062</sup> See Exh. P04500 (showing that as of 10 April 2009, the number of Srebrenica missing persons for whom at least one family member has provided a blood sample is 7,789); Exh. P02413 at ERN 0501-6181; BRUNBORG, T.6800:3-5, 11244:9-10; PARSONS, T.33478:20-33479:1. [REDACTED].

<sup>3063</sup> See Exh. P02413; see also Exh. P03159 at ERN 0626-5772.

<sup>3064</sup> [REDACTED].

<sup>3065</sup> [REDACTED].

<sup>3066</sup> See Exh. P02414. [REDACTED].

<sup>3067</sup> See Exh. P02414; [REDACTED].

<sup>3068</sup> BRUNBORG, T.6804:25-6806:3.

<sup>3069</sup> See Exh. P02413 at ERN 0501-6200-6201. See also BRUNBORG, T.6804:24-6806:3. On average, those missing from Potočari were older than those declared missing from other places. See Exh. P02413 at ERN 0501-6203-6205; BRUNBORG, T.6801:18-6802:6.

<sup>3070</sup> Exh. P02413 at ERN 0501-6201-6202; [REDACTED]; See also BRUNBORG, T.11207:22-11208:2.

<sup>3071</sup> See Exh. P00571 at ERN 0092-6382.

<sup>3072</sup> BRUNBORG, T.11229:13-21. See also Exh. P00571, P002413, [REDACTED] and P03159.

Only missing persons whose recorded date and place of disappearance are consistent with the fall of Srebrenica on 11 July 1995 were included from these lists.

1139. The data from these lists was cross-referenced first with the 1991 Population Census for Bosnia and Herzegovina to ensure that persons reported missing had in fact existed. It was then cross-referenced against the Voters' Registers for the 1997, 1998 and 2000 Bosnian elections, as well as the Register of Displaced Persons and Refugees 2000 ("DDPR"), to check that there were no survivors among those reported missing.<sup>3073</sup> The process of compiling the list included on-going quality control.<sup>3074</sup>

*Defence challenges to demographic evidence*

1140. The main Defence criticism concerning the quality of the Srebrenica Missing and Dead List was that it had been created from a limited number of sources and should have taken into account other "official" sources.<sup>3075</sup> One such source is the ABiH Military List of Fallen or Missing Soldiers and other military personnel ("ABiH List") which, according to the Defence, shows that a number of persons found on the Srebrenica Missing and Dead List actually went missing or died prior to 1995.

1141. The Prosecution demographers explained that they did not use documents from any of the parties to the conflict in order to ensure complete neutrality.<sup>3076</sup> More importantly, the Prosecution demographers analysed the ABiH List and concluded that it was not reliable.<sup>3077</sup> This became clear when the bodies of 140 individuals who had been listed as missing or dead prior to 1995 on the ABiH List, but were found on the Srebrenica Missing and Dead List, were identified from Srebrenica-related mass graves.<sup>3078</sup> This DNA evidence corroborates the validity of the Srebrenica Missing and Dead List and refutes the Defence criticisms.<sup>3079</sup>

<sup>3073</sup> See Exh. P02413 at ERN 0501-6184-6182. The demographers also conducted visual checking of all data to control for spelling mistakes or inconsistencies due to grammatical case changes. See KOVAČEVIĆ, T.22730:2-22731:4 (accepting that computer checking alone could result in errors).

<sup>3074</sup> BRUNBORG, T.11232:18-11233:5.

<sup>3075</sup> Both defence experts stated that "official" documents were reliable, although they disagreed upon a definition of "official," with Kovačević accepting any documents bearing a heading of a certain institution, including the ICRC (T.22723:7-25) and RADOVANović insisting upon an authority, such a specialized institution or a state, but not PHR (T.24387:2-24388:11).

<sup>3076</sup> See BRUNBORG, T.6799:19-6800:1. Additionally, because the primary sources used by the demographers were created at different times, by different organizations, for different purposes, this ensured a lack of bias. *Id.* T.11191:4-11192:25.

<sup>3077</sup> See TABEAU, T.21052:18-21053:5. See e.g. [REDACTED] Exh. 3D00455, BiH Response to the RFA (correcting the ABiH List by providing certificates of death or disappearance for 135 of these individuals which correspond to the fall of Srebrenica, i.e. from July 1995). [REDACTED].

<sup>3078</sup> See, e.g. Exh. 3D00457, Annex 3 at ERN 0636-1556, see also Exh. 3D00456, Annex 2 at ERN 1551-1555 (this table also shows that for 127 of the 220 individuals with discrepancies in date of disappearance between the ABiH List and the Srebrenica Missing and Dead List, the dates of disappearance were



1142. While both Defence demographic experts generally criticized certain aspects of the methodology used to create the Srebrenica Missing and Dead List, neither attempted to create such a list or to take steps to confirm whether any persons on the missing list are actually alive or ever existed.<sup>3080</sup> Additionally, Kovačević affirmatively showed his bias by stating that his primary goal was “to try and bring into dispute the list produced by Brunborg and Urdal... so as to prove that it is not true, that it is not a valid list.”<sup>3081</sup> Moreover, Kovačević was not credible as an expert as he read a number of his answers on direct examination from a pre-prepared script of questions and answers.<sup>3082</sup>

### **DNA Evidence: Number of Persons Identified from Graves and Surface**

#### *Summary of conclusions*

1143. A total of **6,006** individuals have currently been identified through ICMP’s matching of DNA extracted from bones recovered in the Srebrenica-related mass graves or collected from surface remains with DNA extracted from blood samples donated by family members who have reported their relatives as missing at the time of the fall of the Srebrenica enclave.<sup>3083</sup> The current figure of Srebrenica-related persons consists of **5,358** individuals identified via DNA analysis of human remains recovered from Srebrenica-

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corrected by BiH officials to July 1995); RADOVANOVIĆ, T.24501:16-24502:4. *See also* [REDACTED]; JANC, T.33570:8-33573:1, 33703:6-33704:21. *See also* [REDACTED]; TABEAU, T.21050:21-21053:15.

<sup>3079</sup> *See* KOVAČEVIĆ, T.22746:11-23 (accepting that if the DNA evidence is correct, then his own demographic estimates of 3,000 dead or missing Srebrenica persons must be wrong). *See also* RADOVANOVIĆ, T.23512:13-16.

<sup>3080</sup> RADOVANOVIĆ, T.24483:2-19, T.24497:6-24498 (accepting that while 1,030 persons on the ICRC list could not be matched with the census, this does not mean that “these Muslims and their families” do not exist, while insisting that they should be excluded from the list). Kovačević relied on aggregate number, without underlying lists of names, for purposes of his conclusions. *See* KOVAČEVIĆ, T.22735:17-22738:13. Additionally, while conducting his analysis, he did not realize that two documents he was using to support slightly different conclusions were in fact different versions of the same documents (Exh. 1D00312 and P03471, KOVAČEVIĆ, T.27331:5-22735:16).

<sup>3081</sup> KOVAČEVIĆ, T.22743:19-22744:1.

<sup>3082</sup> KOVAČEVIĆ, T.22746:24-T.22747:16 (speaking about the notes, questions and answers, which he had in front of him while testifying on 24 June 2008 (Exh. P03478)).

<sup>3083</sup> *See* JANC, T.33520:14-17. *See also* [REDACTED]; Exh. P02993 at ERN 0614-8657-8658; MANNING, T.18913:1-13. The term “identification” is not used in a forensic sense, but describes each DNA profile, i.e. the main case of each ICMP DNA match report which represents one unique individual, regardless of whether the BiH authorities have officially pronounced such a case closed. *See* JANC, T.33587:12-17; MANNING, T.19105:14-17. *See also* PARSONS, T. 33419:14-33420:8; 33453:18-33454:10 (explaining why the number of closed cases is smaller than the number of DNA match reports). [REDACTED] Defence expert Komar [REDACTED] conceded that a DNA profile represents an individual, thus accepting that each DNA match which results in the creation of a DNA profile is equivalent to a unique individual. KOMAR, T. [REDACTED], 24034:12-13. The Defence expert Dunjić also affirmed that DNA matching “would be the true identification.” DUNJIĆ, T.27849:13-19; [REDACTED].

related mass graves<sup>3084</sup> and **648** individuals identified via DNA analysis of the human remains collected from the surface.<sup>3085</sup>

1144. The number 6,006 should be considered a conservative figure relating to ICMP's DNA identification process of Srebrenica victims as not all the human remains have been examined, matched, or even located.<sup>3086</sup> While a large number of individuals from the 21 graves exhumed between 1996 and 2001 by the ICTY<sup>3087</sup> have been identified via DNA matching, an additional 47 graves (including mass, smaller and individual graves) have been exhumed since the exhumations process was turned over to the Bosnian authorities.<sup>3088</sup> Additionally, the remains of 63 individuals reported as missing in connection with the fall of Srebrenica have also been identified from the Drina riverbanks in Serbia, as well as at other locations, including the entrance to the Kravica Warehouse.<sup>3089</sup> Surface remains are being collected on an on-going basis.<sup>3090</sup> Individuals therefore continue to be identified via DNA matching, especially from the more recent exhumations. Moreover, new exhumations are anticipated, including that of the Čančari 1 secondary mass grave.<sup>3091</sup>

1145. With regards to the five secondary mass graves exhumed in the second half of 2008, the March 2009 ICMP Update contained only a small number of DNA identifications for the Zeleni Jadar 1A, Zeleni Jadar 1B and Čančari 4 mass graves, and no DNA identifications yet for the Čančari 6 and 8 mass graves.<sup>3092</sup> However, the anthropological minimum number of individuals<sup>3093</sup> calculations concerning the human

<sup>3084</sup> See Exh. P04490 at ERN X019-4232-4235. The number 5,358 is a total number of unique DNA profiles which consists of 294 unique DNA profiles which have not been matched to a donor, i.e. do not have a name, but nevertheless represent a unique individual. JANC, T.33507:1-24.

<sup>3085</sup> Exh. P04490 at ERN X019-4235 and Annex B, at ERN X019-4273-4276.

<sup>3086</sup> JANC, T.33520:18-33521:17. The number of Srebrenica victims identified through ICMP's DNA matching has been steadily increasing, [REDACTED], see also Exh. P02993 at ERN 0614-8657, to 6,006, including the 294 unnamed unique profiles. ([REDACTED]). Janc disagreed with the Popović Defence's position that the correct final number of Srebrenica victims is 3,000, because the identification process is still ongoing and many more identifications are expected in the near future. JANC, T.33589:1-15, 33590:4-8.

<sup>3087</sup> Prosecution Adjudicated Facts 474-475.

<sup>3088</sup> See Exh. P04490, at ERN X019-4232-4235.

<sup>3089</sup> See *id.*, and Annex A at X019-4269-4270. Note, however, that the Popović Defence agreed that no individuals from Buk Bijela, Bojna or Blače, [REDACTED], appear in the Janc report or confidential annex. (T.33573:25-33577:24). Dunjić also incorrectly claimed that the remains TIS-7, POT-1 and POT-2 are identified as Srebrenica remains, given that they do not appear on either the March 2009 ICMP Update or the Janc Report. See DUNJIĆ, Exh. 1D01447 at para. 35.

<sup>3090</sup> See Exh. P04490, Annex B at X019-4274. See also Exh. P03609 (with 929 surface remains cases collected between 1996 and 2007) and Exh. P04501 (with 28 surface remains cases collected in 2008).

<sup>3091</sup> JANC, T.33520:18-33521:17.

<sup>3092</sup> See JANC, T.33621:8-33622:4 (concerning the fact that Čančari 4, 6, and 8 were only recently exhumed, and that the ICMP DNA matching process is still ongoing and should result in many more DNA identifications).

<sup>3093</sup> The minimum number of individuals ("MNI") is calculated on the basis of an anthropological examination of specific bones; it is not possible simply to count bodies, as many bodies are fragmented

remains recovered from Čančari Road 4, 6, and 8 graves provide an estimate of approximately 500 individuals in these three graves.<sup>3094</sup> This figure will be confirmed via autopsy and ICMP's DNA matching.

1146. As the numbers of individuals identified through ICMP's DNA matching have increased, the science of DNA matching has corroborated the reliability of the demographic assessment of the number of missing persons connected to the fall of Srebrenica. This also shows that the forensic expert calculations concerning the anthropological MNI in the first 21 known Srebrenica-related graves had been very conservative. However, it is likely that even the DNA matching process may not be able to account for the identification of all Srebrenica missing persons, given that thousands of unconnected body parts have been collected from various sites, from which it may not always be possible to extract adequate DNA samples.

1147. An analysis of the ICMP data has confirmed approximately 500 DNA connections between the Srebrenica primary mass graves and one or more secondary mass graves (as well as between secondary mass graves),<sup>3095</sup> resulting from the victims' remains being split up among the graves in the course of the reburial process. These DNA connections corroborate and strengthen the already-existing forensic evidence establishing connections between the primary and secondary graves,<sup>3096</sup> as well as aerial imagery.

#### *Methodology and Protocols*

1148. The DNA identification and matching process conducted by the ICMP is reliable to a reasonable degree of scientific certainty.<sup>3097</sup> First, the nuclear STR typing technology which the ICMP has always used in obtaining DNA matches is used widely in the US and UK and fully meets present industry standards.<sup>3098</sup> Second, testing is carried out in

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during execution, initial burial and later reburial. *See* Exh. P00649 at ERN 0095-0905; Exh. P02994 at ERN X016-7709.

<sup>3094</sup> *See supra*, fn. 2988 and 3000 in the Reburial Section, regarding estimated MNIs of 189, 203 and 84 individuals, respectively, in the secondary mass graves Čančari Road 4, 6 and 8. *See* Exhs. P004497 at para. 35; Exh. P004498 at para. 33; and Exh. P004499 at para 35.

<sup>3095</sup> *See* Exh. P04490 at ERN X019-4235, Annex A and Annex C, starting at X019-4277. The counting of such DNA connections is wholly separate from the counting of the total number of Srebrenica-related victims found in graves, since only the "Main Case" and not the "Reassociation" for each individual was counted. *See* JANC, T.33540:14-33541:14, 33543:2-10. *See also* PARSONS, T.33435:21-33436:4. A DNA connection is tracked through the "Protocol Number" on the ICMP update. [REDACTED]. *See* JANC, T.33487:12-33491:6.

<sup>3096</sup> *See* Exh. P04490, Annex C at ERN X019-4295, as well as Exh. 4DP04524, reinforcing the already-discovered forensic connection with the DNA data. *See also* JANC, T.33497:19-33502:20, 33632:13-33633:8.

<sup>3097</sup> PARSONS, T.20879:22-20880:1. There are fundamentally no problems or issues concerning the reliability or validity of the ICMP match/identification data. *See id.* T.33403:12-15, 33405:21-33406:3. [REDACTED].

<sup>3098</sup> PARSONS, T.20868:24-20869:7, 20882:1-3, 33409:18-21.

accordance with documented laboratory standard operating procedures (SOPs), which define “the actions and procedures that the analysts perform in order to achieve the DNA testing”<sup>3099</sup> and which represent established techniques.<sup>3100</sup> Third, the ICMP DNA laboratory system is accredited, including quality control, oversight, SOPs, training processes and methodology used.<sup>3101</sup> A formal review process is called for as a part of the accreditation process.<sup>3102</sup> Fourth, the matching process is documented and highly regulated.<sup>3103</sup>

1149. [REDACTED],<sup>3104</sup> there is no reason to doubt the accuracy or reliability of ICMP’s results, given the fact that the ICMP has one of the world’s most highly experienced accredited medical diagnostic laboratories whose quality control procedures have been well-devised, implemented and documented, and which maintains state-of-the-art capabilities whose processes are reviewed by a scientific advisory board of many prominent world scientists.<sup>3105</sup>

*Defence Challenges to DNA evidence*

1150. DNA data is reliable. While arguing that he would need access to electropherograms in order to test the reliability of ICMP’s DNA evidence, Defence expert witness Oliver Stojković admitted that he did not specifically ask the Defence for electropherograms and therefore could not give an expert opinion regarding their validity.<sup>3106</sup> After analysing the Bišina-related ICMP case files, including electropherogram data, neither Stojković nor Dunjić stated that the results were invalid.<sup>3107</sup>

<sup>3099</sup> PARSONS, T.20869:8-21. See also Exh. P03174, ICMP Methodology Report 2001-2008 - DNA Process, by Dr. Thomas PARSONS, dated 15 January 2008.

<sup>3100</sup> PARSONS, T.20910:12-13, 20910:1-4 (“The fundamental science they represent is extremely widely used around the world and publications and shared SOPs from other laboratories are widely used in the generation of – the SOP’s that we have at the ICMP”). The Defence expert Stojković’s position concerning ICMP’s SOPs was a “positive one,” with the exception of an SOP pertaining the publication of DNA results in coded form, which Parsons explained was a standard procedure in a multi-level review of ICMP’s results for purposes of protecting genetic privacy. See STOJKOVIĆ, T.22998:7-9, 22999:5-7 and PARSONS, T.33436:21-33439:1. See also Exhs. P03185 to P03225.

<sup>3101</sup> PARSONS, T.20892:22-24.

<sup>3102</sup> PARSONS, T.33400:5. Annual technical audits are carried out concerning methods used, results obtained and processes in which ICMP is involved (T.20893:19-23). When asked by Defence counsel about the validity of ICMP’s DNA matching results prior to receiving international accreditation, Stojković noted that an organization’s lack of accreditation or certification does not indicate an invalid process and does not invalidate previously obtained results. STOJKOVIĆ, T.23011:25-23012:3.

<sup>3103</sup> PARSONS, T.33435:16-33436:4. In the event of any inconsistency in determining a genetic profile, a highly conservative approach is taken. PARSONS, T.33440:10-33442:21.

<sup>3104</sup> [REDACTED].

<sup>3105</sup> PARSONS, T.33410:1-15, 20911:3-6. See also TABEAU, T.21053:3-15; BRUNBORG, T.11223:8-14.

<sup>3106</sup> STOJKOVIĆ, T.22992:15-22993:7.

<sup>3107</sup> For example, Dunjić objected to the conclusion that [REDACTED] could have been identified from Case id BIŠ 01 ŠEK 040 B (ZMax 2), given that the forensic report stated that only one tooth was taken

1151. Stojković commented that, beyond indicating that an individual's remains have been found in two or more graves, a DNA connection can also appear as a result of pure coincidence, contamination of a sample, or an incorrect sample.<sup>3108</sup> He stated that further analysis of documents such as bar codes, electropherograms and autopsy reports is necessary to confirm whether a DNA connection is indeed genuine, and not the result of error. However, Thomas Parsons testified that of the 10,000 entries in the March 2009 ICMP Update, further investigation was required with respect to only eight cases and noted that this does not affect the reliability of ICMP's DNA matching process.<sup>3109</sup> Stojković also failed to take into account the fact that the DNA connections are being corroborated by, and are themselves corroborating, multiple previously established forensic connections.<sup>3110</sup>

1152. There are very few situations where families do not "accept" DNA identifications. Defence expert Dušan Dunjić parroted the Popović Defence's faulty interpretation of a letter from the BiH Institute for Missing Persons that family members of Srebrenica victims have "not accepted" preliminary DNA identifications for 2,000 Srebrenica victims, speculating on why this might be the case.<sup>3111</sup> Both Thomas Parsons and Dušan Janc disagreed with Dunjić's interpretation of the evidence. Dr. Parsons explained that the number of cases where families have denied identifications is extremely small, testifying that the cases mentioned in the letter were probably not yet taken to the families "because the cases are not complete yet," adding:

What happens is we get a DNA match report on the lower leg of an individual, and the families at this point are not systematically notified at that time of that because it is so extremely traumatic for them. There's been a long history of how these cases are handled in Bosnia, and it turns out to inflict greater pain on the families to go -- to present evidence of the dismemberment of their loved one when what they really want is to be able to close the case on the entirety of the remains.<sup>3112</sup>

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from the complete body BIŠ 038 B. DUNJIĆ, Exh. 1D01447, paras. 14-24. [REDACTED]. Parsons also pointed out the possibility, especially in secondary graves, that samples have been highly fragmented and commingled, such that samples submitted separately actually refer to the same dismembered individual. PARSONS, T.20904:4-6.

<sup>3108</sup> STOJKOVIĆ, Exh. 1D1448 at paras. 33-34.

<sup>3109</sup> PARSONS, T.33403:16-33407:9 (explaining the possible – very rare – scenarios where a perceived DNA connection may require further investigation, such as in cases of identical twin brothers identified in different graves, where one brother's remains are split up, while the other's complete body has been exhumed). [REDACTED].

<sup>3110</sup> See Exh. P04490, Annex C, at ERN X019-4295 (chart showing that DNA and forensic connection between graves corroborate each other).

<sup>3111</sup> DUNJIĆ, Exh. 1D01447 at paras. 86-87 (in relation to 1D01347, 18 August 2008 letter from Institute for Missing Persons, stating that as of 8 August 2008, 3,214 victims of Genocide have been buried in the Potočari memorial complex, and another 168 in local Muslim graveyards and that there is "information that the DNA laboratory in Tuzla has completed the preliminary identification of about 2000 other victims who have still not been identified by their next of kin").

<sup>3112</sup> PARSONS, T.33452:5-33456:11. See also JANC, T.33590:25-33592:17.

1153. The number of DNA connections does not affect number of DNA identifications. Dunjić misinterpreted Janc's analysis of the DNA data in relation to DNA connections, stating that the "established DNA links, if they are correct, indicates precisely that a considerably smaller number of bodies in secondary graves are linked with the five sites of mass execution."<sup>3113</sup> Dunjić also mixed up the concepts "cases" and "bodies," also concluding that an "increase in the number of connections (at one site) must be accompanied by a reduction in the number of victims in one of the graves linked through a connection."<sup>3114</sup>

1154. In fact, Janc's report and testimony clearly show that these two concepts were never mixed up, and that his analysis of the DNA data is sound and accurate.<sup>3115</sup> Janc counted only "main cases" of individuals (i.e. protocol numbers) identified via DNA matching for purposes of reaching the figure of 6,006 Srebrenica-related identified persons. He used a wholly separate technique to find out how many DNA connections exist between various graves, that of tracing the "main cases" and "reassociations" of a protocol number. An individual whose remains were located in two or more graves was counted only once in the calculation of the 6,006 DNA identified persons. There is no reason to subtract any identifications from the current total number of Srebrenica identified individuals.<sup>3116</sup>

**Forensic Evidence: Mass Executions of Srebrenica Muslims**

1155. The forensic evidence acquired during the exhumations conclusively demonstrates that: graves were robbed and bodies were reburied in secondary graves; the human remains found in the graves were those of Muslims missing from Srebrenica; the bodies found in the graves died in the period of time following the fall of Srebrenica; the cause of death for a vast majority of these individuals was gunshot wounds; and the bodies found in the graves had been executed, and were not battle casualties. Witness testimony corroborates all these forensic conclusions.<sup>3117</sup>

**Reburials.**

1156. Based on an analysis of shell casings, various materials found inside the graves, as well as aerial imagery,<sup>3118</sup> investigators and forensic experts concluded that mass graves

<sup>3113</sup> DUNJIĆ, Exh. 1D01447 at para. 42.

<sup>3114</sup> *Id.* at paras 62-69.

<sup>3115</sup> JANC, T.33506:20-25. *See also* Exh. P04490, Annex A and Annex C.

<sup>3116</sup> JANC, T.33540:14-33541:14, 33543:3-10, 33487:12-33491:6.

<sup>3117</sup> *See* paras. 545-1067.

<sup>3118</sup> The aerial images showed disturbed earth in areas removed from the primary graves, which appeared simultaneously with the disturbance of the primary graves and which led the investigators to the discovery

had been disturbed and that links existed between certain graves.<sup>3119</sup> Forensic evidence showed that there were two types of mass graves: “primary graves,” in which individuals may have been executed or were placed soon after their deaths, and “secondary graves,” into which the same individuals were later reburied.<sup>3120</sup> The longest distance between primary and secondary gravesites (Branjevo Farm to Čančari Road) is 40 kilometres.<sup>3121</sup> This disturbance of graves seriously hampered the investigations into the executions.<sup>3122</sup>

1157. The victims in the graves were Srebrenica Muslims. Forensic evidence shows that the bodies found in the graves were those of Muslims missing from Srebrenica.<sup>3123</sup> This evidence included identity documents and personal belongings of individuals reported as missing from Srebrenica,<sup>3124</sup> as well as ration packs and Dutch newspapers, showing a close connection to the Dutch Peacekeepers stationed at Srebrenica and Potočari prior to the fall of Srebrenica.<sup>3125</sup> The gender and age distribution of persons listed as missing from Srebrenica correlated with the gender and age distribution of the bodies exhumed from the graves.<sup>3126</sup> In addition, many graves contained Muslim religious artefacts in the form of prayer beads, excerpts from the Koran, and similar.<sup>3127</sup>

1158. The victims in the graves were killed in the summer of 1995. The evidence that Srebrenica Muslims were in the mass graves, along with the testimony of the survivors, VRS-related witnesses (such as Dražen Erdemović, [REDACTED] PW-101,

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of some secondary graves. See Exh. P01605, P01608 through P01611 (Glogova); Exh. P001721, P01723 through P01724 (Orahovac); Exh. P01746 and Ex. P01747 (Petkovci Dam); Exh. P01761 and P01763 (Kozluk); Exh. P01788, P01799 through Exh. P01802 and P03009 (Branjevo Farm); Exh P01649 through P01659 (Zeleni Jadar); Exh. P01821 through P01832 (Hodžići road); Exh. P01833 through 1840 (Liplje) and Exh. P01842 through P01869 (Čančari road).

<sup>3119</sup> Prosecution Adjudicated Fact 476. See e.g., Exh. P02169; Exh. P00649, Manning, Summary of Forensic Evidence. MANNING, T.18953:14-18954:17. See Exh. P0665 at ERN 0091-2182 (showing tooth marks of excavation machinery); Exh. P01899 (photograph of bodies in Kozluk with excavation tooth marks); Exh. P00616 at ERN 0149-1639 and ERN 0149-1705. See also paras. 1070-1104.

<sup>3120</sup> Prosecution Adjudicated Fact 488. See also JANC, T.33543:2-15. For a full summary of the forensic evidence linking the primary and secondary mass graves, see Exhs. P00649, P00648, and P02994. For corroborating DNA connection evidence, see Exh. P02993 and Exhs. P04490 [REDACTED].

<sup>3121</sup> Prosecution Adjudicated Fact 496.

<sup>3122</sup> MANNING, T.18952:14-25, 18931:21-18932:3. The damage to the bodies and the distribution of artefacts and identification materials made it difficult to determine the cause of death, the number and the identity of victims. MANNING, T.18954:3-18956:23.

<sup>3123</sup> Prosecution Adjudicated Fact 480.

<sup>3124</sup> Prosecution Adjudicated Facts 477 and 478. There were very few true identifications of individuals prior to DNA identifications by the ICMP due to “breaking up of the bodies and the deterioration of the clothing and the physical artefact.” MANNING, T.18960:23-18962:19. Before DNA, locating IDs was a “guide to try to identify the individuals from the physical characteristics at that stage.” *Id.* T.18959:13-18960:4.

<sup>3125</sup> Exh. P00649. See also MANNING, T.18957:16-18958:1.

<sup>3126</sup> See Prosecution Adjudicated Facts 480, 481 and 482.

<sup>3127</sup> Exh. P00649. See also Exh. P00616 at ERN 0149-1706; MANNING, T.18958:2-11, 18959:3-10. While Komar indicated she had reservations about the scientific way in which the forensic experts concluded that the majority of the victims in the Srebrenica graves were Muslims, she explicitly stated that she did not factually disagree with this conclusion. KOMAR, T.24041.

[REDACTED] PW-161, [REDACTED] PW-170, Sreten Milošević, various other Zvornik Brigade officers, soldiers and drivers), aerial imagery, and observations by the forensic experts,<sup>3128</sup> all support the conclusion that the individuals in the mass graves died in July 1995 and, in a certain number of cases, were reburied in late September/early October 1995.<sup>3129</sup>

1159. The majority of the victims died of gunshot wounds. Given the high state of decomposition and skeletonization, as well as disarticulation, of the bodies exhumed from the mass graves, the causes of deaths could not always be established.<sup>3130</sup> However, pathological analysis of the remains concludes that the overwhelming majority of individuals exhumed were killed by gunshot wounds.<sup>3131</sup>

1160. The victims in the graves were not battle, suicide or mine casualties. The evidence, corroborated by witness testimony,<sup>3132</sup> reveals that the individuals found in the graves were executed and were not battle casualties. First, at least 448 blindfolds and 423 ligatures were located on or close to the bodies,<sup>3133</sup> signifying that some of the victims were shot after they were blindfolded and/or had their hands tied behind their backs.<sup>3134</sup> Second, some of the people found in the graves were severely handicapped,<sup>3135</sup> suffered from physical deformities, or were ill, which indicates that they were civilians who were

<sup>3128</sup> See, e.g., P00616 at ERN 0149-1643, stating in relation to Lažete 2 gravesite that “based on the presence of fall leaves in the test unit, it was inferred that the disturbance had occurred after leaves were shed, probably during or after late September or October of the previous year (1995).” See also Exh. P0665 at ERN 0091-2183, showing photos of dead plants preserved under Kozluk bodies whose seed and flower development was consistent with executions taking place in mid-summer 1995); Prosecution Adjudicated Fact 458; Exh. P00666 at ERN 0084-8241-8244 (an analysis of 10 self-winding watches found at different exhumation sites indicates 14 July 1995 was date of death); P00560, and BARAYBAR, Exh. P02474 at T.3831-3832, 3843.

<sup>3129</sup> MANNING, T.18957:1-18959:10.

<sup>3130</sup> See Exh. P00575 at ERN 0090-8185-8187; LAWRENCE, T.7532:25-7533:1-24.

<sup>3131</sup> Prosecution Adjudicated Fact 485. Based on evidence gathered during the exhumations conducted by the ICTY, at least 1,620 of the 2,028 individuals exhumed died of gunshot wound. See Exh. P00649 at ERN 0095-0903 and Exh. P00648 at ERN X006-5661; LAWRENCE, T.7527:14-18, 7530-7531 (indicating only some traces of shrapnel). The results of ongoing Srebrenica-related exhumations conducted through 2008 continue to reflect this pattern. See e.g., Exh. P04508-P04510, Exh. P04512, Exh. P04516-P04518, Exh. P04520 and Exh. P04523.

<sup>3132</sup> See paras. 545-1067. There is also evidence of civilians being shot at the detention locations who were later found in mass graves. See [REDACTED] PW-169’s testimony about the murder at the Hangar in Bratunac of Hamed Efendić, whose remains were discovered in Zeleni Jadar 5. [REDACTED] PW-169, T.17321:9-22, 17388:1-4. [REDACTED].

<sup>3133</sup> Prosecution Adjudicated Facts 483 and 484. See also Prosecution Adjudicated Fact 373. A sample of 12 blindfolds was collected from the 219 located at the Grbavci School. Exh. P02994 at ERN X016-7710, X016-7719. See also Exh. P02063 through P02066. In addition, blindfolds and ligatures have also been found in the exhumations since 2001, including in the Bišina primary mass grave, the Čančari secondary mass graves (with the exception of Čančari 4), the Hodžići Road mass graves, bringing the number of blindfolds and ligatures to at least 1000. See, e.g., Exh. P04498, Exh. P04499, Exh. P04503-P04504; Exh. P04506-P04507, Exh. P04511.

<sup>3134</sup> MANNING, T.18973:12-17; HAGLUND, Exh. P02150 at T.3764-3765; CLARK, Exh. P02128 at T.3939-3940; LAWRENCE, T.7542:17-19.

<sup>3135</sup> Prosecution Adjudicated Fact 486.



physically unable to contribute to the Muslim war effort.<sup>3136</sup> Third, there were few instances of military clothing or weapons found on the victims.<sup>3137</sup> Fourth, evidence -- such as shell casings found beneath the bodies of victims in the graves, with matching shell casings found outside the graves -- shows that the executions took place *in situ*, i.e., in the graves themselves.<sup>3138</sup> Fifth, the pathologists who conducted the autopsies found that the prevalent type of injuries -- gunshot wounds -- were inconsistent with combat.<sup>3139</sup> In particular, Dr. Clark was able to conclude, from his detailed analysis, that there was "an overall pattern of execution-type injuries."<sup>3140</sup> When asked by the Defence whether the causes of death could also include suicide, the Dr. Haglund vehemently disagreed:

I have investigated many suicides. I have never seen an individual with their hands bound behind their back shoot themselves multiple times. Many of these people have multiple injuries which are totally inconsistent with the circumstances of suicide.<sup>3141</sup>

1161. Finally, the very fact that reburials took place shows that the graves did not contain combat casualties. Rather, the reburials were a deliberate act to keep a massive criminal murder operation hidden. As Dr. Lawrence stated:

... this applies in forensic pathology generally, when you found that somebody has gone to some effort to conceal the body, particularly to bury them and rebury them, it's usually an indication that

<sup>3136</sup> A man in the Branjevo Farm grave had a prosthetic leg and his hands were tied behind his back. (Exh. P02159). At the Čančari 3 grave, an individual had a fused spine, indicating severe disability and very limited movement, while another had a deformed forearm and would have had significant problems with movement (Exh. P00642 at ERN X003-8183-8184; LAWRENCE, Exh. P02160 at T.3987-3989). In Kozluk, the following disabilities or deformities were observed: one individual with a fused elbow who could not bend his arm; another with a fused knee who would have had to walk with a straight leg; another who was probably asthmatic; an individual with a steel plate in his skull; an individual with a glass eye; and an individual who had had open-heart surgery (Exhs. P02130-P02131; CLARK, Exh. P02128 at T.3912-3913, Exh. P00649, Annex A at ERN 0095-0973-0974); Prosecution Adjudicated Fact 455. In one grave, 5% of the people had significant disabilities (CLARK, Exh. P02128 at T.3939-3940). There was also evidence that some of the individuals in graves were wounded and/or carrying stretchers when they died (BARAYBAR, Exh. P02474 at T.3816, 3858-3859).

<sup>3137</sup> BARAYBAR, Exh. P02474 at T.3882-3883; CLARK, T.7342-7344; MANNING, T.18962:10-19 (except for a loaded pistol in Glogova, and a grenade located in a sleeve); LAWRENCE, T.7521:21-7522:14; WRIGHT, Exh. P02162 at T.3690-3691.

<sup>3138</sup> MANNING, T.18949:16-18950:6, 18951:2-7; 18974:1-18976:7 (evidence of shells located within the grave, matching the shells on the surface, the roadway and other side of the roadway); BARAYBAR, Exh. P02474 at T.3821:1-18. Another indications that individuals were alive before being executed inside a grave can be seen from a photo of a skeleton of a ligatured individual grabbing on to a root in the Kozluk grave. See Exh. P00665 at ERN 0091-2184; Exh. P01912.

<sup>3139</sup> According to Dr. Clark, based on his autopsy experience, the "commonest types of injuries in battle casualties are shrapnel injuries, bombs and other projectiles," while the injuries predominantly found in the Srebrenica graves were caused by bullets. CLARK, Exh. P02128 at T.3939-3941. Clark also stated that combat results in far more wounded people than killed people (CLARK, T.7344 and 7360). See also LAWRENCE, T.7542:19-7543:1 ("In modern combat, one would normally expect to see a lot of the casualties come from shrapnel, explosive devices... you would expect the majority of people to have shrapnel injuries in a conflict, not gun-shot wounds, so the high -- the high number of gun-shot wounds would be odd in those circumstances.").

<sup>3140</sup> CLARK, Exh. P02128 at T.3970.

<sup>3141</sup> HAGLUND, P02150 at T.3769:6-15.

they're trying conceal a death. And I don't understand why someone would go to so much trouble if these were just armed conflict deaths.<sup>3142</sup>

1162. The Defence hypothesis that the proximity of many Srebrenica-related graves to the column route allows for an inference that legitimate combat casualties were buried in them is not supported by any credible evidence.<sup>3143</sup> Evidence shows that approximately two thirds of the men in the column were cut off and left behind in the Pobude area<sup>3144</sup> and that the largest groups of Bosnian Muslim men from the column are known to have been captured there.<sup>3145</sup> There is no evidence of any fighting taking place in the rear of the Zvornik Brigade zone of responsibility where the Branjevo Farm, Kozluk, Petkovci Dam and Orahovac mass graves are located. Additionally, forensic evidence and witness testimony show that individuals found in graves north of the Pobudje area (Nova Kasaba 1996, Nova Kasaba 1999, Konjević Polje 1 and 2, Cerska), far to the east of the Baljkovica and Snagovo areas (Branjevo Military Farm, Kozluk, Petkovci Dam, Orahovac), as well as in other areas (Trnovo/Godinjske Bare, Bišina, Vlasenička Jelovačka Česma) were killed at these sites, and not elsewhere.<sup>3146</sup>

1163. The investigators and forensic experts considered the possibility that bodies may have been brought into some primary graves rather than killed *in situ*.<sup>3147</sup> However, evidence shows that those men who were killed in the Pobude area remained there (becoming surface remains) and were never buried, given that no “asanacija” was taking place in that region between 12 and 17 July 1995, and given that the nearest burials, the Glogova burials, were completed by 17 July 1995.<sup>3148</sup> Similarly, witness testimony and documentary evidence shows that the excavations of the Orahovac, Petkovci Dam, Kozluk, and Branjevo Farm mass graves were coordinated to coincide with the mass executions. Furthermore, there is no evidence of “asanacija” taking place during the period of time surrounding the mass executions.

<sup>3142</sup> LAWRENCE, T.7543:2-7. See also *Krstić Trial Judgement* at para. 78 (“Such extreme measures would not have been necessary had the majority of the bodies in these graves been combat victims.”).

<sup>3143</sup> See JANC, T.33606:9-18; 33614:13-33615:13 (showing that in the areas of Udrč and Pobudje there are graves with ligatures or other evidence showing that executions took place *in situ*).

<sup>3144</sup> See Prosecution Adjudicated Fact 261. See also P04490, Annex B at ERN X019-4274-4275, defining the Pobudje area as stretching north-west of Zvornik.

<sup>3145</sup> See Prosecution Adjudicated Facts 268. See also Prosecution adjudicates facts 263 to 278.

<sup>3146</sup> See MANNING, T.19061:8-19062:24, 19063:7-24.

<sup>3147</sup> MANNING, T.18952:3-10. Ravnice and Glogova show “clear evidence that the bodies had been taken there and dumped there” (with the exception of 12 individuals in Glogova 1 Grave L who were tied up and executed on the spot). See also MANNING, T.19072:7-16.

<sup>3148</sup> The Glogova burials were completed by 17 July for all except subgraves E and L. JANC, T.33605:3-33606:8, 33664:6-22; [REDACTED] PW-161, T.9391:17-21, 9392:7-9393:6.

*Protocols and Methodology*

1164. The trial record establishes that the forensic experts observed generally accepted procedures in the course of exhumations and analysis of remains.<sup>3149</sup> The processes related to the exhumation of a grave, the processing of evidence in the grave, the handling of a body and related artefacts exhumed from a grave and examined at the morgue all the way to the sealing of a body bag and final closing of the case, were governed by clearly defined standards, protocols, and procedures. A written protocol, in line with known and accepted practices in the field, was established by the chief archaeologist prior to the commencement of the exhumations. This was followed by the team and investigators dealing with every step of the investigation and handling of evidence, including bodies and artefacts.<sup>3150</sup>

1165. A written protocol was also established with respect to autopsies carried out at the mortuary.<sup>3151</sup> Mindful of the necessity for accuracy in the discharge of their responsibilities, even under the most challenging of circumstances, the forensic experts scrupulously followed established protocols.<sup>3152</sup>

1166. Indeed, the Defence forensic experts generally accepted the general professionalism and methods and protocols used by the Prosecution's forensic experts,<sup>3153</sup>

<sup>3149</sup> See MANNING, T.18906:20-18907:24, 18910:15-18911:7.

<sup>3150</sup> See, e.g., protocols established by WRIGHT as set out in his reports, including: Exh. P00666 at ERN 0084-8225-8231 (for 1998 exhumations); Exh. P00665 at ERN 0091-2161-2165 (for 1999 exhumations at Kozluk); Exh. P00674 at ERN X006-4490-4493 (for 2000 exhumations at Glogova). Fredy PECCERELLI adopted WRIGHT's procedures for the exhumation of Lažete 1. See Exh. P02459 at ERN X006-4007-4009. See also reports by HAGLUND: Exh. P00611-P00615 (Cerska); Exh. P00616-P00620 (Lažete 2) (see Exh. P00616 at ERN 0149-1671-1679 for an example of autopsy procedures); Exh. P00621 (Nova Kasaba); Exh. P00622-P00625 (Branjevo Farm/Pilica); and BARAYBAR's procedures at Exh. P00559. See also MANNING, T.18908:2-18909:11. Protocols would on occasion change, but only in order to further streamline the procedures. MANNING, T.18909:14-18, 18910:2-11.

<sup>3151</sup> See LAWRENCE, T.7524-7537, and Exh. P02160 at T.3981-4018 (concerning the procedure used and summarising results from the Čančari 3 grave site). All LAWRENCE's reports set out the autopsy procedure. See Exh. P00639-P00647. See also CLARK's reports: Exh. P00575 at ERN 0090-8184; Exh. P00598 at ERN 0200-5376, and Exh. P02446 at ERN 0293-0842-0843.

<sup>3152</sup> See e.g., HAGLUND's testimony concerning security concerns, coupled with downpours which made the exhumations difficult. T.8911-8912; Exh. P00616 at ERN 0149-1661 (regarding the need to leave at least one incomplete set of remains unexhumed due to rainfall causing the walls to collapse). While the Defence brought up the so-called San Antonio report concerning complaints relating to exhumations under his and Dr. Kirchner's direction (Exh. 2D00070), evidence shows that Dr. Haglund was cleared of any charges of wrongdoing, with a panel of experts finding that nothing jeopardized the scientific validity of the exhumations and citing to the fact that "the most experienced archeologists stated that the recovery of bodies had been done adequately under difficult circumstances." Exh. 2D00070 at ERN 2D14-0007. In fact, Prof. Dunjić affirmed that he had aimed to carry out exhumations in the same professional way as Dr. Haglund had in a previous Ovčara exhumation. See DUNJIĆ, T.22922:21-22923:13; 22924:23-22925:7. Dr. Moore concurred with the findings in the San Antonio report. See Exh. 2D00535.

<sup>3153</sup> DUNJIĆ, T.22783:19-22784:17; KOMAR, T.23897:21-25, 23914:1-18, 23916.

explicitly accepting that the presence of ligatures and blindfolds on the bodies were evidence of such persons having been shot and killed.<sup>3154</sup>

*Defence challenges to forensic evidence*

1167. Defence witness Debra Komar criticized the lack of detailed explanations concerning the way in which MNI was calculated by Baraybar, but did not disagree with the overall conclusions of Baraybar's MNI calculations, and accepted that "individual methods and items ... are acceptable in isolation."<sup>3155</sup> She also agreed that the use of DNA as a source of generating an MNI is completely appropriate, but appeared not to have had access to the underlying source used by Manning.<sup>3156</sup>

1168. Dušan Dunjić criticized the lack of detail with respect to cause of death conclusions in autopsy reports,<sup>3157</sup> arguing that in putrefied bodies one can never prove by autopsy that the cause of death is a gunshot wound.<sup>3158</sup> He also generally objected to autopsy conclusions that gunshot wounds were the cause of death, suggesting that such injuries could also have occurred after death.<sup>3159</sup>

1169. The Defence did not provide their expert with the full evidence necessary for analyzing the autopsy reports. Dunjić conceded that, in addition to direct pathological observations, circumstantial evidence -- including witness testimony -- was relevant in order to reach a final and complete conclusion on an autopsy report concerning the cause of death.<sup>3160</sup> Dunjić also conceded that in a number of cases he had not been provided with relevant additional evidence concerning specific sites for which he was analyzing autopsy reports. For example, he testified that the Defence had not provided him with witness testimony and aerial images describing the Branjevo Farm executions, the use of specific M-84 firearms, and showing the burial of the bodies, all of which would have been relevant to him as a pathologist.<sup>3161</sup>

<sup>3154</sup> DUNJIĆ, T.22935:17-22936:4; 22945:1-2 ("I considered that we can accept that an execution had taken place with people with ligatures".) Dunjić conceded that in the case of Branjevo Farm, he concluded that the cause of death for 82 bodies with ligatures or blindfolds were gunshot wounds, but did not have adequate time to compare the injuries on these bodies with the injuries on the bodies without ligatures to see if they, too, had died in the same way. DUNJIĆ, T.22945:6-25.

<sup>3155</sup> KOMAR, T.23914:1-18.

<sup>3156</sup> KOMAR, T.23919.

<sup>3157</sup> DUNJIĆ, T.22784:24-22785:2; 22789:22-24, 22793:9-11.

<sup>3158</sup> DUNJIĆ, T.22806:23-25. He acknowledged that he had made a mistake with respect to the number of ligatures cited as being found in the Haglund report, and admitted that Haglund's number was correct. *See* DUNJIĆ, T.22930:13-22935:16.

<sup>3159</sup> DUNJIĆ, T.22808:10-18, 22811:1-9.

<sup>3160</sup> DUNJIĆ, T.22813:20-25; 22815:20-22816:1.

<sup>3161</sup> DUNJIĆ, T.22946:21-22948:15, 22950:7-14. Dunjić testified he was also not provided with the witness testimony concerning the executions at Sandići with burst of fire and shots to the head, admitting that such testimony would have been important for his analysis. DUNJIĆ, T.27867:17-27868:14. [REDACTED].

1170. With respect to his observation that winter clothes in the Srebrenica graves meant either that the individuals wearing them had died in the winter, or that the mass graves may have been used for burials on multiple occasions, Dunjić accepted that circumstantial evidence that he had not been shown by Defence Counsel -- such as photos of [REDACTED] wearing a red vest at Potočari<sup>3162</sup> and photos of that same vest prior to the removal of [REDACTED]'s remains during the exhumation of the Kozluk grave<sup>3163</sup> -- might mean that Muslims were simply wearing winter clothing when they were executed in July.<sup>3164</sup> He also conceded that he had not been aware of evidence that Muslim men from Srebrenica were being captured by Bosnian Serb forces until mid-November, which had led to his conclusion that individuals listed as missing after July 1995 could not possibly be Srebrenica-related.<sup>3165</sup>

1171. There is no evidence that secondary graves may be primary graves for some bodies. Dunjić concluded, without looking into any forensic evidence, that because the ABiH List contains some persons listed as missing or dead prior to 1995, and because some of these men have been identified through DNA analysis from Srebrenica-related graves, this means that Srebrenica primary graves contain cases not connected to the fall of Srebrenica. He also concluded that secondary graves must therefore contain both remains transferred from other places of previous burial, as well as remains of individuals being buried for the first time.<sup>3166</sup> However, the only known grave which contains victims from 1992 is Blječeva 1, and these victims were not counted as a part of the Janc report.<sup>3167</sup> Furthermore, Janc testified that there is no forensic evidence that bodies in secondary graves come from anywhere else but the primary graves.<sup>3168</sup>

1172. It is not possible to conclude that all surface remains were combat casualties. It is difficult to make forensic conclusions concerning the causes or manner of death of individuals whose remains were gathered on the surface, given the fact that surface remains have suffered extreme weathering, often are utterly scattered and

<sup>3162</sup> See Exh. P02992 at p. 8.

<sup>3163</sup> See Exh. P03899, Photograph from exhumation KK03 543, showing a mass of bodies, one with a red sweater.

<sup>3164</sup> DUNJIĆ, T.27873:16-[REDACTED].

<sup>3165</sup> DUNJIĆ, T.27868:24-27871:1.

<sup>3166</sup> DUNJIĆ, Exh. 1D01447 at paras. 46-58.

<sup>3167</sup> Exh. P04490, Annex A at ERN X019-4261. Janc also stated that in his analysis that he had not counted 9 unnamed unique profiles which appeared in the March 2009 ICMP Update precisely because he could not confirm whether they were reported as having gone missing from Srebrenica. JANC, T.33508:13-33509:6. See also MANNING, T.19050:9-19051:2.

<sup>3168</sup> JANC, T.33531:4-12, 33539:1-24, 33540:14-33541:14, 33543:3-10, 33544:4-33545:10.

disarticulated.<sup>3169</sup> However, it cannot be concluded that all Srebrenica individuals currently identified from surface remains represent men who have died as a result of combat engagements, suicides and/or land-mines, given survivor testimony that executions took place along the route of the column where surface remains were collected.<sup>3170</sup>

1173. Moreover, DNA evidence refutes the Defence hypothesis that up to two to three thousand Muslim men from the column died as a result of combat, suicide and/or land-mines.<sup>3171</sup> Given that a total of 957 surface remains cases has been collected along the column route since 1996 (with only 28 such cases collected in 2008), and given that of these 957 cases, 648 individuals have been identified via DNA as missing from Srebrenica, a conservative estimate may be made that approximately 700 to 1,000 Srebrenica men may have died as a result of combat, suicide, land mines, exposure or summary executions.<sup>3172</sup>

### **Conclusion**

1174. The reliability of the expert forensic, DNA and demographic evidence has been established through the experts' known professional competence and prior experience; the methodology and protocols followed in the process of analysing the relevant data; and the credibility of the experts' findings in light of the other evidence accepted by the Trial Chamber, such as witness testimony and documents.

### **(Ixii) Intercepts**

1175. The Prosecution introduced over several hundred intercepted communications in this case.<sup>3173</sup> This evidence is clearly authentic, accurate and reliable.

1176. The intercept evidence comprises transcribed entries of radio relay communications contained in original notebooks and/or typewritten printouts of these

<sup>3169</sup> See, e.g., JANC, T.33606:19-33608:10 (inability to tell how many people killed in ambushes or what the manner of death was in the area of Udrč). Manner and cause of death can only really be found where there is a confluence of expert report, info statements and any other evidence on the person. JANC, T.33625:17-33626:14; see also MANNING, T.18955:10-18956:23.

<sup>3170</sup> [REDACTED].

<sup>3171</sup> See Exh. PO4490, Annex B, showing a total of 648 individuals identified from surface remains.

<sup>3172</sup> See Exh. PO4490, Annex B at ERN X019-4274; JANC, T.33593:17-33594:23 ("Based on the information we have now, I still think it's closer to 1000... based on the identifications we have for surface remains, which is 648 now."); Exhs. P03609 and P04501. Consequently, the UNPF report dated 17 July 1995 concerning survivor accounts about potentially 3,000 men from the column being killed "mostly by mines and BSA engagement," (see 1D00374) cannot be accurate. JANC T.33601:16-33605:6. See also Exh. PO4490, Annex B at X019-4275 (showing that a total of 538 individuals were identified from surface remains in the Pobudje area); see also JANC, T.33595-33599; 33622:9-33624:12.

<sup>3173</sup> 213 of these were the subject of the Trial Chamber's Decision on Admissibility of Intercepted Communications, dated 7 December 2007.

transcriptions. Audiotapes of certain intercepts were also introduced. The vast majority of intercepts were the product of the ABiH 2<sup>nd</sup> Corps Anti-Electronic Warfare Unit (PEB), the ABiH 21<sup>st</sup> Division, and the State Security Services of Bosnia and Herzegovina (SDB).

1177. The detailed and credible testimony provided by 28 experienced intercept operators and supervisors from the PEB, ABiH 21<sup>st</sup> Division and SDB,<sup>3174</sup> clearly establishes the authenticity, accuracy and reliability of this evidence. Moreover, the chain of custody as established by the evidence in this case is clear.<sup>3175</sup>

1178. The uncontradicted testimony of Prosecution Analyst Stefanie Frease validates the intercept evidence,<sup>3176</sup> as do several witnesses who acknowledged intercepts in which they either were involved or had knowledge of the subject matter. Further, despite extensive challenges to the admissibility of this evidence, the Defence made ample use of, and tendered many intercepts.

1179. Established standards and protocols, necessary to implement critical strategic military decisions,<sup>3177</sup> governed the interception process.<sup>3178</sup> As such, the intercept operators understood that errors in their work could fundamentally undermine the military intelligence gathering operations and the potentially have far-reaching military consequences.<sup>3179</sup>

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<sup>3174</sup> [REDACTED] PW-131, T. 4563-4786; [REDACTED] PW-123, T. 5873-5916; [REDACTED] PW-130, T. 5004-5171; [REDACTED] PW-133, T. 5451-5620; [REDACTED] PW-150, T. 6266-6301; [REDACTED] PW-151, T. 6006-6023; [REDACTED] PW-152, T. 6340-6354; [REDACTED] PW-153, T. 7405-7436; [REDACTED] PW-154, T. 8325-8342; [REDACTED] PW-158, T. 8343-8429; [REDACTED] PW-124, T. 5751-5834; [REDACTED] PW-129, T. 5622-5724; [REDACTED] PW-132, T. 4264- 4560; [REDACTED] PW-134, T. 5922-5978; [REDACTED] PW-135, T. 5977-6003; [REDACTED] PW-137, T. 5373-5449; [REDACTED] PW-140, T. 5282-5365; [REDACTED] PW-147, T. 6315-6333; [REDACTED] PW-157, T. 7158-7234; [REDACTED] PW-136, T. 6205-6244; [REDACTED] PW-148, T. 6244-6255; [REDACTED] PW-149, T. 6026-6053; [REDACTED] PW-166, T. 10673-10704; [REDACTED] PW-128, T. 6115-6165; [REDACTED] PW-144, T. 6169-6181; [REDACTED] PW-145, T. 7234-7309; [REDACTED] PW-146, T. 6187-6204; and [REDACTED] PW-122, T. 8432-8522.

<sup>3175</sup> See [REDACTED]; see also FREASE, T. 6364:4-12 (confirming the OTP's receipt of the above 1.4mb diskettes) and P02399, Receipt for diskettes received from AID Tuzla, dated 28 August 2001); [REDACTED]; P02400, Receipt for printouts received from AID Tuzla, dated 27 July 1999.

<sup>3176</sup> Stefanie Frease offered testimony presenting independent corroboration of the intercepts (the "Intercept Project"), proving the accuracy and reliability of the information contained in a number of them. FREASE, T. 6384-6386; see P02127, Exhibit P-863 in Case No. IT-98-33-T and part of Exhibit P-779 in Case No. IT-02-60-T - Intercept authentication binder; see also FREASE, T. 7775:2 (identifying approximately ten instances where independently recorded duplicate interceptions occurred).

<sup>3177</sup> FREASE, T. 6394:12-18.

<sup>3178</sup> [REDACTED] PW-131, T. 4637:10-17; 4677:18-20; see also [REDACTED] PW-128, T. 6123:1-6124:11([REDACTED] explained that identical protocols and procedures were followed by his unit).

<sup>3179</sup> [REDACTED] PW-158, T. 8359:22-8360:6.

1180. With near uniformity,<sup>3180</sup> operators followed the same general procedures. Intercepted communications were transcribed contemporaneously. Operators were not permitted to speculate about matters or add anything to intercepted material.<sup>3181</sup> Furthermore, operators did not engage in analysis that in any way altered the nature of the intercepted conversations.<sup>3182</sup> Once dispatched, transcribed intercepts could not be, and were not, revised.<sup>3183</sup>

1181. The Defence's principal challenge to the intercept evidence was mounted through Đuro Rodić. Rodić asserted, *inter alia*, that the ABiH could not intercept RRU-800 communications.<sup>3184</sup> However, Rodić's report was at best, based upon 83 intercepts.<sup>3185</sup> His conclusions were thus fundamentally flawed, based upon untenable factual assumptions and predicated upon a total disregard of available material information.<sup>3186</sup> However, at trial, Rodić conceded:

Q. And I think you indicated at the beginning of your testimony that generally, it was possible for the ABiH to intercept communications.

A. Yes. This is what I stated with regard to the equipment that covered the frequency range of the RRU-1 and RRU-800. Under certain circumstances, it could intercept conversations.<sup>3187</sup>

1182. The overwhelming evidence in this case thus demonstrates that the ABiH clearly had the capacity to, and were indeed, successfully and reliably intercepting VRS communications.<sup>3188</sup>

<sup>3180</sup> The SDB followed a similar process but did not make use of notebooks. Paper notations were sometimes made but discarded. More typically, transcriptions were typed directly into the computer. See [REDACTED] PW-128, T. 6137:1-5.

<sup>3181</sup> [REDACTED] PW-158, T.8358:25 (observing that "nobody was allowed to add or speculate"); T. 8410:22 (noting that "[p]eople behaved in keeping with the rules").

<sup>3182</sup> FREASE, T. 8060:22-25; [REDACTED] PW-128, T. 6145:10-11.

<sup>3183</sup> [REDACTED] PW-124, T. 5762:13-16 (noting that intercept operators were not permitted to make changes to their transcriptions after the material had been submitted to the typist in the crypto-protection unit).

<sup>3184</sup> ID00321, Analysis of Interception by Đuro Rodić, dated 23 April 2007, p.51-52.

<sup>3185</sup> ID00321, Analysis of Interception by Đuro Rodić, dated 23 April 2007, Annex A, pp. 23-25.

<sup>3186</sup> RODIĆ, T. 12114:2-13 (stating "I was interested in the route that was given to me as an assignment. I did not consider the entire network in the general area").

<sup>3187</sup> RODIĆ, T.12513:5-9 (emphasis added); T.12069:20; see also RODIĆ, T. 12515:10-14(noting that "generally speaking" the position of the facilities, in relation to Veliki Žep, Cer, and Gucevo made it possible to intercept communications on that radio relay route) and ID00321, Analysis of Interception by Đuro Rodić, dated 23 April 2007, paras. 7.1.2-7.1.5 and 7.2.2-7.2.4.)

<sup>3188</sup> Aside from the intercept operators' testimony, VRS officers also acknowledged the ability of the ABiH to intercept radio-relay communications. See e.g., Exh. 3D00319, Drina Corps Command Security and Intelligence Report No. 17/789, dated 23 June 1995, signed by Vujadin **POPOVIĆ** (stating "we have obtained information that our units are extremely careless when using communications equipment"); see also BLAGOJEVIĆ, T. 22333:18-22 (conceding that if communication security rules were not followed ABiH would have been able to successfully intercept communications); Exh. P03425, Zvornik Brigade Intelligence report No. 04/177, signed by Drago **NIKOLIĆ**, dated 22 April 1993 (stating, "we have confirmation that the enemy is intensively intercepting out radio and radio-relay communications and particularly active are their interception centres in Tusla and at Trovnh (Goražde)"). PAJIĆ, T.28821:5-6



(lxiii) **The Zvornik Brigade Duty Operations Officer Notebook**

1183. The Duty Operations Officer Notebook<sup>3189</sup> is a reliable and authentic document. It was used by Zvornik Brigade Duty Operations Officers and relied upon by the Zvornik Brigade Command in the period of the Indictment, from 29 May through 23 July 1995.

**Authenticity**

1184. [REDACTED].<sup>3190 3191</sup>

1185. The authenticity of the Notebook's entries is further supported by the evidence of [REDACTED] former Zvornik Brigade Duty Operations Officers: Milanko Jovičić, Sreten Milošević, [REDACTED] and Milan Marić. Each of these individuals identified their own handwriting in the Notebook.<sup>3192</sup> All [REDACTED] witnesses verified the accuracy of their respective Notebook entries.

1186. The testimony of these witnesses is further corroborated by the expert handwriting analysis of the Prosecution expert,<sup>3193</sup> as well as the analysis of the Defence expert. Their conclusions concerning "separate" and "sequential" writings in the Notebook are consistent with the testimony of the various Duty Operations Officers [REDACTED].<sup>3194</sup>

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(conceding that it was "technically possible" to intercept communications along the RRU-800 radio relay routes).

<sup>3189</sup> Exh. P00377, Duty Officer Notebook or "Notebook."

<sup>3190</sup> [REDACTED].

<sup>3191</sup> [REDACTED].

<sup>3192</sup> See, e.g., JOVIČIĆ, T.11487-11488; MILOŠEVIĆ, T.33967-33969, 34004, 34006-34007, 34009; [REDACTED]; MARIĆ, Exh. P03138 at T.11617-11620.

<sup>3193</sup> See Exhs. P02844-P02848 (Prosecution handwriting expert Kate Barr's reports dated 10 January 2007, 29 June 2006, 16 July 2003, 22 August 2003, and 27 January 2004). Barr concluded that there was conclusive evidence the Accused NIKOLIĆ produced the 15 July 1995 entries in the Duty Officer Notebook, starting with "11:45 7thbp" at ERN 0293-5758; BARR, T.13184:21-13186:6; see also Exh. P02845 at ERN 0606-4360-4361. Barr also concluded there was strong evidence that Dragan Jokić had written the entries on 14 July 1995 at ERN 0293-5744-0293-5753. See Barr T.13181:7-13181:18; see also Exh. P02846-2848. Additionally, Barr concluded that the writing in the Duty Officer Notebook on the 16th and most of 17 July 1995 (ERN 0293-5762- 0293-5772 down to and excluding the entry at 00:05 and pages 0293-5774 to first two lines of 0293-5775) belonged to one person, but was unable to determine the identity of the writer; Exh. P02845 at ERN 0606-4367. See also Exh. P02844, at ERN 0606-4345-0606-4346.

Corroborating evidence, including testimony of Milanko Jovičić (JOVIČIĆ, T. 11493), as well as documentary evidence, shows that the duty officer on the 16th and most of 17 July was Milorad Trbić.

<sup>3194</sup> See Exh. 2D00582, Analysis of handwriting on photocopied pages of 'Duty operations log', and Kitovnice IKM Duty Operation log' and Auxiliary book (showing, *inter alia*, that Gogić's conclusions concerning scriptors "a" and "b" (at pp. 6-7) are in line with the evidence that scriptor "a" is Sreten Milošević and scriptor "b" is Dragan Jokić, [REDACTED]; GOGIĆ, T.25599-25605 (showing that Gogić reached expert conclusions concerning separate and sequential writings in the Notebook in agreement with Barr's conclusions and witness testimony, without having been informed by Defence Counsel about intercept evidence corroborating the authenticity of the notebook's entries, [REDACTED])). See also GOGIĆ, T.25605:17-25606:20 (confirming, in agreement with Barr's analysis, that the same person wrote the continuous paragraph ending on page ERN 0293-5752 and continuing into top of page ERN 0293-5753, whereby his observation regarding the existence of two ripped out pages in-between pages ERN 0293-5752 and ERN 0293-5753 does not cast doubts upon the authenticity of the document).

**Reliability**

1187. The nature of a duty officer's responsibilities also supports the reliability of the Duty Operations Officer Notebook. The Notebook's reliability is further supported by other witness and documentary evidence and by its use by Defence counsel in this case.

*The nature of the Duty Operations Officer's responsibilities.*

1188. The main role of a duty operations officer was to ensure "continuous and secure functioning of the command in all conditions."<sup>3195</sup> A duty operations officer was therefore responsible for monitoring the course of combat and being familiar with developments in his and neighbouring Brigades. Most importantly, the duty operations officer kept his Commander informed of any major developments; maintained communications with subordinate units as well as with Superior Commands, the MUP and the Civil Defence; and received and dispatched orders and reports.<sup>3196</sup>

1189. [REDACTED].<sup>3197</sup>

1190. The only means for a Duty Officer to successfully accomplish his duty of keeping the Commander informed of all relevant events, especially in times of war, is by making contemporaneous, precise, accurate, and reliable entries in the Duty Officer Notebook.

*Corroborating witness testimony and documentary evidence.*

1191. A number of Zvornik Brigade witnesses, including **PANDUREVIĆ**,<sup>3198</sup> [REDACTED],<sup>3199</sup> Miodrag Dragutinović,<sup>3200</sup> Zoran Aćimović,<sup>3201</sup> Mihajlo Galić,<sup>3202</sup> and

<sup>3195</sup> Exh. 5DP00699, JNA Manual for the Work of Commands and Staffs, dated 1983, at para. 64.

<sup>3196</sup> Exh. P02079, Manual for the Work of Commands and Staffs, at para. 66; BUTLER, T.19769-19770; Exh. P00684, Richard Butler's VRS Brigade Command Responsibility Report at para. 3.7.; DRAGUTINOVIĆ, T.12621-12626 (stating that "a Duty Operation Officer was not merely a courier who conveyed messages or transmitted orders. He was more than that. He was a direct participant in all the events that had a bearing on the brigade"), T.12759:18-12760:24; **PANDUREVIĆ**, T.30754, 32439-32442. See also [REDACTED]; S.MILOŠEVIĆ, T.33968:18-33969:3 (stating that if a duty officer had relevant information concerning prisoners of war, "the duty of the duty operations officer would be to record it in the book").

<sup>3197</sup> [REDACTED].

<sup>3198</sup> **PANDUREVIĆ**, T.31864-31865 (confirming that the event from the entry at ERN 0293-5769 "Men from Bratunac are in Orahovac. Obrenović asked commander what to do with them at 1920 hours" indeed occurred), T.32241-32242 (explaining that the person who wrote the entry at ERN 0293-5767 regarding the message being relayed to the Accused **POPOVIĆ** knew where to find him), T.32062-32063 (accepting that the entry at ERN 0293-5796 had been written by Ljubo Bojanović and commenting about the circumstances under which it was written, in light of other corroborating documents), T.31083 (confirming that the event at ERN 0293-5773 noted as "Milenko Jovanović to send food and soft drinks to the IKM. IKM called, Milenko Jovanović was informed" took place).

<sup>3199</sup> [REDACTED].

<sup>3200</sup> DRAGUTINOVIĆ, T. 12831 (testifying that Ljubo Bojanović wrote the entry "Turks - I told them to kill them since Bratunac doesn't want to take them" at ERN 0293-5796).

<sup>3201</sup> AĆIMOVIĆ, T. 22054-22055 (confirming that the notation "an ambulance appeared carrying the wounded" at ERN 0293-5757, referred to an incident where he saw an ambulance in the vicinity of Planinci village).

[REDACTED] PW-104,<sup>3203</sup> gave evidence concerning the daily use of the Duty Officer Notebook, and accepted its accuracy, further corroborating the Notebook's reliability. In addition, several intercepts also demonstrated the reliability and accuracy of the Notebook's entries.

1192. These intercepts identify the Duty Operations Officer by name and refer to facts or circumstances reflected in the Notebook and confirmed by other evidence admitted. For example, intercepts dated 14 July at 20:38 hours and at 21:02 hours, and an intercept dated 15 July at 09:39 hours, indicate that Dragan Jokić was the Zvornik Brigade duty officer on 14 July and the morning of 15 July.<sup>3204</sup> Similarly, an intercept dated 16 July at 22:33 hours, together with intercepts dated 17 July at 06:15 hours and at 08:59 hours, indicate that Milorad Trbić was the Zvornik Brigade duty operations officer on 16 July and the morning of 17 July.<sup>3205</sup>

1193. Zvornik Brigade Regular Combat Reports from 12-15 July 1995 also corroborate the reliability of the Duty Operations Officer Notebook. The reports are initialled by individuals who were Duty Officers at the Zvornik Brigade on the dates the Reports were drafted. For example, the Regular Combat Report dated 12 July was initialled as being drafted by MM, Milan Marić;<sup>3206</sup> the Regular Combat Report dated 13 July was initialled as being drafted by SM, for Sreten Milošević;<sup>3207</sup> the Regular Combat Report dated 14 July<sup>3208</sup> as well as Zvornik Brigade Interim Combat Report dated 14 July<sup>3209</sup> were initialled as being drafted by DJ, for Dragan Jokić; and the Regular Combat Report dated 15 July was initialled as being drafted by ND, for Drago **NIKOLIĆ**.<sup>3210</sup>

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<sup>3202</sup> GALIĆ, T.10658 (explaining the entry at ERN 0293-5743 regarding couriers being sent with the aim of mobilizing the men and sending them back to their units).

<sup>3203</sup> [REDACTED] (PW-104), T.7938-7939 (recognizing his telephone number and his name written in the notebook at ERN 0293-5749).

<sup>3204</sup> See Exh. P01161, Intercept dated 14 July 1995, at 20:38 hours; Exh. P01164, Intercept dated 14 July 1995, at 21:02 hours; Exh. P01176, Intercept dated 15 July 1995, at 09:39 hours, respectively.

<sup>3205</sup> See Exh. P01204, Intercept dated 16 July 1995, at 22:33 hours; Exh. P01206, Intercept dated 17 July 1995, at 06:15 hours; Exh. P01208, Intercept dated 17 July 1995, at 08:59 hours, respectively.

<sup>3206</sup> Exh. P00322, 1st Zvornik Infantry Brigade Daily Situation report No. 06/215 to the Drina Corps Command, signed by Vinko **PANDUREVIĆ**, dated 12 July 1995.

<sup>3207</sup> Exh. 7DP00325, Zvornik Brigade Daily Combat Report 06-216, to the Drina Corps Command, signed by Vinko **PANDUREVIĆ**, dated 13 July 1995.

<sup>3208</sup> Exh. 7DP00326, Zvornik Brigade Daily Combat Report 06-216, to the Drina Corps Command, signed by OBRENOVIĆ, dated 14 July 1995.

<sup>3209</sup> Exh. 5DP00327, Zvornik Brigade Interim Report No. 06-216/2, to the Drina Corps Command, signed by OBRENOVIĆ, dated 14 July 1995.

<sup>3210</sup> Exh. 5DP00328, Zvornik Brigade Daily Combat Report 06-217, to the Drina Corps Command, signed by Vinko **PANDUREVIĆ**, dated 15 July 1995.

*The use of and reliance upon Duty Operations Officer Notebook by Defence Counsel.*

1194. Multiple Defence Counsel presented the Duty Officer Notebook to witnesses and have relied upon it for the purpose of their cases.<sup>3211</sup>

**Conclusion.**

1195. Given the above-described combination of witness and documentary evidence corroborating the entries found in the Duty Officer Notebook, the authenticity and reliability of the Notebook have been established in this case beyond a reasonable doubt.

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<sup>3211</sup> The Popović Defence used Exh. P00377 during the examination-in-chief of [REDACTED] PW-107, T.22196. The **BEARA** Defence used it during the cross-examination of the Accused **PANDUREVIĆ**, T.31864. The Nikolić Defence used it during the re-examination of MILOŠEVIĆ, T.34034; [REDACTED]; the cross-examination of BUTLER, T.20389; and the cross-examination of STOJKIĆ, T.21998. The Pandurević Defence used it during the examination-in-chief of the Accused **PANDUREVIĆ**, T.31083; the re-examination of JOVANOVIĆ, T.22556; [REDACTED]. The Pandurević Defence also used parts of P00377 as their own exhibits, see Exh. 7D00155 and Exh. 7D00159, STANIŠIĆ, T.11588-11589 (where the Pandurević Defense tendered portions of the Notebook).

(V) **LEGAL ELEMENTS OF INDIVIDUAL CRIMINAL RESPONSIBILITY UNDER ARTICLES 7(1) AND 7(3) OF THE STATUTE**

(G) **INDIVIDUAL CRIMINAL RESPONSIBILITY UNDER ARTICLE 7(1)**

1196. Each of the Accused is charged in the Indictment with criminal responsibility under Article 7(1) of the Statute.<sup>3212</sup> **PANDUREVIĆ** and **BOROVČANIN** are also charged with superior responsibility pursuant to Article 7(3) of the Statute.<sup>3213</sup>

1197. The intention of Article 7 is to assign individual criminal responsibility at different levels for superiors as well as subordinates.<sup>3214</sup> This reflects the underlying principle of Article 7, which is that an individual is responsible for his or her acts and omissions.<sup>3215</sup> Thus, an individual may be held criminally responsible for the direct commission of a crime, whether as an individual or jointly,<sup>3216</sup> or through his omissions for the crimes of subordinates when under an obligation to act.<sup>3217</sup>

1198. All forms of criminal participation under Article 7(1) must be performed with either direct or indirect intent, meaning that the Accused is aware of the substantial likelihood that his or her acts will produce the relevant consequence, and willingly accepts that risk.<sup>3218</sup>

(Ixiv) **Committing / participating in a Joint Criminal Enterprise**

1199. “‘Committing’ involves physically perpetrating a crime or engendering a culpable omission in violation of criminal law,” whether alone or jointly with co-perpetrators.<sup>3219</sup> Several perpetrators may “commit” the same crime if each individual fulfils the requisite elements of the substantive offence.<sup>3220</sup>

<sup>3212</sup> Counts 1-8 **PANDUREVIĆ**, **BEARA**, **POPOVIĆ**, **NIKOLIĆ** and **BOROVČANIN**; Counts 4-8 **MILETIĆ** and **GVERO** (with the exception of Counts 4 and 5 where **MILETIĆ** and **GVERO** are charged exclusively with the “opportunistic killings”).

<sup>3213</sup> Counts 1-8.

<sup>3214</sup> Report of the Secretary-General pursuant to Paragraph 2 of Security Council Resolution 808 (1993), S/25704, 3 May 1993 (UN Report) at paras 53-58. *See also* *Kordić and Čerkez* TJ, para. 364.

<sup>3215</sup> *Kordić and Čerkez* TJ, para. 364; *Tadić* AJ, para. 186.

<sup>3216</sup> *Furundžija* TJ, para. 216; *Kordić and Čerkez* TJ, para. 364; *Tadić* AJ, paras 220, 227-228.

<sup>3217</sup> *Aleksovski* TJ, paras 69-81; *Čelebići* AJ, paras 215-268; *Kordić and Čerkez* TJ, para. 364.

<sup>3218</sup> *Čelebići* Trial Chamber Judgement, para. 327; *Kordić and Čerkez* TJ, para. 386 (emphasis added) *citing* *Blaškić* TJ, para. 278: “proof is required that whoever planned, instigated or ordered the commission of a crime possessed the criminal intent, that is, that he directly or indirectly intended that the crime in question be committed”). *See also* *Kvočka* TJ, para. 251, *citing* *Tadić* TJ, para. 688: The requisite *mens rea* is that, as in other forms of criminal participation under Article 7(1), the accused acted in the awareness of the substantial likelihood that a criminal act or omission would occur as a consequence of his conduct”.

<sup>3219</sup> *Milutinović* TJ (Vol. 1), para. 95; *Krstić* TJ, para. 601; *Kunarac* TJ, para. 390; *Nahimana et al.* AJ, para. 478; *Tadić*, AJ, para. 188.

<sup>3220</sup> *Kunarac* TJ, para. 390.

1200. Participation in a JCE is also a form of “commission” under Article 7(1) of the Statute.<sup>3221</sup> The notion of a common criminal plan, design or purpose, that is, a Joint Criminal Enterprise, articulates a mode of individual criminal responsibility encompassed by Article 7(1) of the Statute,<sup>3222</sup> in which the acts of one person can give rise to the criminal culpability of another where both participate in a common criminal plan.<sup>3223</sup> For responsibility under JCE, the participant need not physically participate in any element of any crime, so long as the requirements of JCE responsibility are met.<sup>3224</sup> Furthermore, a participant in a JCE is not required to be physically present when and where the crime is being committed.<sup>3225</sup>

1201. The elements of a JCE are as follows:

- a) A plurality of persons;<sup>3226</sup>
- b) The existence of a common design, plan or purpose which amounts to or involves the commission of a crime provided for in the Statute;<sup>3227</sup>
- c) Each Accused must participate in the common design, plan or purpose involving the perpetration of a crime;<sup>3228</sup> and
- d) The Accused must share the intent to effect the common design, plan or purpose.<sup>3229</sup>

### **Plurality of persons**

1202. JCE liability requires that there be a plurality of persons involved in the commission of a crime.<sup>3230</sup> These persons need not be organised in a military, political or administrative structure.<sup>3231</sup>

1203. The principal perpetrators of the crimes need not be members of a JCE, nor share the *mens rea* of the JCE members.<sup>3232</sup> Members of a JCE may incur liability for crimes

<sup>3221</sup> *Milutinović* TJ (Vol. 1), para. 95; *Kvočka* AJ, para. 79; *Vasiljević* AJ, para. 101.

<sup>3222</sup> *Brdanin* AJ, para. 405; *Tadić* AJ, para. 226; *Vasiljević* AJ, para. 95.

<sup>3223</sup> *Milutinović* TJ (Vol. 1), para. 95; *Tadić* AJ, paras 185, 196, 222-223, 228; *Krstić* TJ para. 602, fn 1349.

<sup>3224</sup> *Milutinović* TJ (Vol. 1), paras 103, 273; *Krnjelac* AJ, para. 81; *Simić* TJ, para. 158; *Kvočka* AJ, para. 99.

<sup>3225</sup> *Kvočka* AJ, paras 112-113, 276; *Simba* AJ, para. 296: However, it may be taken as an indicator of a co-perpetrator's contribution.

<sup>3226</sup> *Milutinović* TJ (Vol. 1), para. 97; *Brdanin* AJ, para. 364; *Stakić* AJ para. 64; *Tadić* AJ, para. 227.

<sup>3227</sup> *Milutinović* TJ (Vol. 1), para. 97; *Tadić* AJ, para. 227; *Stakić* AJ, para. 64. *See also* *Brdanin* AJ, paras 364, 418; *Kvočka* AJ, paras 115-119.

<sup>3228</sup> *Milutinović* TJ (Vol. 1), para. 97; *Brdanin* AJ, para. 364; *Stakić* AJ para. 64; *Tadić* AJ, para. 227.

<sup>3229</sup> *Milutinović* TJ (Vol. 1), paras 108-112; *Brdanin* AJ, para. 365; *Kvočka* AJ, paras 82-83, 110; *Stakić* AJ para. 65; *Tadić* AJ, para. 196; *Vasiljević* AJ, para. 97.

<sup>3230</sup> *Milutinović* TJ (Vol. 1), paras 97-98; *Stakić* AJ para. 64; *Tadić* AJ, para. 227.

<sup>3231</sup> *Milutinović* TJ (Vol. 1), para. 98; *Stakić* AJ, para. 64, *citing* *Tadić* AJ, para. 227.

<sup>3232</sup> *Milutinović* TJ (Vol. 1), para. 98; *Brdanin* AJ, para. 410; *Krajišnik* AJ, para. 226.

committed by principal perpetrators who were non-JCE members, provided that the crimes can be imputed to at least one member of the JCE and that this member, when using the principal perpetrators, acted in accordance with the common objective.<sup>3233</sup> Such a link is established by a showing that the JCE member used the non-JCE member to commit a crime pursuant to the common criminal purpose of the JCE.<sup>3234</sup>

1204. An essential requirement in order to impute to any Accused member of the JCE, liability for a crime committed by another person is that the crime in question forms part of the common purpose.<sup>3235</sup> This may be inferred *inter alia*, from the fact that “the accused or any other member of the JCE closely cooperated with the principal perpetrator in order to further the common criminal purpose.”<sup>3236</sup>

### **The existence of a common purpose**

1205. It is also necessary to prove the existence of a common purpose which amounts to or involves the commission of a crime.<sup>3237</sup> This purpose or plan need not be previously arranged or formulated,<sup>3238</sup> but may “materialise extemporaneously and be inferred from the fact that a plurality of persons acting in unison to put into effect a Joint Criminal Enterprise.”<sup>3239</sup> A JCE may be “vast” and encompass “other subsidiary criminal enterprises.”<sup>3240</sup> Its objective may also escalate over time.<sup>3241</sup>

<sup>3233</sup> *Milutinović* TJ (Vol. 1), para. 98; *Brdanin* AJ, paras 413, 430; *Krajišnik* AJ, para. 225. *See also Martić* AJ, para. 168.

<sup>3234</sup> *Milutinović* TJ (Vol. 1), paras 98-99; *Brdanin* AJ, paras 410, 413; *Krajišnik* AJ, para. 225. *See also Limaj et al.* AJ, para. 120.

<sup>3235</sup> *Milutinović* TJ (Vol. 1), para. 101; *Brdanin* AJ, para. 410; *Krajišnik* AJ, para. 226.

<sup>3236</sup> *Milutinović* TJ (Vol. 1), para. 98; *Martić* TJ, para. 438; *Brdanin* AJ, para. 410. *See also Haradinaj* TJ, para. 138.

<sup>3237</sup> *Milutinović* TJ (Vol. 1), para. 100; *Stakić* AJ, para. 64. *See also Brdanin* AJ, para. 418; *Kvočka* AJ, paras 115-119.

<sup>3238</sup> *Haradinaj* TJ, para. 138: The second Joint Criminal Enterprise element does not presume preparatory planning or explicit agreement among Joint Criminal Enterprise participants, or between Joint Criminal Enterprise participants and third persons. *See also Milutinović* TJ (Vol. 1), para. 102; *Brdanin* AJ, para. 418; *Kvočka* AJ, paras 115-119.

<sup>3239</sup> *Tadić* AJ, para. 227. *See also Stakić* AJ, para. 64. *See also Krajišnik* TJ, para. 884: Those involved in a criminal enterprise must be shown to act together, or in concert with each other, in the implementation of a common objective, if they are to share responsibility for the crimes committed through the JCE.

<sup>3240</sup> *Kvočka* TJ, para. 307.

<sup>3241</sup> *See Krstić* TJ, paras 619, 633: the objective of the JCE escalated from the forcible transfer to the destruction of Srebrenica’s Bosnian Muslim military-aged male community. *See also Krajišnik* AJ, para. 163: “a JCE can come to embrace expanded criminal means, as long as the evidence shows that the JCE members agreed on this expansion of means,” *citing Krajišnik* TJ, para. 1098: “the criminal means of realising the common objective of the JCE can evolve over time”; *Brdanin* AJ, para. 418; *Kvočka et al.* AJ, paras 96 and 117; *Krnjelac* AJ, para. 31; *Tadić* AJ, para. 227; *Vasiljević* AJ, paras 100, 108-109: It is well established that the common objective need not have been previously arranged or formulated, and that it may materialise extemporaneously and be inferred from the fact that a plurality of persons acts in unison to put into effect a joint criminal enterprise. The same applies to an expansion of the criminal means. *Note* this issue was of particular importance in the *Krajišnik* AJ as the Appeals Chamber found that the *Krajišnik* Trial Chamber only held *Krajišnik* responsible under JCE Category 1 alone and not under JCE Category 3, *see Krajišnik* AJ, paras 167-169.

**Participation of the Accused in the common purpose**

1206. Each Accused must participate in the common design involving the perpetration of a crime. This participation need not involve the commission of a specific crime, but may take the form of assistance in, or contribution to, the execution of the common plan or purpose.<sup>3242</sup> The contribution “need not be necessary or substantial, but should at least be a significant contribution to the crimes for which the accused is found responsible.”<sup>3243</sup>

**The Accused must share the intent to effect the common purpose**

1207. Tribunal case law regarding JCE has so far elicited three different categories of JCE liability, for which the mental state differs.<sup>3244</sup> All three situations may be applicable in the same case.<sup>3245</sup>

1208. In the first situation (**JCE I**), the Accused intends to commit a certain crime, this intent being shared by all members of the JCE.<sup>3246</sup> Thus, all the perpetrators, acting pursuant to a common design, possess the same criminal intention, although their roles in the enterprise may differ. To incur liability, the Accused must have “voluntarily participated” in one aspect of the common design and, even if not personally affecting the criminal act, must nevertheless intend this result.<sup>3247</sup> Where this is the case, all the Accused will be considered to have jointly “committed” the crime as co-perpetrators.

1209. In the second situation (**JCE II**),<sup>3248</sup> not applicable here, the Accused has knowledge of a system of ill-treatment, such as a concentration camp, and intends to further this system. Knowledge may be established expressly or reasonably inferred from the position of authority held by the Accused at the relevant time. The Accused need only know the nature of the system and intend to further the common design of ill-treatment.<sup>3249</sup>

1210. In the third situation (**JCE III**), one of the participants in the JCE commits a crime “other than the one agreed upon in the common plan.”<sup>3250</sup> The Accused may be held

<sup>3242</sup> *Milutinović* TJ (Vol. 1), para. 103; *Babić* AJ, para. 38; *Krajišnik* AJ, para. 215; *Krnojelac* AJ, paras 31 and 81; *Kvočka* AJ, para. 99; *Ntakirutimana* AJ, para. 466; *Tadić* AJ, para. 227(iii); *Vasiljević* AJ, para. 100.

<sup>3243</sup> *Milutinović* TJ (Vol. 1), para. 104; *Krajišnik* AJ, para. 215, citing *Brdanin* AJ, para. 430.

<sup>3244</sup> *Milutinović* TJ (Vol. 1), para. 96; *Tadić* AJ, para. 227-228; *Vasiljević* AJ, para. 96; *Krnojelac* AJ, para. 30.

<sup>3245</sup> *Kvočka* TJ, para. 268.

<sup>3246</sup> *Milutinović* TJ (Vol. 1), paras 96, 108; *Krajišnik* TJ, para. 879; *Stakić* AJ, para. 65; *Tadić* AJ, paras 220, 228.

<sup>3247</sup> *Milutinović* TJ (Vol. 1), para. 108; *Vasiljević* AJ, para. 119; *Tadić* AJ, para. 196.

<sup>3248</sup> *Tadić* AJ, para. 228. See also, *Krnojelac* AJ, para. 96; *Kvočka* AJ, para. 82.

<sup>3249</sup> *Kvočka* AJ, paras 97-98 (citations omitted).

<sup>3250</sup> *Milutinović* TJ (Vol. 1), para. 96; *Stakić* AJ, para. 65; *Tadić* AJ, para. 228.



responsible for that crime if, under the circumstances, it was “natural and foreseeable” that such a crime might be perpetrated by some member of the group and the Accused knew of and willingly took that risk.<sup>3251</sup> The Accused must intend to participate in, and further the criminal activity or plan agreed upon, and “contribute to the joint criminal enterprise, or in any event to the commission of a crime by the group.”<sup>3252</sup>

**(I xv)      Planning**

**Actus reus**

1211. “Planning” implies that “one or more persons design the commission of a crime at both the preparatory and execution phases,”<sup>3253</sup> and the crime was actually committed within the framework of that design by others.<sup>3254</sup> It is sufficient to demonstrate that the planning was a factor substantially contributing to such criminal conduct.<sup>3255</sup> “Planning” may also include organising.<sup>3256</sup> Individual responsibility for “planning” may be incurred at many levels of command.<sup>3257</sup> The existence of a plan can be proven through circumstantial evidence.<sup>3258</sup>

**Mens rea**

1212. The *mens rea* for “planning” entails the intent to plan the commission of a crime or, at a minimum, the awareness of substantial likelihood that a crime will be committed in the execution of the acts or omissions planned.<sup>3259</sup>

**(I xvi)      Instigating**

**Actus reus**

1213. “Instigation” requires that the Accused provoked,<sup>3260</sup> prompted<sup>3261</sup> or otherwise induced the conduct of another.<sup>3262</sup> The conduct of the Accused must have been “a clear

<sup>3251</sup> *Milutinović* TJ (Vol. 1), paras 96, 111; *Tadić* AJ, para. 204; *Krstić* TJ, para. 613; *Kvočka* AJ, para. 86, *Stakić* AJ, para. 65.

<sup>3252</sup> *Milutinović* TJ (Vol. 1), para. 110; *Tadić* AJ, paras 220, 228.

<sup>3253</sup> *Akayesu* TJ, para. 480; *Blagojević*, Decision on Defence Motions for Judgement of Acquittal pursuant to Rule 98 bis, 04 April 2004, para. 19; *Kordić and Čerkez*, AJ, para. 26; *Krstić* TJ, paras 386 and 601; *Naletilić and Martinović* TJ, para. 59; *Rutaganda* TJ, para. 37; *Stakić* TJ, para. 441.

<sup>3254</sup> *Milutinović* TJ (Vol. 1), para. 81; *Akayesu* TJ, para. 480; *Blaškić* TJ, para. 279; *Galić*, TJ, para. 168; *Kordić and Čerkez* TJ, para. 386.

<sup>3255</sup> *Kordić and Čerkez* AJ, para. 26; *Nahimana et al.* AJ, para. 479.

<sup>3256</sup> *Akayesu* TJ, para. 473.

<sup>3257</sup> See *Kupreškić* TJ, para. 862: Where a commander that has been held criminally liable for passing orders from his superiors to his subordinates is also considered to have “assisted in the strategic planning of the whole attack”.

<sup>3258</sup> *Akayesu* TJ, para. 480; *Blaškić* TJ, para. 279; *Naletilić and Martinović* TJ, para. 59.

<sup>3259</sup> *Milutinović* TJ (Vol. 1), para. 81; *Brdanin* TJ, para. 268; *Kordić and Čerkez* AJ, paras 29 and 31; *Nahimana et al.* AJ, para. 479.

contributing factor to the conduct of the other person(s).”<sup>3263</sup> However, it is not necessary to prove that the crime would not have been committed at all if the Accused had not instigated it; it is sufficient to demonstrate that the instigation was a factor substantially contributing to the conduct of another person committing the crime.<sup>3264</sup>

1214. Furthermore, any conduct of the Accused, intended to cause another person to act in a particular way and having that result, constitutes instigation.<sup>3265</sup> Thus, instigation can take the form of promises of financial, or other advantage, or bribery, or threats or menaces.<sup>3266</sup> Additionally, a superior’s failure to punish past crimes may be a basis for instigating (or aiding and abetting) further crimes.<sup>3267</sup>

### **Mens rea**

1215. The Accused must have intended to “bring about” the commission of the crime, or have been aware of the substantial likelihood<sup>3268</sup> that the commission of a crime would be a consequence of his or her conduct.<sup>3269</sup>

1216. It is not necessary that the Accused instigated the conduct of all the perpetrators, nor is it necessary that any of the perpetrators carrying out the *actus reus* possess the *mens rea* requisite for conviction under the Statute.<sup>3270</sup> The Trial Chamber in *Orić* stated that in “regard to the participant’s state of mind, the acts of participation must be performed with the awareness that they will assist the principal perpetrator in the commission of the crime.”<sup>3271</sup>

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<sup>3260</sup> See *Orić* TJ, para. 273 (footnotes omitted): Instigation can be performed by any means, both by express or implied conduct, as well as by acts or omissions, provided that, in the latter case the instigator is under a duty to prevent the crime from being brought about. As regards the way in which the perpetrator is influenced, instigation to the crimes included in the Statute needs neither be direct and public nor require the instigator’s presence at the scene of the crime.

<sup>3261</sup> *Milutinović* TJ (Vol. 1), para. 81; *Kordić and Čerkez* AJ, para. 27; *Krstić* TJ, para. 601; *Nahimana et al.* AJ, para. 480; *Ndindabahizi* AJ, para. 117.

<sup>3262</sup> See *Milutinović* TJ (Vol. 1), para. 81; *Kvočka* TJ, para. 252.

<sup>3263</sup> *Blaškić* TJ, paras 278, 280; *Kvočka* TJ, para. 252. See also *Kordić and Čerkez* AJ, para. 27: The instigation was a factor substantially contributing to the conduct of the other persons(s) committing the crime.

<sup>3264</sup> *Milutinović* TJ (Vol. 1), para. 84; *Gacumbitsi* AJ, para. 129; *Kordić and Čerkez* TJ, para. 386; *Kordić and Čerkez* AJ, para. 27; *Kvočka* TJ, para. 252; *Nahimana et al.* AJ, para. 480.

<sup>3265</sup> *Milutinović* TJ (Vol. 1), para. 83; *Blaškić* TJ, para. 280.

<sup>3266</sup> *Blaškić* TJ, para. 280. See also, e.g., Rwandan Penal Code, Article 89(1), which treats equally those who by promises, threats, or abuse of power, directly provoke a crime.

<sup>3267</sup> *Blaškić* TJ, para. 337.

<sup>3268</sup> *Milutinović* TJ (Vol. 1), para. 83; *Brdanin* TJ, para. 269; *Kordić and Čerkez* AJ, para. 32.

<sup>3269</sup> *Blaškić* TJ, paras 278, 280; *Kordić and Čerkez* AJ, paras 29, 32; *Kvočka* TJ, para. 252.

<sup>3270</sup> This is also true of a conviction for “planning” as discussed above. See *Orić* TJ, para. 269.

<sup>3271</sup> *Orić* TJ, para. 269.

(lxvii) **Ordering****Actus reus**

1217. “Ordering” entails a person in a position of authority using that position to convince another to commit an offence.”<sup>3272</sup> There must exist either a *de jure* superior-subordinate relationship,<sup>3273</sup> or the Accused must hold a position of a *de facto* nature.<sup>3274</sup> The actual giving of the order may be proved circumstantially, and there is no requirement of direct evidence that the order was given.<sup>3275</sup> Furthermore, an order to commit a crime within the jurisdiction of the Tribunal may be express or implied,<sup>3276</sup> and there is no requirement that the order be in any particular form.<sup>3277</sup> The order at issue need not be given by the Accused directly to the person or persons who perform the *actus reus*,<sup>3278</sup> and a person knowingly relaying illegal orders from superiors to subordinates is also individually responsible for the crime ordered.<sup>3279</sup>

**Mens rea**

1218. The Accused must, at the time of issuing the order, possess all the requirements of the *mens rea* of the ordered offence; however, it is unnecessary to prove that the subordinates who executed the order also had the same *mens rea*.<sup>3280</sup>

<sup>3272</sup> *Milutinović* TJ (Vol. 1), para. 86; *Akayesu* TJ, para. 483; *Blaškić* TJ, paras 278-282; *Galić* TJ, para. 168; *Kordić and Čerkez* AJ, para. 28; *Krstić* TJ, para. 601; *Muhimana*, TJ, para 505; *Rutaganda*, TJ, para. 39; *Stakić* TJ, para. 445.

<sup>3273</sup> *Akayesu* TJ, para. 483; *Kordić and Čerkez* TJ, para. 388; *Kordić and Čerkez* AJ, para. 28; *Krstić* TJ, para. 601. See also *Galić* AJ, para. 176: “The Appeals Chamber recalls that the *actus reus* of ordering has been defined as a person in position of authority instructing another person to commit an offence; a formal superior-subordinate relationship between the accused and the actual physical perpetrator not being required”.

<sup>3274</sup> *Milutinović* TJ (Vol. 1), para. 85 quoting *Semanza* AJ, para. 361; *Kordić and Čerkez* TJ, para. 388: “The Trial Chamber is of the view that no formal superior-subordinate relationship is required for a finding of “ordering” so long as it is demonstrated that the accused possessed the authority to order.” See *Kordić and Čerkez* TJ, fn. 533, citing *Blaškić* TJ, para. 281, *Akayesu* TJ, para. 483: “The Trial Chamber disagrees with the *Blaškić* and *Akayesu* Trial Chambers in this respect.”

<sup>3275</sup> *Law Reports of Trials of War Criminals, Volume XV, London, 1949, p. 65, quoting The Tokyo Judgement, p. 1001; See also, Trial of Brigadeführer Meyer (the Abbaye Ardenne Case) IV Law Reports 97, p. 108: “[I]f you find that the only reasonable inference is that an order that the prisoners be killed was given by the Accused at the time and place alleged, and that the prisoners were killed as a result of that order, you may properly find the accused guilty.” (emphasis added)). See also *Blaškić* TJ, para. 281.*

<sup>3276</sup> *Naletilić and Martinović* TJ, para. 61.

<sup>3277</sup> *Milutinović* TJ (Vol. 1), para. 87; *Akayesu* TJ, para. 483; *Blaškić* TJ, para. 281; *Galić* TJ, para. 168; *Kordić and Čerkez* TJ, para. 388; *Krstić* TJ, para. 601.

<sup>3278</sup> *Milutinović* TJ (Vol. 1), para. 87; *Blaškić* TJ, para. 282; *Kordić and Čerkez* TJ, para. 388; *Naletilić and Martinović* TJ, para. 61.

<sup>3279</sup> *Milutinović* TJ (Vol. 1), para. 87; *Kupreškić* TJ, para. 862; *Kupreškić* AJ, para. 451.

<sup>3280</sup> Kai Ambos, “Article 25: Individual Criminal Responsibility”, in Otto Triffterer, ed., *Commentary on the Rome Statute of the International Criminal Court: Observers' Notes, Article by Article* (1999), p. 480.

(I xviii) **Aiding and abetting**

1219. Aiding and abetting is a form of accomplice liability, and applies to all contributions to the criminal event that are not captured by “planning, instigating, ordering or committing.”<sup>3281</sup>

**Actus reus**

1220. Aiding and abetting requires that the *actus reus* of the crime has been performed by a person or persons other than the Accused.<sup>3282</sup> Aiding or abetting comprises any conduct, including mere presence at the scene of a crime, which has an encouraging effect on the perpetrators,<sup>3283</sup> or gives them moral support<sup>3284</sup> or psychological support,<sup>3285</sup> or has “a significant legitimising or encouraging effect on the principals.”<sup>3286</sup> The *actus reus* of aiding and abetting may occur before, during or after the principal crime.<sup>3287</sup>

1221. The conduct of the Accused need not be a *conditio sine qua non* of the crime’s occurrence; rather, the conduct must have a “direct and substantial effect on the commission of the offence.”<sup>3288</sup> If the principal perpetrator is an “*omnimodo facturus*” meaning that he has definitely decided to commit the crime, further encouragement or moral support may still qualify as aiding and abetting.<sup>3289</sup>

**Mens rea**

1222. There is no requirement that the Accused share the *mens rea* of the perpetrator(s);<sup>3290</sup> it is sufficient that he has knowledge that his actions will assist the

<sup>3281</sup> Examples of behaviour constituting aiding and/or abetting include supplying the Accused with the weapon or other instruments used in the commission of the crime (*Tadić* TJ, paras 680, 684), keeping watch while the perpetrators commit the crime (*Čelebići* TJ, para. 842); driving the perpetrators to the scene of the crime (*Furundžija* TJ, paras 200-303); failing to prevent others from perpetrating crimes upon the victim, in circumstances where the Accused is under a legal obligation to protect a victim (*Tadić* TJ, para. 686), instructing subordinates to hide corpses in remote areas and/or attempting to disguise crimes committed as lawful actions (*See Fletcher, Rethinking Criminal Law*, pp.645 *et seq.*). *See also Orić* TJ, para. 284: The aiding and abetting contribution must further, or at least facilitate, the commission of the crime.

<sup>3282</sup> *See Orić* TJ, para. 288: The aider and abettor must at least be aware of the type and the essential element(s) of the crime to be committed.

<sup>3283</sup> *Milutinović* TJ (Vol. 1), para. 89-90; *Tadić* TJ, paras 689-692; *see also* paras 678-687.

<sup>3284</sup> *Milutinović* TJ (Vol. 1), para. 89; *Akayesu* TJ, paras 546-548; *Furundžija* TJ, paras 232-235.

<sup>3285</sup> *Čelebići* TJ, paras 327-328.

<sup>3286</sup> *Furundžija* TJ, paras 205-209, 232-235; *see also Boškoski* TJ: Such encouragement may consist of a tacit approval of a person in a position of authority and physically present at the crime scene, even where he had no duty to act.

<sup>3287</sup> *Milutinović* TJ (Vol. 1), para. 91; *Mrkšić* AJ, para. 81; *Aleksovski* AJ, paras 62,164; *Blagojević* AJ, para. 127; *Blaškić* AJ, para. 48; *Čelebići* TJ, paras 327-328; *Nahimana et al.* AJ, para. 482; *Simić* AJ, para. 85; *Tadić* TJ, para. 687: The relevant act of assistance may be removed both in time and place from the actual commission of the offence.

<sup>3288</sup> *Blaškić* AJ, para. 46; *Čelebići* TJ, para. 326 (footnotes omitted); *Tadić* TJ, paras 689-692.

<sup>3289</sup> *Orić* TJ, para. 271.

<sup>3290</sup> *Milutinović* TJ (Vol. 1), para. 94; *Blagojević* AJ, para. 127; *Krnjelac* AJ, paras 51, 52; *Krstić* AJ, para. 140; *Ntakirutimana* TJ, paras 500, 501; *Seromba* AJ, para. 65; *Simić* AJ, para. 86.

perpetrator(s) in the commission of a crime.<sup>3291</sup> In cases of special intent crimes, such as persecutions, the Accused aider or abettor must also be aware that the crimes being assisted or supported are committed with a discriminatory intent. The aider or abettor does not need to *share* the discriminatory intent, but must be *aware* of the broader discriminatory context.<sup>3292</sup> It is not necessary that the aider and abettor “know the precise crime that was intended or which was actually committed,”<sup>3293</sup> but the aider and abettor must be “aware of the essential elements of the crime which was ultimately committed by the principal.”<sup>3294</sup>

**(H) COMMISSION BY OMISSION – THE DUTY TO PROTECT**

**(Ixi) The duty to ensure humane treatment**

1223. All agents of a Detaining Power having custody of prisoners have a duty to ensure their humane treatment.<sup>3295</sup> In the present case, the Detaining Power was the RS.

1224. Prisoners must be treated humanely, must be protected from harm, and certainly must be protected from murder.<sup>3296</sup> This fundamental duty is part of customary international law, and the Tribunal has held that breaches of this duty are crimes.<sup>3297</sup> Applying the duty to the present case, the Tribunal has further held: 1) this duty applies to both civilian and military prisoners,<sup>3298</sup> and 2) this duty applies during international and non-international armed conflicts alike.<sup>3299</sup> In the present case, this duty also applies as a matter of treaty law. The parties to the conflict agreed to be bound by treaties governing international armed conflicts,<sup>3300</sup> thereby making those treaties’ provisions regarding

<sup>3291</sup> *Milutinović* TJ (Vol. 1), para. 94; *Mrkšić* AJ, para. 159; *Blaskić* AJ, para. 49; *Čelebići* TJ, paras 327-328; *Furundžija* TJ, para. 245; *Kunarac* TJ, para. 392.

<sup>3292</sup> *Milutinović* TJ (Vol. 1), para. 94; *Kvočka* TJ, para. 262 (emphasis added). *See also*, para. 288: That also applies to aiders and abettors to a Joint Criminal Enterprise.

<sup>3293</sup> *Milutinović* TJ (Vol. 1), para. 94; *Mrkšić* AJ, para. 159; *Kvočka* TJ, para. 255. *See also* *Blaškić* AJ, para. 50, *citing* *Furudžija* TJ, para. 246: “If he is aware that one of a number of crimes will probably be committed, and one of those crimes is in fact committed, he has intended to assist or facilitate the commission of that crime and is guilty as an aider and abettor.”

<sup>3294</sup> *Milutinović* TJ (Vol. 1), para. 94; *Aleksovski* AJ, para.162; *Ndindabahizi* AJ, para. 122: referring to aiding and abetting a crime with awareness that a crime will probably be committed. *See also* *Simić* AJ, para. 86.

<sup>3295</sup> *See* *Mrkšić* AJ, para.73.

<sup>3296</sup> *See* *Mrkšić* AJ, paras.70-71.

<sup>3297</sup> *See* *Mrkšić* AJ, para.71, *Blaškić* AJ, para.663; *Orić* TJ, paras.304-305. *See also* *Kvočka* AJ, para.270; *Krnjelac* TJ, para.316.

<sup>3298</sup> *Mrkšić* AJ, para.71 (military prisoners); *Blaškić* AJ, paras.649, 659, 663, 668 (civilian prisoners). *See also* Geneva Convention III, art.13 (military); Geneva Convention IV, arts.27, 32 (civilian).

<sup>3299</sup> *See* *Mrkšić* AJ, para.70. *See also* Geneva Conventions, Common Article 3; Additional Protocol II, arts.4(1), 4(2)(a), 5(2)(e).

<sup>3300</sup> *See* Exh.P00003, p.1.

treatment of prisoners binding.<sup>3301</sup> Further, Bosnia and Herzegovina succeeded to the Geneva Conventions and Additional Protocols in 1992, following earlier ratification by Yugoslavia.<sup>3302</sup>

1225. The Appeals Chamber has made clear that not only states but individuals too have the duty to protect detainees.<sup>3303</sup> As case-law from the Tribunal and World War II demonstrates, such individuals include those who:

- have direct custody over the prisoners;<sup>3304</sup> or
- supervise the persons with control over the prisoners;<sup>3305</sup>

1226. If the guards were subordinates of the agent of the Detaining Power, case-law makes clear that superiors may incur criminal responsibility under Article 7(1) for their subordinates' failure to protect prisoners from harm.<sup>3306</sup> If instead the guards were not under the agent of the Detaining Power's direct authority, the agent had the duty to ensure that whoever received the prisoners from him would safeguard their welfare following the transfer.<sup>3307</sup>

1227. There is no requirement to prove that the agent of the Detaining Power was aware of the duty to protect prisoners.<sup>3308</sup> However, it is noted that SFRY regulations which were applicable to the armed forces of the RS required the humane treatment of both prisoners of war and detained civilians.<sup>3309</sup>

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<sup>3301</sup> Geneva Convention III, art.2; Geneva Convention IV, art.2; Protocol I, art.1(3). *See Mrkšić* AJ, para.69. *But see also Galić* AJ, para.85 (noting that in practice the Tribunal applies treaty provisions only when they are declaratory of customary international law).

<sup>3302</sup> *Delalić* AJ, para.110-111; *Kunarac* TJ, para.408, fn.1073.

<sup>3303</sup> *See Mrkšić* AJ, para.72.

<sup>3304</sup> *See Mrkšić* AJ, para.73 (noting example of prisoner of war who surrenders to state agent); *Orić* TJ, para.304, fn.860, para.490.

<sup>3305</sup> *Blaškić* AJ, para.663.

<sup>3306</sup> *See Blaškić* AJ, para.663; *Krnjelac* TJ, para.316.

<sup>3307</sup> *Mrkšić* AJ, para.71. In support of this principle, the Appeals Chamber cited Articles 12 and 46 of Geneva Convention III, which apply to transfers of prisoners of war. *Id.* A similar duty exists for transfers of civilian prisoners. *See* Geneva Convention IV, arts.45, 127. *See also* Commentaries to Geneva Convention IV, p.498.

<sup>3308</sup> *See Orić* TJ, para.226, fn.609 ("in principle knowledge of rules of customary international law is *not* a prerequisite for criminal responsibility") (emphasis in original).

<sup>3309</sup> *See* Exh.P00409, art.210 ("Prisoners of war shall be treated humanely. In particular, they must be protected against violence, insults and intimidation."); art.253 ("[Civilians in the hands of a party to a conflict] must be accorded humane treatment at all times. Violence and intimidation of any kind are in particular prohibited.").

**An agent of the Detaining Power must have the ability to act**

1228. An agent should, if possible, order the perpetrators to stop their crimes. Even if there is a question as to the extent of his authority over the perpetrators, he is required to go beyond the scope of his *de jure* authority to try to prevent the crimes.<sup>3310</sup>

1229. Apart from dealing directly with the perpetrators, an agent may be required to report to his chain of command so that a higher authority can address the crimes.<sup>3311</sup> The agent may also need to intervene with the perpetrators' superiors, to urge them to prevent the crimes.<sup>3312</sup>

1230. Finally, as the Appeals Chamber has noted, there are situations where an officer may be obligated to use force to prevent the commission of war crimes.<sup>3313</sup>

**The agent of the Detaining Power must intentionally fail to act**

1231. The agent must fail to act, with the requisite intent.<sup>3314</sup> The intent required depends on the mode of liability for which the Accused is charged, e.g., commission, aiding and abetting, etc.

**The agent's failure to act must have a causal connection with the crimes**

1232. The failure to act must be sufficiently connected to the resulting crime.<sup>3315</sup> The level of causation depends on the form of responsibility, for example, with aiding and abetting and JCE, the omission must substantially contribute to the crime.

**(lxx) Causal requirements for omission liability for specific modes of responsibility.**

**Commission.**

1233. Commission requires that the accused participated physically or otherwise directly in the material elements of each of these crimes.<sup>3316</sup> Other acts including omission can amount to commission if they are "as much an integral part" of the crimes as the physical acts.<sup>3317</sup> The ICTR Appeals Chamber has specifically applied this principle to genocide and extermination.<sup>3318</sup>

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<sup>3310</sup> Mrkšić AJ, para.94.

<sup>3311</sup> See Mrkšić AJ, para.98.

<sup>3312</sup> See Mrkšić AJ, para.98.

<sup>3313</sup> See Hadžihasanović AJ, para.228.

<sup>3314</sup> Brdanin AJ, para. 274, fn. 557; Mpambara TJ, para.27.

<sup>3315</sup> Brdanin AJ, para. 274, fn. 557; Mpambara TJ, para.27.

<sup>3316</sup> Limaj TJ, para.509.

<sup>3317</sup> Gacumbitsi AJ, para.60.

<sup>3318</sup> Seromba AJ, paras.164-167, 171, 190.

**JCE**

1234. For an accused to be liable through participation in a JCE, his failure to act regarding must have been a significant contribution to the crimes.<sup>3319</sup>

**Aiding and abetting**

1235. For an accused to be liable through aiding and abetting, his failure to act must have substantially contributed to the crimes.<sup>3320</sup> For example, in the *Mrkšić* case, Veselin Šljivančanin failed to countermand an illegal order that left prisoners of war at Ovčara without protection.<sup>3321</sup> Šljivančanin also did not report to his chain of command that the prisoners would probably be murdered, and he did not try to have the illegal order rescinded.<sup>3322</sup> The Appeals Chamber held these omissions had a substantial effect on the prisoners' murders.<sup>3323</sup>

**Instigation**

1236. Instigating requires that the accused prompt another to act in a particular way.<sup>3324</sup> For an accused to be liable through instigation, his failure to act must have substantially contributed to the conduct of the persons committing the crimes.<sup>3325</sup> A failure to act amounts to instigation when such omission creates an environment permissive of criminal behaviour.<sup>3326</sup>

**(lxxi) Source of the duty to protect.**

1237. The duty to protect prisoners is part of customary international law. Sources of this duty include:

- a) Article 13<sup>3327</sup> of Geneva Convention III (applicable to military prisoners);
- b) Articles 27<sup>3328</sup> and 32<sup>3329</sup> of Geneva Convention IV (applicable to civilian prisoners);

<sup>3319</sup> *Milutinović* TJ, Vol.I, para.103.

<sup>3320</sup> *See Mrkšić* AJ, para.100.

<sup>3321</sup> *Mrkšić* AJ, paras.93-96.

<sup>3322</sup> *Mrkšić* AJ, para.98.

<sup>3323</sup> *Mrkšić* AJ, paras.97, 100.

<sup>3324</sup> *Kordić* AJ, para.27; *Milutinović* TJ, Vol.I, para.83.

<sup>3325</sup> *Kordić* AJ, para.27; *Milutinović* TJ, Vol.I, para.83.

<sup>3326</sup> *Galić* TJ, para.168; *Blaškić* TJ, para.337.

<sup>3327</sup> "Prisoners of war must at all times be humanely treated. Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited, and will be regarded as a serious breach of the present Convention. [...] Likewise, prisoners of war must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity."



- c) Common Article 3(1)(a)<sup>3330</sup> of the Geneva Conventions (applicable to both);
- d) Articles 75(1)<sup>3331</sup> and 75(2)(a)<sup>3332</sup> of Additional Protocol I (applicable to both); and
- e) Articles 4(1),<sup>3333</sup> 4(2)(a),<sup>3334</sup> and 5(2)(e)<sup>3335</sup> of Additional Protocol II (applicable to both).

**(I) INDIVIDUAL CRIMINAL RESPONSIBILITY UNDER ARTICLE 7(3)**

1238. For all counts in the Indictment, Ljubomir **BOROVČANIN** and Vinko **PANDUREVIĆ** are charged with criminal responsibility as superiors under Article 7(3) of the Statute (“superior responsibility”).

1239. The essential elements for superior responsibility are:<sup>3336</sup>

- a) the existence of a superior-subordinate relationship between the Accused and the perpetrator of the offence;
- b) the Accused knew or had reason to know that the perpetrator was about to commit the offence or had done so; and

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<sup>3328</sup> “Protected persons [...] shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity.”

<sup>3329</sup> “The High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands. This prohibition applies not only to murder, torture, corporal punishment, mutilation and medical or scientific experiments not necessitated by the medical treatment of a protected person, but also to any other measures of brutality whether applied by civilian or military agents.”

<sup>3330</sup> “Persons taking no active part in the hostilities, including members of armed forces [...] placed *‘hors de combat’* by [...] detention, [...] shall in all circumstances be treated humanely [...]. To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons: violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture.”

<sup>3331</sup> “[P]ersons who are in the power of a Party to the conflict and who do not benefit from more favourable treatment under the Conventions or under this Protocol shall be treated humanely in all circumstances [...].”

<sup>3332</sup> “The following acts are and shall remain prohibited at any time and in any place whatsoever, whether committed by civilian or by military agents: violence to the life, health, or physical or mental well-being of persons, in particular: murder; torture of all kinds, whether physical or mental [...].”

<sup>3333</sup> “All persons who do not take a direct part or who have ceased to take part in hostilities, whether or not their liberty has been restricted, [...] shall in all circumstances be treated humanely, without any adverse distinction.”

<sup>3334</sup> “[T]he following acts against the persons referred to in paragraph 1 are and shall remain prohibited at any time and in any place whatsoever: violence to the life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture [...].”

<sup>3335</sup> “[The] physical or mental health and integrity [of persons deprived of their liberty for reasons related to the armed conflict] shall not be endangered by any unjustified act or omission.”

<sup>3336</sup> *Milutinović* TJ (Vol. 1), para. 115; *Aleksovski* AJ, paras 71-72; *Blaškić* TJ, para. 294; *Blaškić* AJ, para. 484; *Delalić et al.* TJ, 16 November 1998, (*hereafter* “*Čelebići* TJ”) para. 346; *Delalić et al.* AJ, 20 February 2001, (*hereafter* “*Čelebići* AJ”) paras 192-198, 225-226, 238-239, 256, 266-267; *Kordić* TJ, para. 401; *Krstić* TJ, para. 604; *Krnjelac* TJ, para. 92; *Kunarac* TJ, para. 395; *Kvočka* TJ, para. 314; *Orić* AJ, para. 18.

- c) the Accused failed to take the necessary and reasonable measures to prevent the offence or to punish the perpetrator.

1240. Applicable in both international and internal armed conflicts,<sup>3337</sup> the scope of superior responsibility under Article 7(3) of the Statute extends beyond traditional “command responsibility” to both military and civilian superiors who possess authority<sup>3338</sup> over the perpetrators of the crime.

**(Ixxii) Superior-subordinate relationship**

1241. A “superior-subordinate” relationship exists between the superior and the subordinate where the superior “possesses the power or authority in either a *de jure* or *de facto* form to prevent [the subordinate’s] crime or to punish the perpetrators of the crime after the crime is committed.”<sup>3339</sup>

1242. The minimum requirement for recognition of the superior-subordinate relationship is the superior’s ability to exercise “effective control”<sup>3340</sup> over the subordinates, meaning “the material ability to prevent or punish”<sup>3341</sup> the commission of the subordinates’ offences.

1243. A superior-subordinate relationship is most obviously characterised by the hierarchical relationship that exists in a military structure on all levels,<sup>3342</sup> but it does not

<sup>3337</sup> *Milutinović* TJ (Vol. 1), para. 113; *Prosecutor v. Hadžihasanović and Kubura*, Case No. IT-01-47-AR72, Appeals Chamber Decision on Interlocutory Appeal Challenging Jurisdiction in Relation to Command Responsibility, 23 July 2003, paras 10-36, 57.

<sup>3338</sup> *Aleksovski* TJ, paras 75, 103; *Aleksovski* AJ, paras 70, 76; *Blaškić* TJ, paras 300-301; *Čelebići* TJ, paras 356-363, 378 (effective control); *Čelebići* AJ, para. 196; *Kordić* TJ, para. 416; *Orić* TJ, para. 308; *Stakić* TJ, para. 459.

<sup>3339</sup> *Milutinović* TJ (Vol. 1), para. 117; *Kajelijeli* AJ, para. 85; *Čelebići* AJ, paras 191-192. *See also* 1977 Additional Protocol I, Article 87; *Blaškić* TJ, paras 300-301: “formal designation as a commander should not be considered to be a necessary prerequisite for command responsibility to attach, as such responsibility may be imposed by virtue of a person’s *de facto*, as well as *de jure*, position as a commander.” *See also* *Čelebići* AJ, paras 188, 197, *quoting* *Čelebići* TJ, para. 370.

<sup>3340</sup> *Milutinović* TJ (Vol. 1), para. 117; *Bagilishema* AJ, para. 56; *Čelebići* AJ, paras 196-198; *Orić* AJ, para. 18.

<sup>3341</sup> *Blaškić* AJ, para. 69; *Čelebići* TJ, paras 377-378; *Čelebići* AJ, paras 196, 256. In relation to the interpretation of “material ability” *see* *Čelebići* Judgement, para. 395: “a superior may only be held criminally responsible for failing to take such measures that are *within his powers*” (emphasis added). Likewise, Article 86(2) of Additional Protocol I refers to superiors and “feasible measures *within their power* to prevent or repress” (emphasis added).

<sup>3342</sup> *See* ICRC Commentary on Article 87 of Additional Protocol I, para. 3553: “There is no member of the armed forces exercising command who is not obliged to ensure the proper application of the [Geneva] Conventions and the [Additional] Protocol. As there is no part of the army which is not subordinated to a military commander at whatever level, this responsibility applies from the highest to the lowest level of the hierarchy, from the Commander-in-Chief down to the common soldier who takes over as head of the platoon to which he belongs at the moment his commanding officer has fallen and is no longer capable of fulfilling his task.”

require direct or formal subordination,<sup>3343</sup> nor is it limited to military commanders, but also encompasses political leaders and other civilian superiors in positions of authority.<sup>3344</sup>

1244. The term “superior” is not limited to commanders who are directly superior to the perpetrators within the regular chain of command. Rather, a “superior” is defined to be any person who exercises effective control over subordinates.<sup>3345</sup>

1245. Furthermore, there is no requirement that the relationship between the superior and subordinate be direct, immediate or permanent in nature;<sup>3346</sup> superior responsibility can be triggered in cases of temporary command or re-subordination of troops.<sup>3347</sup>

1246. A finding of effective control by a superior over *de facto* subordinates is more a matter of evidence than of substantive law.<sup>3348</sup> Relevant factors may include:

- a) the capacity to issue or sign orders, whether *de jure* or *de facto*;<sup>3349</sup>
- b) the substance of orders;<sup>3350</sup>
- c) whether orders were acted upon;<sup>3351</sup>
- d) formal procedures for appointment to office;<sup>3352</sup>
- e) the position of the Accused in the overall institutional, political and military organisation;<sup>3353</sup>

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<sup>3343</sup> Čelebići AJ, para. 303.

<sup>3344</sup> Aleksovski TJ, para. 75; Kayishema and Ruzindana TJ, paras 213-216: The principle of superior responsibility applies not only to military commanders, but also encompasses political leaders and other civilian superiors in positions of authority. The crucial question is not the civilian status of the accused, but of the degree of authority he or she exercised over his or her subordinates.

<sup>3345</sup> Blaškić TJ, paras 300-301.

<sup>3346</sup> Strugar TJ, paras 362-366. See also Čelebići AJ, para. 254, quoting Čelebići TJ para. 354: The relationship of subordination may be direct, or may be indirect “in situations where previously existing formal structures have broken down and where, during an interim period, the new, possibly improvised, control and command structures may be ambiguous and ill-defined.”

<sup>3347</sup> Strugar TJ, para. 362, fn. 1072, relying on ICRC Commentary on Article 87 of Additional Protocol I, p. 1019, para. 3554: “A commander may, for a particular operation and for a limited period of time, be supplied with reinforcements consisting of troops who are not normally under his command. He must ensure that these members of the armed forces comply with the Conventions and the Protocol as long as they remain under his command.” See also Blaškić AJ, paras 498-499; Kunarac TJ, para. 399, however, note that the Trial Chamber found that in this case, the Prosecutor failed to prove that Kunarac exercised effective control over the soldiers (which were under his command on a temporary *ad hoc* basis) at the time they committed the offences (Kunarac TJ, para. 628).

<sup>3348</sup> Blaškić AJ, para. 69, citing Aleksovski AJ, paras 73-74; Čelebići AJ, para. 206.

<sup>3349</sup> Bošković TJ, para. 411; Kordić TJ, para. 421; Kunarac TJ, para. 397; Mrkšić TJ, para. 561. See also Halilović AJ, para. 204; Strugar AJ para. 253: While the authority to issue orders does not automatically establish that a superior had effective control over his subordinates, it is one of the indicators to be taken into account when establishing effective control.

<sup>3350</sup> Kordić TJ, para. 421.

<sup>3351</sup> Kordić TJ, para. 421.

<sup>3352</sup> Kordić TJ, para. 422.

<sup>3353</sup> Kordić TJ, para. 423.

- f) the participation of the Accused in negotiations regarding the troops in question;<sup>3354</sup>
- g) the availability of material and human resources;<sup>3355</sup>
- h) the actual tasks performed;<sup>3356</sup>
- i) evidence that the accused has a high public profile;<sup>3357</sup>
- j) the Accused's overall behaviour towards subordinates and his duties;<sup>3358</sup>
- k) the capacity to intimidate subordinates into compliance;<sup>3359</sup>
- l) the Accused's use of his extant authority to prevent crimes and mistreatment;<sup>3360</sup>
- m) the ability to initiate criminal investigation against subordinates;<sup>3361</sup>
- n) the exercise of powers generally attached to a military command;<sup>3362</sup>
- o) the submitting of reports to competent authorities in order for proper measures to be taken;<sup>3363</sup> and
- p) sanctioning power.<sup>3364</sup>

**(lxxiii) Knowledge**

1247. To be held responsible under Article 7(3), it must be proved that a superior “knew or had reason to know that a subordinate was about to commit a prohibited act or had done so. This requirement is satisfied if information was available to the superior which would have put him on notice – whether actual<sup>3365</sup> or inquiry<sup>3366</sup> notice – of offences by subordinates.”<sup>3367</sup>

<sup>3354</sup> *Hadžihasanović* TJ, para. 83; *Strugar* TJ, para. 398.

<sup>3355</sup> *Delić* TJ, para. 62.

<sup>3356</sup> *Kordić* TJ, para. 424.

<sup>3357</sup> *Kordić* TJ, para. 424.

<sup>3358</sup> *Kordić* TJ, para. 424.

<sup>3359</sup> *Delić* TJ, para. 62.

<sup>3360</sup> *Čelebići* AJ, para. 206.

<sup>3361</sup> *Halilović* AJ, para. 182.

<sup>3362</sup> *Kunarac* TJ, para. 397.

<sup>3363</sup> *Blaškić* TJ, para. 302.

<sup>3364</sup> *Aleksovski* TJ, para. 78.

<sup>3365</sup> See *Kordić* TJ, paras 427-428; *Čelebići* TJ, paras 383, 386: Actual knowledge is “defined as the awareness that the relevant crimes were committed or were about to be committed.” See also *Kordić* TJ, paras 427, 428: Actual knowledge can be established through either direct or circumstantial evidence.

<sup>3366</sup> *Čelebići* AJ, para. 222.

<sup>3367</sup> *Čelebići* AJ, paras 238, 241 provide in part: “a superior will be criminally responsible through the principles of superior responsibility only if *information was available to him* which would have put him on notice of offences committed by subordinates” (emphasis added). See also *Čelebići* TJ, para. 383.

### **Actual notice**

1248. Actual knowledge may be established through direct or circumstantial evidence.<sup>3368</sup> In determining whether a superior had actual knowledge of the acts of his subordinates, the Chamber may consider factors<sup>3369</sup> such as:

- a) the number, type and scope of the illegal acts;
- b) the time during which the acts occurred;
- c) the number and type of troops involved; the logistics involved, if any;
- d) the geographical location of the acts;
- e) the widespread occurrence of the acts;
- f) the speed of the operations;
- g) the *modus operandi* of similar illegal acts; the officers and staff involved;
- h) the location of the commander at the time.<sup>3370</sup>

1249. An individual's command position *per se* is a significant *indicium* that he knew about the crimes committed by his subordinates.<sup>3371</sup>

### **Inquiry notice**

1250. The *Strugar* Appeals Chamber confirmed that under the correct legal standard, sufficiently alarming information putting a superior on notice of the risk that crimes might subsequently be carried out by his subordinates and justifying further inquiry is sufficient to hold a superior liable under Article 7(3) of the Statute.<sup>3372</sup> This information does not need to provide specific information about the unlawful acts committed or about to be committed.<sup>3373</sup> It is not required that the evidence compel the conclusion of such crimes, only that the information would lead to further investigation.<sup>3374</sup>

<sup>3368</sup> *Hadžihasanović* TJ, para. 94, citing *Brdanin* TJ, para. 278; *Čelebići* TJ, para. 386; *Kordić* TJ, para. 427; *Krnjelac* TJ, para. 94; *Strugar* TJ, para. 368.

<sup>3369</sup> Final report of the Commission of Experts established pursuant to Security Council resolution 780 (1992), UN. Doc. S/1994/674 (27 May 1994).

<sup>3370</sup> *Blaškić* TJ, para. 307; *Čelebići* TJ, para. 386; *Kordić* TJ, para. 427. See also *Hadžihasanović* TJ, para. 94: "the proximity of the scene of the crime to a commander's headquarters cannot be the determining factor in establishing a superior's command responsibility". See also *Kordić* TJ, para. 428: the nature and scope of the particular position held by the superior is particularly relevant. For instance, the actual knowledge of a military commander may be easier to prove considering the fact that he will presumably be part of an organised structure with an established reporting and monitoring system.

<sup>3371</sup> *Aleksovski* TJ, para. 80; *Blaškić* TJ, para. 308.

<sup>3372</sup> *Strugar* TJ, para. 304.

<sup>3373</sup> See also *Krnjelac* AJ, paras 154-155.

<sup>3374</sup> *Čelebići* AJ, para. 383; *Hadžihasanović* AJ, para. 27. See also *Strugar* AJ, para 304: "[U]nder the correct legal standard, sufficiently alarming information putting a superior on notice of the risk that crimes might subsequently be carried out by his subordinates and justifying further inquiry is sufficient to hold a superior liable under Article 7(3) of the Statute." See also *Krnjelac* TJ, para. 94; *Kvočka* TJ, para. 317.

1251. The general information putting a superior on notice “needs only to have been provided or available to the superior, or [...] ‘in the possession of.’”<sup>3375</sup> “It is not required that he actually acquainted himself with the information.”<sup>3376</sup> Accordingly, a superior is criminally responsible if he deliberately ignores available information that would put him on notice.<sup>3377</sup>

**(lxxiv) Necessary and reasonable measures**

1252. The final requirement under Article 7(3) is that the superior failed to take “necessary and reasonable measures” to satisfy his obligation to prevent offences or punish the perpetrators.<sup>3378</sup>

1253. The Chambers defined “necessary” measures as “measures appropriate for the superior to discharge his obligation (showing that he genuinely tried to prevent or punish)”,<sup>3379</sup> while “reasonable” measures are understood as “those reasonably falling within the material power of the superior.”<sup>3380</sup> The adequacy of these measures is commensurate with the material ability of a superior to prevent or punish.<sup>3381</sup>

1254. Whether the Accused’s effort to prevent or punish the crimes committed by subordinates rises to the level of “necessary and reasonable measures” is for the Trial Chamber to evaluate under the facts of the particular case.<sup>3382</sup>

1255. The Trial Chamber should consider the Accused’s “actual ability or effective capacity” to take action, rather than his legal or formal authority.<sup>3383</sup> “A superior is not

<sup>3375</sup> *Čelebići* AJ, para. 239. See also *Krnjelac* TJ, para. 94: “in his possession”. See also *Kvočka* TJ, para. 318: “information was available”.

<sup>3376</sup> *Čelebići* AJ, para. 239.

<sup>3377</sup> *Čelebići* AJ, para. 238: the information “does not need to provide specific information about unlawful acts committed or about to be committed.” It “may be written or oral and does not need to have the form of specific reports submitted pursuant to a monitoring system”. See also *Čelebići* AJ, para. 238 (quoting the ICRC Commentary (Additional Protocol I), para. 3545); *Kordić* TJ, para. 437: the type of information available to the superior which can provide the requisite notice includes, for example, reports addressed to the superior, the tactical situation, and the training, instruction and character traits of subordinate officers and troops. See also *Kvočka* TJ, para. 318: “past behaviour of subordinates or a history of mistreatment.”

<sup>3378</sup> *Čelebići* TJ, para. 394; *Krnjelac* TJ, para. 95.

<sup>3379</sup> *Halilović* AJ, para. 63; *Orić* AJ, para. 177.

<sup>3380</sup> *Halilović* AJ, para. 63; *Orić* AJ, para. 177.

<sup>3381</sup> *Blaškić* TJ, para. 335; *Čelebići* TJ, para. 395. See also *Hadžihasanović* AJ, para. 33: the nature of measures, whether disciplinary, criminal or a combination of both, would not be a determinative factor of whether a superior failed to ‘prevent or punish’ perpetrators.

<sup>3382</sup> *Čelebići* TJ, para. 394; *Kvočka* TJ, para. 316. See also *Strugar* TJ para. 378 in relation to the non-exhaustive list of factors that should be considered by the Chamber in its assessment of ‘necessary and reasonable’ measures: “whether specific orders prohibiting or stopping the criminal activities were issued; what measures to secure the implementation of these orders were taken; what other measures were taken to secure that the unlawful acts were interrupted and whether these measures reasonably sufficient in the specific circumstances; and, after the commission of the crime, what steps were taken to secure an adequate investigation and to bring the perpetrators to justice.” See also *Delić* TJ, para. 76; *Hadžihasanović* AJ, para. 153; *Halilović* TJ, para. 74.

obliged to perform the impossible [;] [h]owever, the superior has a duty to exercise the powers he has within the confines of those limitations.”<sup>3384</sup>

### **Duty to Prevent**

1256. The duty to prevent rests upon the superior “from the moment he acquires knowledge or has reasonable grounds to suspect that a crime is being or is about to be committed.”<sup>3385</sup> The superior must undertake all measures which are necessary and reasonable to prevent subordinates from planning, preparing or executing the crimes.<sup>3386</sup>

### **Duty to Punish**

1257. Additionally, a superior has to take all measures that are necessary and reasonable in order to ensure that crimes of subordinates are punished. The duty to punish “arises after the commission of the crime.”<sup>3387</sup> In situations where a superior has an information that “give rise to a clear prospect that his forces were about to commit an offence” a superior “must at least investigate, i.e. take steps *inter alia* to determine whether in truth offences are about to be committed.”<sup>3388</sup>

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<sup>3383</sup> Kordić TJ, para. 443. See also Blaškić TJ, para. 335; Blaškić AJ, para. 72; Čelebići TJ, para. 395.

<sup>3384</sup> Krnojelac TJ, para. 95.

<sup>3385</sup> Strugar TJ, para. 373. See also Delić TJ, para. 72; Hadžihasanović TJ, paras 125-126; Halilović TJ, paras 79-80. See also Strugar TJ, para. 374: “the superior’s failure to secure reports that military actions have been carried out in accordance with international law; the failure to issue orders aiming at bringing the relevant practices into accord with the rules of war; the failure to take disciplinary measures to prevent the commission of atrocities by the troops under their command; the failure to protest against or to criticise criminal action; and the failure to insist before a superior authority that immediate action be taken.”

<sup>3386</sup> Orić TJ, para. 565. See also Orić TJ, para. 331, citing Strugar TJ, paras 374, 378, Hostages case, 11 TWC 759, p. 1311; Hadžihasanović TJ, para. 153; Halilović TJ, para. 74: beyond issuing routine instructions to observe the law, “a superior may have to give special orders aimed at bringing unlawful practices of subordinates in compliance with the rules of war and to secure the implementation of these orders.” See also Bagilishema TJ, para. 265. See also Orić TJ, para. 331, citing Blaškić TJ, paras 329, 335; Hadžihasanović TJ, para.154; Halilović TJ, paras 89, 90; Strugar TJ, paras 374, 416; High Command case, 11 TWC 1, p. 623); Tokyo Judgement I, pp. 448, 452: a superior may further be required to “investigate whether crimes are about to be committed, to protest against or criticise criminal action, to take disciplinary measures against the commission of atrocities, or to report to and/or to insist before a superior authority that immediate action be taken.” See also Orić TJ, para. 331: “such measures may be required of a superior even if he or she lacks the formal capacity or legal competence to perform them in person.” See also Orić TJ, para. 331, citing Aleksovski TJ, para. 117; Čelebići TJ, paras 387, 772, 774; Halilović TJ, para. 90; Ntagerura TJ, paras 654-657; Strugar TJ, para. 416: “an obvious case of failure would be if a superior, despite awareness of the criminal activities of his or her subordinates, did nothing, for instance by simply ignoring such information.”

<sup>3387</sup> Strugar TJ, para. 373, citing Blaškić AJ, para. 83; Hadžihasanović TJ, paras 125-126; Halilović TJ, paras 91-96; Kordić TJ, paras 445-446. See also Strugar TJ, para. 376: relevant factors in determining whether a superior has fulfilled his or her duty to punish may include “whether the superior has called for a report on the incident and the thoroughness of the investigation.” See also Halilović TJ, para. 99, quoting ICRC Commentary to the Additional Protocols, p. 1023, para. 3562: additional factors may include “drawing up a report in the case of a breach, [...] proposing a sanction to a superior as disciplinary power, or – in the case of someone who holds such power himself – exercising it, within the limits of his competence, and finally, remitting the case to the judicial authority where necessary with such factual evidence which is possible to find.”

<sup>3388</sup> Strugar TJ, para. 416. See also Orić TJ, para. 336, citing Brdanin TJ, para. 279; Kordić TJ, para. 446; Halilović TJ, paras 74, 97-98, 100; Ntagerura TJ, para. 650; Strugar TJ, para. 378: for example, the

1258. The obligation to prevent “or” to punish “does not provide the Accused with two alternative and equally satisfying options.”<sup>3389</sup> If the Accused failed to prevent crimes he knew or had reason to know were about to happen, “he cannot make up for the failure to act by punishing the subordinates afterwards.”<sup>3390</sup>

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superior must order or execute appropriate sanctions or, if such action would be premature, “must at least conduct an investigation and establish the facts in order to ensure that offenders under his or her effective control are brought to justice.” *See also Orić* TJ, para. 336, *citing Blaškić* TJ, paras 302, 335, 464; *Blaškić* AJ, para. 632; *Brdanin* TJ, para. 279; *Halilović* TJ, paras 97, 100; *Kordić* TJ, para. 446; *Kvočka* TJ, para. 316; *Stakić* TJ, para. 461: the superior is not required to personally conduct the investigation or dispense the punishment, but must at least ensure that the matter is investigated and transmit a report to the competent authorities for further investigation or sanction.

<sup>3389</sup> *Blaškić* TJ, para. 336. *See also Kvočka* TJ, para. 313: the superior’s failure “to halt or suppress crimes;” *see also* paras 314, 315, 396, 409, 465 and 501.

<sup>3390</sup> *Blaškić* TJ, para. 336. *See also Kvočka* TJ, para. 313.



(VI) **INDIVIDUAL CRIMINAL RESPONSIBILITY OF VINKO PANDUREVIĆ UNDER ART. 7(1) AND ART. 7(3) OF THE STATUTE**

(J) **INTRODUCTION**

(lxxv) **Role and responsibilities of Vinko PANDUREVIĆ**

1259. Vinko **PANDUREVIĆ**, son of Jovan, was born on 25 June 1959 in the village of Jasik, BiH.<sup>3391</sup> **PANDUREVIĆ** joined the VRS on 1 June 1992 with the rank of Capt. 1<sup>st</sup> Class and was appointed commander of the Višegrad Brigade that month.<sup>3392</sup> After a brief period as Commander of the Goražde Brigade,<sup>3393</sup> **PANDUREVIĆ** became Commander of the Zvornik Brigade on 18 December 1992.<sup>3394</sup> By July 1995 and at all times relevant to the crimes charged in the Indictment, **PANDUREVIĆ** held the rank of Lt. Colonel and his post was Commander of the Zvornik Brigade.<sup>3395</sup> In this capacity, **PANDUREVIĆ** reported to the Commander of the Drina Corps, Gen. Živanović and his successor, Gen. Krstić.

1260. As the Commander of the Zvornik Brigade, **PANDUREVIĆ** had certain rights and responsibilities towards the units under his command.<sup>3396</sup> As outlined in the 1984 JNA Brigade Rules,<sup>3397</sup> foremost among these rights was the *exclusive* right to command all Zvornik Brigade units and attached units and the corresponding responsibility for the work of the Brigade Command and all subordinate commands:

The Brigade Commander has the exclusive right to command all brigade units and attached units. He bears full responsibility for the work of the brigade command and subordinate commands, for the state of morale, for security and combat readiness, for training, and for the proper performance of tasks. The commander takes decisions, assigns tasks to units, monitors their fulfilment, and demands their strict execution regardless of the difficulties that arise.<sup>3398</sup>

<sup>3391</sup> **PANDUREVIĆ**, T.30662.

<sup>3392</sup> **PANDUREVIĆ**, T.30677:3-5, 30678:23-34. During this period **PANDUREVIĆ** also acted as the Chief of Staff, and then Commander, of the Višegrad Tactical Group.

<sup>3393</sup> See e.g., Exh. P04221, VRS Main Staff Order No. 02/5-213 to prepare and organise military and political seminar on 23 November 1992 in Zvornik, type-signed Lt Col Gen Ratko Mladić, dated 20 November 1992; and Exh. P04222, VRS Main Staff schedule of presentations to the Drina Corps, signed by Gen Ratko Mladić and Gen Manojlo Milovanović, dated 23 November 1992, both of which name **PANDUREVIĆ** as the Commander of the 5<sup>th</sup> Podrinje Light Infantry Brigade.

<sup>3394</sup> **PANDUREVIĆ**, T.30682-30684.

<sup>3395</sup> Exh. P00372.

<sup>3396</sup> For a detailed explanation of **PANDUREVIĆ**'s responsibilities as Brigade Commander, see Exh. P00684, VRS Brigade Command Responsibility Report by Richard Butler.

<sup>3397</sup> These Rules were adopted by the VRS. See e.g., Exh. P00684 at para. 1.7; [REDACTED].

<sup>3398</sup> Exh. P00408, para. 115; Exh. P00694, p.37 (Eng). See also Exh. 7D00717, Regulations regarding Brigade Commanders' Authority, art.10: "The commander is responsible for the overall situation of the brigade or regiment, for the *correct and lawful work* of the command organs, and for the successful and timely completion of all tasks within the remit of the command organs. The commander has *direct control* over the brigade and regiment units through the chief of staff, his assistances, and the organs for combat arms."

These rights and responsibilities of command are not affected by the presence of senior officers within the Brigade's zone of responsibility and only cease to exist when the commander is relieved of duty.

1261. Another corollary of this command relationship, as outlined in the JNA Brigade Rules<sup>3399</sup> and as testified by Richard Butler, is that the conduct and moral courage displayed by the officers and soldiers of the Zvornik Brigade were a reflection of **PANDUREVIĆ**'s own personal ethics, temperament, fairness and moral courage:

Of all of the individuals in a particular unit, from platoon level to the very top, the individual temperament, qualities, moral courage, personality of the commander is a decisive factor in influencing the brigade, and not just the brigade but obviously in any unit; and, certainly, subordinates, when they're ably led like that, will often reflect the character -- the positive characteristics and qualities of their command.<sup>3400</sup>

1262. As outlined below, starting from early 1993, **PANDUREVIĆ** fostered a culture within the Zvornik Brigade which allowed crimes committed against Muslim civilians and Muslim property to go unpunished.<sup>3401</sup> Also, through his own use of derogatory language towards Muslims and dissemination of propaganda to incite, justify and perpetuate the RS's and VRS's criminal objective of removing the Muslims from parts of eastern Bosnia, **PANDUREVIĆ** fostered a culture of ethnic hatred within the Zvornik Brigade which allowed other members of the Zvornik Brigade to express their own prejudices against Muslims with impunity. These two interrelated cultures of impunity and ethnic bias against Muslims which existed in the Zvornik Brigade, combined with a complete failure of moral courage, led Vinko **PANDUREVIĆ** and the officers and soldiers under his command to knowingly and wilfully participate in the forcible transfer of the Muslim populations from Srebrenica and Žepa and the detention, transport, execution, burial and reburial of thousands of Muslim men from Srebrenica.

**(lxxvi) Overview of the case against Vinko PANDUREVIĆ**

1263. Vinko **PANDUREVIĆ** is individually criminally responsible under Article 7(1) of the Statute for the crimes with which he is charged in the Indictment as a member of

<sup>3399</sup> Exh. P00408, para. 115. "Through his personal conduct, work, involvement, and the implementation of the SKJ policies, ethical standing, courage, ability, fairness, cool-headedness, consistency, and respect for the personality and opinion of subordinates, the commander vitally influences the entire condition of the brigade, especially the morale of units and command."

<sup>3400</sup> BUTLER, T.19626.

<sup>3401</sup> By his own admission at T.32066:2-23, **PANDUREVIĆ** did not punish any of his soldiers for crimes committed against Muslim civilians or property during the war: "A. To the best of my knowledge, there was destruction of property during combat, which is collateral damage in fighting, *and as for information that an individual had done something improper, I had no such information, and during the war, I did not punish any soldiers for that...* Q. Your answer appeared to only answer the part about abuse of structures. My question is: Did you ever punish or discipline any VRS soldier for abusing any Muslim person? A. *I'm saying I had no information to warrant something like that and I did not punish anyone.*"

two Joint Criminal Enterprises: (a) to forcibly remove the Muslim populations of Srebrenica and Žepa;<sup>3402</sup> and (b) to murder the able-bodied men of Srebrenica.<sup>3403</sup>

1264. As outlined below, **PANDUREVIĆ** made significant contributions to the execution of the common purpose of both JCEs and shared the intent with the other JCE members to commit the crimes which fell within the common purpose of the JCEs. **PANDUREVIĆ** is also responsible for ordering, planning, instigating and otherwise aiding and abetting the commission of crimes charged in the Indictment.

1265. As of November 1992, **PANDUREVIĆ** knew of the RS and VRS leadership's plan to remove the Muslim population from parts of eastern Bosnia. In early 1993, **PANDUREVIĆ** led VRS units in a brutal campaign through the region of Kamenica, Cerska and Konjević Polje which caused the Muslim population of those areas to flee to Srebrenica which ultimately resulted in the creation of the UN Srebrenica, Žepa and Goražde "safe areas."

1266. Pursuant to the policy in Directive 7 to make life "unbearable" for the Muslim population, the Zvornik Brigade restricted humanitarian aid and UNPROFOR resupply convoys bound for the Srebrenica enclave.

1267. In early July 1995, **PANDUREVIĆ** led Zvornik Brigade units in the attack on the Srebrenica enclave in the knowledge that the operation had an unlawful motive of reducing the enclaves to their urban areas and creating the conditions for the elimination of the enclaves. On 11 July, **PANDUREVIĆ**'s troops were among the first into Srebrenica town. On 12 July, soldiers under **PANDUREVIĆ**'s command were present in Potočari where thousands of terrified Muslims had fled seeking the protection of UNPROFOR forces. During his testimony, **PANDUREVIĆ** acknowledged that by the night of 12 July, he knew that the Muslim population of Srebrenica was being removed.

1268. On the night of 12 July, **PANDUREVIĆ** drove through the humanitarian crisis in Potočari *en route* to a meeting in Bratunac at which Gen. Mladić ordered the VRS units to advance towards Žepa. Following this meeting, **PANDUREVIĆ** had to know that the VRS had hundreds of Muslim men in its custody, Muslim men who had been separated from their families in Potočari that day and who would soon be executed.

1269. On 13 July, pursuant to Mladić's order, **PANDUREVIĆ**'s Zvornik Brigade units marched to the Žepa area. On 14 July, his units attacked the Žepa enclave after the

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<sup>3402</sup> See para. 77 of the Indictment.

<sup>3403</sup> See para. 39 of the Indictment.

Muslim representatives from Žepa refused Gen. Tolimir's demand that the Muslim population leave the enclave. Also on 14 July, elements of the Zvornik Brigade participated in the detention, transport, execution and burial of prisoners at Orahovac. Elements of the 1<sup>st</sup>, 2<sup>nd</sup> and 6<sup>th</sup> Battalions of the Zvornik Brigade were also engaged in preparations for the execution of prisoners in their respective areas within the Zvornik Brigade zone of responsibility.

1270. On 15 July, **PANDUREVIĆ** returned to Zvornik after the Muslim column threatened the rear of Zvornik Brigade positions in the Baljkovica and Memići areas. Prior to **PANDUREVIĆ**'s return, Gen. Krstić discussed the murder operation with **PANDUREVIĆ**. The security threat and burden on the resources of the Zvornik Brigade caused by the murder operation was information that **PANDUREVIĆ** *had to know* in order to fight the Muslim column effectively.

1271. At about noon on 15 July, when **PANDUREVIĆ** returned to the Zvornik Brigade HQ, [REDACTED] advised **PANDUREVIĆ** that there were problems with the security and burial of the Muslim prisoners detained in the area. **PANDUREVIĆ**'s response showed that he already knew of the murder operation prior to his return to Zvornik.

1272. When **PANDUREVIĆ** returned to Zvornik on 15 July, significant elements of the Zvornik Brigade Command, MP Company, Engineering Company, Logistics Organ, 1<sup>st</sup> Battalion, 2<sup>nd</sup> Battalion, 6<sup>th</sup> Battalion and Security Organ continued to coordinate and implement the murder operation at all four major detention / execution sites in the Zvornik area. The use of these significant resources required the knowledge and authorisation of their commander, Vinko **PANDUREVIĆ**.

1273. At 19:25 hours on 15 July, **PANDUREVIĆ** sent an Interim Combat Report to the Drina Corps Command advising of the combat situation with the Muslim column. This Report also stated that an "additional burden" for the Zvornik Brigade was the large number of prisoners throughout schools in the Zvornik area, together with obligations of security of the prisoners and burial of their bodies. **PANDUREVIĆ** also threatened that if no one else took responsibility for these problems, he would be forced to let the remaining prisoners go. This is important evidence against **PANDUREVIĆ** because, as history as shown, **PANDUREVIĆ** consciously chose not to release those prisoners and they were all subsequently murdered. **PANDUREVIĆ**'s wilful decision not to release those prisoners shows that he wilfully and knowingly followed the orders of his superiors and authorised and took part in the summary execution of those prisoners.

1274. On 16 July, **PANDUREVIĆ** opened a corridor at Baljkovica for the Muslim column to pass through to ABiH-held territory. Contrary to **PANDUREVIĆ**'s testimony that he did this for humanitarian reasons, the evidence has shown that the significant casualties suffered by Serb forces was the real reason why **PANDUREVIĆ** opened this corridor and contemporaneous investigations by the Drina Corps and the Main Staff confirmed that this was the case.

1275. Also on 16 July, the Muslim prisoners detained at the Kula School by soldiers from the Zvornik Brigade's 1<sup>st</sup> Battalion, under **PANDUREVIĆ**'s command, were transported to the Branjevo Farm and executed by VRS soldiers from the 10<sup>th</sup> Sabotage Detachment and from Bratunac.

1276. In the subsequent days, Zvornik Brigade personnel and engineering equipment buried the bodies of the prisoners who were murdered at Kozluk, the Branjevo Farm and the Pilica Dom; soldiers from the 16<sup>th</sup> Krajina Brigade, also under **PANDUREVIĆ**'s command, murdered a group of Muslim prisoners near Nezuk; and the "Milići Patients" and the four "Branjevo Farm Survivors" were taken away from the Zvornik Brigade HQ and executed by unknown persons with the full knowledge and authorisation of **PANDUREVIĆ**.

1277. On 26 July, **PANDUREVIĆ** returned to the Žepa area where he stood alongside Generals Mladić, **GVERO** and Krstić and other VRS officers and watched while Muslim men, women and children were forcibly transferred from their family homes in Žepa.

1278. On 25 September 1995, **PANDUREVIĆ** resumed command of the Zvornik Brigade after spending several weeks in the Krajina. Over the next week, Zvornik Brigade engineering equipment and personnel from the Engineering Company and the Security Organ completed the exhumation and reburial of thousands of Muslim prisoners to remote secondary graves. This required the knowledge and authorisation of their commander, **PANDUREVIĆ**.

**(lxxvii) The testimony and deliberate falsehoods of Vinko PANDUREVIĆ**

1279. **PANDUREVIĆ** testified in his own defence from 26 January 2009 to 3 March 2009 and it is clear that the Defence will rely heavily on **PANDUREVIĆ**'s testimony in the presentation of its case. This testimony, if not corroborated by other reliable evidence, is not credible and therefore should not be relied upon by the Trial Chamber.<sup>3404</sup>

<sup>3404</sup> See *Prosecutor v. Delalić et al*, Judgement, IT-96-21-T, 16 November 1998, para. 802. The Trial Chamber held that the Accused's testimony against a co-accused could not be accepted unless it was

Throughout this section of the Final Brief, **PANDUREVIĆ**'s testimony will be juxtaposed to the other credible evidence on the record. On a number of critical issues, **PANDUREVIĆ**'s testimony constitutes a deliberate pattern of self-serving falsehoods designed to distance himself from these crimes. These deliberate falsehoods include:

- (i) **PANDUREVIĆ**'s sanitised description of his role in the VRS campaign through the areas of Kamenica, Cerska and Konjević Polje in early 1993;<sup>3405</sup>
- (ii) **PANDUREVIĆ**'s claim that he attended a meeting with Mladić and Krstić in Bratunac on 11 July and then moved his units toward Žepa on 12 July;<sup>3406</sup>
- (iii) **PANDUREVIĆ**'s coordinated attempt with Milenko Jevđević and Zvonko Bajagić to mislead the Trial Chamber about the date of the Bratunac meeting;<sup>3407</sup>
- (iv) **PANDUREVIĆ**'s claim that he was not aware that the VRS had any prisoners in its custody until the afternoon of 15 July when he was told by Brano Grujić at the Zvornik Brigade IKM;<sup>3408</sup>
- (v) **PANDUREVIĆ**'s repeated claims that Zvornik Brigade units were not involved in the detention, transport, execution or burial of prisoners;<sup>3409</sup>
- (vi) **PANDUREVIĆ**'s claim that his 15 July Interim Combat Report did not refer to obligations to guard the prisoners or the burial of those prisoners and that his threat to let the prisoners go actually referred to the Muslim column;<sup>3410</sup>
- (vii) **PANDUREVIĆ**'s attempts to discredit the accuracy of Eileen Gilleece's Information Note;<sup>3411</sup>
- (viii) **PANDUREVIĆ**'s claim that he was not aware of any executions in the Zvornik area until the evening of 16 July;<sup>3412</sup>
- (ix) **PANDUREVIĆ**'s claim that he opened the corridor for the Muslim column at Baljkovica on 16 July for humanitarian reasons;<sup>3413</sup>

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supported by independent evidence on the basis that the accused giving evidence had admitted to telling lies about the events pleaded in the Indictment and because his evidence was self-serving in the sense that it was consistent with his specific defence of diminished mental capacity.

<sup>3405</sup> See paras. 1281-1312.

<sup>3406</sup> See paras. 1355-1388.

<sup>3407</sup> See paras. 1381-1386.

<sup>3408</sup> **PANDUREVIĆ**, T.30983.

<sup>3409</sup> See e.g., **PANDUREVIĆ**, T.32195:23 – 32196:2, when claiming that Gen. Krstić did not tell him about the murder operation on the morning of 15 July at the Drina Corps IKM: "I don't see a single tactical or military or combat reason why I should need to know what someone else is doing *completely unconnected with combat activities or with the Zvornik Brigade.*"

<sup>3410</sup> See paras. 1421-1467.

<sup>3411</sup> See paras. 1456-1459.

<sup>3412</sup> **PANDUREVIĆ**, T.31066-31070.

- (x) **PANDUREVIĆ**'s claim that he did not meet **POPOVIĆ** on 16 July;<sup>3414</sup>
- (xi) **PANDUREVIĆ**'s claim that after the executions, he did not meet face-to-face with Gen. Krstić until 27 July at Godenje;<sup>3415</sup>
- (xii) **PANDUREVIĆ**'s claim that he had no specific information about the manner in which the Muslim population of Žepa was removed;<sup>3416</sup>
- (xiii) **PANDUREVIĆ**'s claim that he did not go to Vlasenica and speak with Gen. Krstić on 16 September;<sup>3417</sup> and
- (xiv) **PANDUREVIĆ**'s claim he did not resume command of the Zvornik Brigade until 26 September.<sup>3418</sup>

1280. The following analysis, coupled with the evidence presented, overwhelmingly supports findings of guilt against Vinko **PANDUREVIĆ** on all counts of the Indictment.

**(K) PANDUREVIĆ KNEW OF, SIGNIFICANTLY CONTRIBUTED TO, AND SHARED THE INTENT WITH THE OTHER JCE MEMBERS TO PARTICIPATE IN THE JCE TO FORCIBLY REMOVE THE MUSLIM POPULATION FROM SREBRENICA AND ŽEPA**

**(lxxviii) In late 1992 and early 1993, PANDUREVIĆ knew of, significantly contributed to, and shared the intent of, the RS and VRS leadership's strategic goal to remove the Muslim population from parts of eastern Bosnia.**

1281. The Prosecution case did not depend on **PANDUREVIĆ**'s role in the VRS campaign in 1993 which forced the Muslim civilian population in the areas of Kamenica, Cerska and Konjević Polje areas to flee their homes to Srebrenica. However, **PANDUREVIĆ** spent a significant amount of time testifying about his participation in these events, portraying himself as a humanitarian commander who allowed Muslim civilians to leave combat areas for their own safety and who also, on occasion, allowed Muslim soldiers to "walk to freedom" when **PANDUREVIĆ** had them surrounded. **PANDUREVIĆ** misrepresented his true role in the violent VRS campaign of early 1993 and put forward a sanitized and misleading version of events. The material outlined below demonstrates his lack of credibility as a witness as well as his knowledge and intent with respect to the charged JCE's to remove the Muslim population of Srebrenica and Žepa and murder the men of Srebrenica.

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<sup>3413</sup> See paras. 1595-1607.

<sup>3414</sup> See paras. 1472-1479.

<sup>3415</sup> See paras. 1516-1519.

<sup>3416</sup> See paras. 1352-1354.

<sup>3417</sup> See paras. 1520-1523.

<sup>3418</sup> See paras. 1524-1539.

**Knowledge of Directive 4 and DK Order 2-126**

1282. As noted above at paras. 56-61 **PANDUREVIĆ** attended a political-military seminar on 23 November 1992 with senior Bosnian Serb political and military figures including President Karadžić, Gen. **GVERO**, Gen. Milovanović, Col. Živanović and Col. Krstić and all the Drina Corps Brigade Commanders. This meeting occurred just four days after the issuance of Directive 4, which in the Drina Corps chapter of this Directive, ordered the removal of the Muslim civilian population from the Birač, Žepa and Goražde areas. One day after the meeting, Col. Živanović, citing Directive 4, ordered the Zvornik Brigade and other Drina Corps units to “force the Muslim population to leave the area of Cerska, Žepa, Srebrenica and Goražde.”<sup>3419</sup> Notes taken at this meeting show that Živanović spoke about “assignments” in the areas of Cerska, Žepa, Srebrenica and Goražde. Given the timing of this seminar, and the topics discussed, **PANDUREVIĆ** would have acquired specific knowledge of the objective of the RS and VRS leadership to remove the Muslim civilian population of eastern Bosnia, as set out in Directive 4 and DK Order 2-126.

1283. During his testimony, **PANDUREVIĆ** agreed that Directive 4 reflected General Mladić’s intention to drive the Muslims from their homes in this region,<sup>3420</sup> but then immediately qualified his admission, stating that “there was a decision of the president of the republic from end 1992 that refugees and abandoned property are temporary phenomena accompanying the war which means that once normal life is restored, everyone can come back and get hold of their property.”<sup>3421</sup> There is no evidence that President Karadžić made any such decision, nor is there anything in the history of this case, as reflected in the evidence in this trial, that supports such a conclusion. Moreover, given **PANDUREVIĆ**’s personal participation in the brutal and destructive campaign in early 1993, his claim that the intention was for the Muslims to return to their homes after the war can only be viewed as a self-serving attempt to hide the true intentions of the VRS and RS leadership, and himself, to force the Muslim population out of these areas.

1284. On 1 February 1993, **PANDUREVIĆ**, as the Commander of the Zvornik Brigade, received a further order from the Drina Corps which specifically referenced DK Order 2-126.<sup>3422</sup> On 21 March 1993, the Drina Corps issued further orders to the Zvornik Brigade

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<sup>3419</sup> Exh. P03029.

<sup>3420</sup> **PANDUREVIĆ**, T.32072.

<sup>3421</sup> **PANDUREVIĆ**, T.32072.

<sup>3422</sup> Exh. P04226, Drina Corps Order No. 01/5-75, combat order for the liberation of Kamenica, Cerska and Konjevic Polje, type-signed by Col. Milenko Živanović, dated 1 February 1993.



“in accordance with Directive 4.”<sup>3423</sup> During his testimony, **PANDUREVIĆ** also acknowledged that Directive 4 was in force and implemented throughout this period.<sup>3424</sup> Thus, **PANDUREVIĆ** was not only aware of the tasks assigned by Directive 4, but also the fact that those tasks were implemented. **PANDUREVIĆ**’s acknowledgment that “stage by stage, the tasks from that directive were implemented”<sup>3425</sup> is unsurprising given his knowledge of, and the key role he played in, implementing the tasks assigned to the Drina Corps by Directive 4, *i.e.*, removing the Muslim population from eastern Bosnia.

**The corridor at Kamenica was opened as part of the campaign to remove the Muslim civilian population**

1285. On 1 February 1993, **PANDUREVIĆ** sent a Muslim prisoner to Kamenica with the message that the Muslim women, children and elderly could depart the area of combat operations via a corridor which would be opened from 0700 – 1700 hours every day.<sup>3426</sup> This proposal had already been broadcast on Radio Zvornik the previous day.<sup>3427</sup> On 1 February 1993, Col. Živanović advised the Main Staff about the corridor, stating:

I decided to allow the inhabitants to move as they did still tomorrow, on the 2<sup>nd</sup> of February 1993. I am going to warn them through media that the corridor is closing on the 2<sup>nd</sup> of February 1993 at 5:00pm; it shall be possible to leave the territory for all people without exception and only with my permission.<sup>3428</sup>

1286. This Drina Corps report shows that the corridor at Kamenica was opened under the authority of the Drina Corps Command and with the knowledge of the Main Staff. At the time, the VRS knew that the Muslim population in this area was suffering from, *inter alia*, lack of food, “the impossibility of prompt delivery of “humanitarian” aid; and the impossibility of normal living conditions due to the constant firing of our artillery.”<sup>3429</sup> In these circumstances, and in light of the criminal orders in Directive 4 and DK Order 2-126 to force the Muslim population out of this area, the decision to open a corridor through which the Muslim population could leave the area can reasonably be seen only as part of the coordinated campaign to forcibly remove the Muslim civilian population.

<sup>3423</sup> Exh. P04227, Drina Corps Order No. 01/5-165, combat order for further operations, type-signed by Col. Milenko Živanović, dated 21 March 1993, Eng. p.3.

<sup>3424</sup> **PANDUREVIĆ**, T.32093.

<sup>3425</sup> **PANDUREVIĆ**, T.32093.

<sup>3426</sup> Exh. 7D01006.

<sup>3427</sup> Exh. P04229.

<sup>3428</sup> Exh. P04232, Drina Corps Regular Combat Report No. 04/4-68, signed by Col. Milenko Živanović, dated 1 February 1993.

<sup>3429</sup> Exh. P04226, Drina Corps Order No. 01/5-75, combat order for the liberation of Kamenica, Cerska and Konjeric Polje, type-signed by Colonel Milenko Živanović, dated 1 February 1993.

1287. During his testimony, **PANDUREVIĆ** stated that he had no orders to cause the civilian population to leave Kamenica.<sup>3430</sup> He claimed that the proposal to open the corridor was his idea to offer “protection for the civilian population, which was in compliance with the application of the International Laws of War.”<sup>3431</sup> However, the Drina Corps units had clear and explicit criminal orders to remove the civilian population from this area -- Directive 4 and DK Order 2-126 -- and opening the corridor at Kamenica helped implement those orders. [REDACTED].<sup>3432</sup>

1288. Moreover, it is clear that the idea to open the corridor was not **PANDUREVIĆ**'s because Živanović stated: “I decided to allow the inhabitants to move” and the Muslims could leave the territory “only with my permission.”<sup>3433</sup> **PANDUREVIĆ**'s testimony on this point should be viewed in conjunction with his later claim that he opened a corridor for the Muslim men at Baljkovica on 16 July 1995 for humanitarian reasons, when the true reason for opening both of these corridors was to facilitate the removal of the Muslim population from the area with as few Serb casualties as possible.

**Shelling and firing at Muslim civilians**

1289. On 31 January 1993, **PANDUREVIĆ** reported to the Drina Corps Command that:

*On 30 January 1993 at around 2400 hours a mixed column made up of women, children and armed men, from the direction of Urdč via Glodi, Režići, Snagovo and Crni Vrh and in the direction of Kalesija and Tuzla, fell into our ambush in the Crni Vrh sector. The column, which numbered about 100 persons, was fired upon, and dispersed and disappeared from the sector of the fire and the ambush.*<sup>3434</sup>

1290. Two weeks later, on 13 February 1993, **PANDUREVIĆ** reported to the Drina Corps Command that:

*Apart from the usual enemy fire in the general area of the line of contact, in the Nežuk sector two groups of civilians and soldiers were sighted and fired on with artillery weapons.*<sup>3435</sup>

1291. These two combat reports detail, with astonishing temerity, how **PANDUREVIĆ** fired without distinction at Muslim civilians, on at least one occasion with highly destructive artillery weapons, despite the fact that he was clearly able to distinguish between those Muslim persons considered to be “civilians” and “soldiers.” The fact that **PANDUREVIĆ** would report such criminal behaviour to his superior command is typical

<sup>3430</sup> **PANDUREVIĆ**, T.30799:2-5.

<sup>3431</sup> **PANDUREVIĆ**, T.30794, 30799.

<sup>3432</sup> [REDACTED].

<sup>3433</sup> Exh. P04232, Drina Corps Regular Combat Report No. 04/4-68, signed by Colonel Milenko Živanović, dated 1 February 1993.

<sup>3434</sup> Exh. P04233, Zvornik Brigade Report No. 82-1, report on an unusual incident, type-signed Major Vinko Pandurević, dated 31 January 1993 (emphasis added).

<sup>3435</sup> Exh. P04235, Zvornik Brigade Regular Combat Report No. 109-1, type-signed Major Vinko **PANDUREVIĆ**, dated 13 February 1993 (emphasis added).

of the culture of impunity which existed in the VRS, and particularly the Zvornik Brigade, when it came to punishing crimes committed against Muslims.

1292. **PANDUREVIĆ** confirmed the existence of this culture of impunity by testifying that he did not punish a single soldier during the war for destruction of Muslim property or abusing a Muslim person because he had “no information” that soldiers under his command had engaged in improper behaviour.<sup>3436</sup> In the context of the brutal ethnic cleansing campaign of 1993 and the participation of Zvornik Brigade soldiers and assets under **PANDUREVIĆ**’s command in the mass murder of Muslim men from Srebrenica in July 1995, **PANDUREVIĆ**’s testimony on this point was implausible and demonstrative of his lack of remorse for his actions.

1293. A little over two weeks later, on 2 March 1993, Vinko **PANDUREVIĆ** reported to the Drina Corps Command that:

At around 8:30 hours *columns of civilians and soldiers* with pack animals were noticed from Udrč and Raševo towards Konjević Polje. *The columns were hit with every available means.*<sup>3437</sup>

1294. This is yet another bold report by **PANDUREVIĆ** detailing the criminal conduct of soldiers under his command and control. During his testimony, **PANDUREVIĆ** claimed that the entire column was a legitimate target because “there was no great difference by that time between those in civilian clothes and those in uniform.”<sup>3438</sup> However, as with the previous two combat reports, this Report distinguished clearly between those persons considered to be “civilians” and those considered to be “soldiers” and gave no indication that those explicitly described as “civilians” were considered to be possible soldiers. Of particular significance is that the Drina Corps removed the reference to “civilians” when it reported this incident to the Main Staff,<sup>3439</sup> which shows the Drina Corps’ knowledge of the crime and its efforts to “clean” it up.

1295. On 12 March 1993, the VRS shelled Muslim civilians and UNPROFOR forces in Konjević Polje in an infamous attack reported by the UNPROFOR HQ Situation Report for 12 March 1993<sup>3440</sup> and also by the UN Special Rapporteur Tadeusz Mazowiecki.<sup>3441</sup> On 12 March 1993, hundreds of Muslim civilians had surrounded the UN forces in

<sup>3436</sup> **PANDUREVIĆ**, T.32066.

<sup>3437</sup> Exh. P04236, Zvornik Brigade Regular Combat Report No. 146-3, type-signed Major Vinko **PANDUREVIĆ**, dated 2 March 1993 (emphasis added).

<sup>3438</sup> **PANDUREVIĆ**, T.32109.

<sup>3439</sup> Exh. P04258, Drina Corps Regular Combat Report No. 01/4-126, signed by Colonel Milenko Živanović, dated 2 March 1993.

<sup>3440</sup> Exh. P04252, UNPROFOR HQ BH Command (Main) Kiseljak, SitRep for 12 March 1993, at ERN R009-4273.

<sup>3441</sup> Exh. P00486, UN Economic and Social Counsel Report No. E/CN.4/1994/3, by Tadeusz Mazowiecki, Special Rapporteur, dated 5 May 1993 at ERN R109-9784.

Konjević Polje.<sup>3442</sup> At 14:24 hours, the UN officer in charge requested that “Maj **PANDOREVIĆ**” ŠsicĆ (the local BSA commander at Zvornik GR CQ4802) be urged to stop the shelling as civilians were being caught in the fire.”<sup>3443</sup> Twenty-six minutes later, at 14:50 hours, one round landed, killing two civilians and injuring three children under the age of six.<sup>3444</sup> Two of those children lost their legs.<sup>3445</sup> At 15:30 hours, the UN command received word that the VRS forces were checking fire; however, at 16:19 hours, another round was fired and damaged a UN vehicle.<sup>3446</sup> At 16:42 hours, another round landed in the crowd of civilians surrounding the UN vehicles, killing a further 10 civilians.<sup>3447</sup>

1296. **PANDUREVIĆ** testified that these shells were not fired by the Zvornik Brigade.<sup>3448</sup> However, this is contradicted by the Drina Corps analysis of this operation, which stated that the Zvornik Brigade was directly engaged in the attack on Konjević Polje with artillery support.<sup>3449</sup> **PANDUREVIĆ** also claimed that he knew military observers were headed to Konjević Polje at the time, and that he would not fire on them and that he received no “protests” from them.<sup>3450</sup> However, this claim is directly belied by the UN report of the shelling, which specifically names “Maj **PANDOREVIĆ**” as the Bosnian Serb commander who was urged to stop the shelling because civilians were being caught in the fire.<sup>3451</sup> This is unmistakably a reference to Major Vinko **PANDUREVIĆ** and clearly demonstrates that **PANDUREVIĆ** was aware of the attack and involved in it. It also provides strong evidence that **PANDUREVIĆ** was fully aware of, and involved in, the attacks on Muslim civilians described at paras. 1288-1294.

1297. There is no suggestion that there were Muslim soldiers in Konjević Polje. Instead, this was a direct attack on the UN forces and Muslim civilians. Ten Muslim civilians were killed by a shell landing in the centre of the crowd of civilians in Konjević Polje more than two hours after **PANDUREVIĆ** was urged by the UN to stop the shelling because civilians were being caught in the fire. **PANDUREVIĆ** had ample time to order his artillery support to stop firing and clearly failed to do so. The shelling was a

<sup>3442</sup> Exh. P04252 at ERN R009-4273.

<sup>3443</sup> Exh. P04252 at ERN R009-4273.

<sup>3444</sup> Exh. P04252 at ERN R009-4273.

<sup>3445</sup> Exh. P04252 at ERN R009-4273.

<sup>3446</sup> Exh. P04252 at ERN R009-4273.

<sup>3447</sup> Exh. P04252 at ERN R009-4273. See also PW-110, at T.638, who described how a lot of people were injured and killed during the shelling of Konjević Polje by Serb forces.

<sup>3448</sup> **PANDUREVIĆ**, T.32125-32126.

<sup>3449</sup> Exh. 5D01323, Drina Corps Command, no.370/1, Realization of the planed tasks from directives nos. 4 and 5, signed by Major-General Milenko Živanovic at ERN 0427-4987 (BCS), English p.12.

<sup>3450</sup> **PANDUREVIĆ**, T.32126.

<sup>3451</sup> Exh. P04252 at ERN R009-4273.

deliberate attack on the Muslim civilians. The deliberate nature of this attack is also confirmed by the report of the UN Special Rapporteur Tadeusz Mazowiecki.<sup>3452</sup>

**Burning Muslim villages**

1298. As noted above at para. 80, an intercepted conversation on 8 February 1993 at 10:45 hours between Col. Živanović and 2<sup>nd</sup> Lt. Gaborović from the Drina Corps 5<sup>th</sup> Communications Battalion shows that Col. Živanović incited his units to burn as many Muslim houses as possible.<sup>3453</sup> At least two of Živanović's subordinate brigade commanders, Svetozar Andrić and **PANDUREVIĆ**, knew of, and participated in, this strategy of burning villages as evidenced by their official reports outlined below.

1299. On 2 March 1993, Andrić reported to the Drina Corps Command that: "The village of Gobelji has been burnt, and tomorrow the plan is to do Paljevine."<sup>3454</sup> In a separate report, Lt. Colonel Andrić confirmed that: "In the course of the day special units of the 1<sup>st</sup> Birač Brigade took and destroyed the village of Gobelji."<sup>3455</sup> The same day, the Drina Corps reported the burning of Gobelji to the VRS Main Staff in a more circumspect manner: "A part of the forces of this Brigade *liberated* the village of Gobelji at the front line in the area of Cerska."<sup>3456</sup> This deliberate edit is a clear indication that the Drina Corps considered the burning of Muslim houses to be criminal and changed the wording of Andrić's report to conceal the record of this crime.

1300. Andrić's second report also confirmed that the Muslims had fled the village before the Serb forces, leaving behind weapons, other military equipment, food and cattle.<sup>3457</sup> Accordingly, the burning of Gobelji cannot have been justified by military necessity. **PANDUREVIĆ** also confirmed that he and Andrić had acted together in this operation;<sup>3458</sup> thus, **PANDUREVIĆ**'s claimed ignorance of the fact that Andrić's troops burned Gobelji<sup>3459</sup> is implausible.

<sup>3452</sup> Exh. P00486, UN Economic and Social Counsel Report No. E/CN.4/1994/3, by Tadeusz Mazowiecki, Special Rapporteur, dated 5 May 1993 at ERN R109-9784: "A crowd of at least 2,000 civilians gathered around the two UNPROFOR vehicles and both the crowd and the vehicles were *deliberately shelled* by Serb forces."

<sup>3453</sup> Exh. P04238, Intercept dated 8 February 1993 at 10:45 hours (emphasis added).

<sup>3454</sup> Exh. P04243, Birač Brigade Regular Combat Report No. 14-397/93, type-signed Lt. Colonel Svetozar Andrić, dated 2 March 1993.

<sup>3455</sup> Exh. P04244, Birač Brigade Special Operative Report No. 14-398/93, type-signed Lt. Colonel Svetozar Andrić, dated 2 March 1993.

<sup>3456</sup> Exh. P04259, Drina Corps Regular Combat Report No. 01/4-127, signed for Colonel Milenko Živanović, dated 2 March 1993 (emphasis added).

<sup>3457</sup> Exh. P04244.

<sup>3458</sup> **PANDUREVIĆ**, T.32117.

<sup>3459</sup> **PANDUREVIĆ**, T.32116.

1301. On 4 March 1993, **PANDUREVIĆ** reported to the Drina Corps Command that: “Duga Njiva and Glodi have been taken and facilities in Glodi burnt.”<sup>3460</sup> The same day, the Drina Corps reported to the Main Staff that parts of the Zvornik Brigade had “liberated” Glodi,<sup>3461</sup> the exact same language it used when reporting the burning of Gobelji by Andrić’s unit. This again shows that the Drina Corps Command was fully aware that its subordinate units were engaged in criminal activity and made efforts to conceal those crimes. During his testimony, **PANDUREVIĆ** gave evasive and conflicting testimony on this point,<sup>3462</sup> which shows that **PANDUREVIĆ** knew perfectly well that forces under his command had unlawfully set fire to houses in Glodi.

1302. **PANDUREVIĆ**’s knowledge of, and involvement in, burning Muslim houses is further confirmed by a report on 10 March 1993, in which he made the following proposal to the Drina Corps Command:

We propose that houses should not be torched when taking control of Konjevića Polje, but that they be inhabited by people from Tuzla and other areas.<sup>3463</sup>

1303. The clear implication underlying **PANDUREVIĆ**’s proposal of 10 March 1993 was that during the earlier attacks on, *inter alia*, Glodi, Gobelji and Paljevine, forces under his and Andrić’s command were deliberately burning Muslim houses. This conclusion is further supported by the fact that Col. Živanović (**PANDUREVIĆ**’s commanding officer at the time) had ordered 2<sup>nd</sup> Lt. Gaborović to burn as many Muslim houses as possible.

1304. In these circumstances, **PANDUREVIĆ**’s claim that President Karadžić intended for refugees and abandoned property to be “temporary phenomena accompanying the war” and that “everyone can come back and get hold of their property”<sup>3464</sup> after the war, is disingenuous. Instead, the torching of these Muslim houses formed part of the Drina Corps strategy to force out the Muslim population from these areas. **PANDUREVIĆ**’s units engaged in this criminal behaviour, with **PANDUREVIĆ**’s knowledge and approval, to ensure that the displaced Muslim population would not return.

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<sup>3460</sup> Exh. P04245, Zvornik Brigade Regular Combat Report No. 148-4, type-signed Major. Vinko **PANDUREVIĆ**, dated 4 March 1993.

<sup>3461</sup> Exh. P04260, Drina Corps Regular Combat Report No. 04/4-133, signed for Colonel Milenko Živanović, dated 4 March 1993 (emphasis added).

<sup>3462</sup> **PANDUREVIĆ**, T.32118-32120.

<sup>3463</sup> Exh. P04247, Zvornik Brigade Supplement to Regular Combat Report No. 168-1, type-signed Major Vinko **PANDUREVIĆ**, dated 10 March 1993.

<sup>3464</sup> **PANDUREVIĆ**, T.32072.

**Destruction of the mosque at Konjević Polje**

1305. A few days after the Zvornik Brigade entered Konjević Polje, the mosque in that area was destroyed.<sup>3465</sup> Despite the presence of his units in the area, **PANDUREVIĆ** claimed that he did not know who destroyed the mosque.<sup>3466</sup> However, **PANDUREVIĆ** did agree that on 24 February 1994, the Drina Corps Command tasked the Zvornik Brigade with cleaning up the remains of the destroyed mosque as follows:

1. To use mechanical equipment of the engineering company in your brigade and start immediately with removal of remains of the destroyed mosque in Konjević Polje.
2. The remains of the mosque are to be dumped at the closest site for disposal of waste material.<sup>3467</sup>

1306. The contemptuous language in this Drina Corps order to “dump” the remains of the mosque at the “closest site for disposal of waste material” speaks for itself. On 24, 25 and 28 February 1994, the Zvornik Brigade sent three requests to the Drina Corps for fuel with which to remove the remains of the mosque.<sup>3468</sup> The destruction of this mosque immediately following the Zvornik Brigade’s entry into Konjević Polje, albeit by unknown persons, and the Zvornik Brigade Engineering Company’s subsequent removal of its remains to a site for “waste material” is emblematic of the VRS’s intention to permanently remove the Muslim civilian population from this area and **PANDUREVIĆ**’s knowledge of, and involvement in, the process. The Zvornik Brigade’s removal of the remains of this destroyed mosque confirms that **PANDUREVIĆ** knew that the removal of the Muslim population from this area was intended to be permanent.

**The attacks on Kamenica, Cerska and Konjević Polje were carried out pursuant to Directive 4**

1307. During his cross-examination, **PANDUREVIĆ** was shown Drina Corps Order number 01/5-165 dated 21 March 1993, which outlined further tasks “in accordance with the assignment specified in Directive no. 4 with addenda.”<sup>3469</sup> This order was issued after the VRS operations in Kamenica, Cerska and Konjević Polje were completed and, as **PANDUREVIĆ** testified, shows that Directive 4 was still in force and that the tasks outlined in the Directive were implemented:

<sup>3465</sup> **PANDUREVIĆ**, T.32129.

<sup>3466</sup> **PANDUREVIĆ**, T.32129.

<sup>3467</sup> Exh. P04288, Drina Corps Order No. 02/5-106, removal of remains of destroyed mosque in Konjević Polje, type-signed Col. Milutin Skočajić, dated 24 February 1994.

<sup>3468</sup> Exh. P04289, Zvornik Brigade Regular Combat Report No. 03-1/33, type-signed Maj. Vinko Pandurević, dated 24 February 1994; Exh. P04290, Zvornik Brigade Regular Combat Report No. 34, type-signed Maj. Vinko Pandurević, dated 25 February 1994; and Exh. P04291, Zvornik Brigade Regular Combat Report No. 03-1/37, type-signed Maj. Vinko Pandurević, dated 28 February 1994.

<sup>3469</sup> Exh. P04227, Drina Corps Order No. 01/5-165, combat order for further operations, type-signed by Colonel Milenko Živanović, dated 21 March 1993, Eng. p.3 (emphasis added).

Yes, I agree, it's still in force. It was in force for a long time and stage by stage, the tasks from that directive were implemented.<sup>3470</sup>

1308. This testimony shows that **PANDUREVIĆ** was fully aware of the tasks assigned by Directive 4 and the manner and timetable in which those tasks were implemented, which is logical given the key role **PANDUREVIĆ** played in the removal of the Muslim population from the areas specified in Directive 4.

1309. Drina Corps document 370/1 dated 15 September 1993, entitled "Realisation of planned tasks from directives nos. 4 and 5," also confirms that the VRS operations in the areas of Kamenica, Cerska and Konjević Polje were conducted pursuant to Directive 4.<sup>3471</sup> In particular, this report confirms that the Zvornik Brigade, supported by the Corps Artillery Group (KAG), "liberated the sector of Kamenica village, Glodi, Raševo and Konjević Polje;"<sup>3472</sup> parts of the 1<sup>st</sup> Birač Brigade were involved in "liberating Lemino Brdo and Paljevine;"<sup>3473</sup> while elements of the 1<sup>st</sup> Krajina Corps and the 2<sup>nd</sup> Birač Brigade "liberated" Cerska.<sup>3474</sup> **PANDUREVIĆ** confirmed that the section in this report about the activities of the Zvornik Brigade was "completely true."<sup>3475</sup> Thus, not only does this document confirm that the operations in Kamenica, Cerska and Konjević Polje were conducted pursuant to Directive 4, it specifically confirms that the Zvornik Brigade, under **PANDUREVIĆ**'s command, played a key role in these operations.

**PANDUREVIĆ was less than candid about his relationship with UNPROFOR during this period**

1310. During his testimony, **PANDUREVIĆ** was less than candid about his relationship with UNPROFOR in 1993, in particular with UN Gen. Morillon:

I had several meetings with Mr. Morillon. I was surprised, pleasantly surprised, by his dedication to the mission at hand, by his objectivities, and by his charm. And it was a great honour for me to cooperate with the general of the great French army and the great French people.<sup>3476</sup>

1311. **PANDUREVIĆ**'s testimony on this point is belied by the Zvornik Brigade's regular combat report of 11 March 1993 -- just one day before Serb forces shelled UNPROFOR soldiers and Muslim civilians at Konjević Polje<sup>3477</sup> -- in which **PANDUREVIĆ** expressed his true feelings towards UNPROFOR and the other

<sup>3470</sup> **PANDUREVIĆ**, T.32093.

<sup>3471</sup> Exh. 5D01323, Drina Corps Command, no.370/1, Realization of the planed tasks from directives nos. 4 and 5, signed by Major-General Milenko Živanovic.

<sup>3472</sup> Exh. 5D01323 at ERN 0427-4987 (BCS), English p.12.

<sup>3473</sup> Exh. 5D01323 at ERN 0427-4987 (BCS), English p.12.

<sup>3474</sup> Exh. 5D01323 at ERN 0427-4987 (BCS), English pp.12-13.

<sup>3475</sup> **PANDUREVIĆ**, T.32094.

<sup>3476</sup> **PANDUREVIĆ**, T.30801.

<sup>3477</sup> See paras. 1295-1297.



humanitarian organisations, referring to them as “good for nothings.”<sup>3478</sup> While this is hardly the most pejorative document authored by **PANDUREVIĆ** during the war, what it does show is that **PANDUREVIĆ**’s attitude towards the UN forces was not as benign as he claimed. This diminishes the credibility of **PANDUREVIĆ**’s testimony about his contact with UN forces during the takeover of Srebrenica in July 1995.

### **Conclusion**

1312. **PANDUREVIĆ**’s participation in these military operations pursuant to Directive 4 and DK Order 2-126, in the full knowledge that their ultimate goal was the removal of the Muslim civilian population from the Cerska, Žepa, Srebrenica and Goražde areas, leaves no doubt that **PANDUREVIĆ** intended the outcome of those operations. The units under **PANDUREVIĆ**’s command set out to achieve the removal of the Muslim population through, *inter alia*, the indiscriminate targeting of Muslim civilians and UNPROFOR soldiers and the burning of Muslim houses. **PANDUREVIĆ** endorsed this behaviour by reporting it to his superiors and admitting that he did not punish any of his subordinates for this behaviour.<sup>3479</sup> **PANDUREVIĆ** both intended, and desired, the removal of the Muslim population from these areas.

**(lxxix) In March 1995, PANDUREVIĆ knew of the VRS’s policy to “create an unbearable situation of total insecurity with no hope of further survival or life for the inhabitants of Srebrenica and Žepa” and he acknowledged that it was unlawful.**

1313. **PANDUREVIĆ** testified that he first saw Directive 7 in The Hague.<sup>3480</sup> However, **PANDUREVIĆ** acknowledged that he contemporaneously received and read the Drina Corps “Order for Defence and Active Combat Operations Operative No. 7,”<sup>3481</sup> dated 20 March 1995, which repeated the infamous language from Directive 7: “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.”<sup>3482</sup> **PANDUREVIĆ** acknowledged that this order was unlawful.<sup>3483</sup>

<sup>3478</sup> Exh. P04250, Zvornik Brigade Regular Combat Report 2 No. 168-3, type-signed Maj. Vinko Pandurević, dated 11 March 1993.

<sup>3479</sup> **PANDUREVIĆ**, T.32066. Despite writing several combat reports which detailed how his units fired at civilians and burned facilities, **PANDUREVIĆ** claimed that he had no information that his units had destroyed any Muslim property or abused a Muslim person.

<sup>3480</sup> **PANDUREVIĆ**, T.30821.

<sup>3481</sup> **PANDUREVIĆ**, T.30822-30823.

<sup>3482</sup> Exh. P00203, Drina Corps order for defence and active combat operations, Operative No. 7, dated 20 March 1995, signed by Maj Gen Milenko Zivanović, p.6 (emphasis added).

<sup>3483</sup> **PANDUREVIĆ**, T.32137:7-24.

1314. Despite acknowledging the unlawful nature of this order, **PANDUREVIĆ** nonetheless claimed that the ultimate purpose of making life unbearable for the Muslim population of Srebrenica and Žepa was not to remove them from those areas:

Muslims still live in Srebrenica to this date, so obviously that was not the objective. The objective was to make them realise that there was no life for them as long as the 28<sup>th</sup> Division was there, and living in the enclave. If the 28<sup>th</sup> Division wasn't there, they would have been living like everybody else in the area.<sup>3484</sup>

1315. Contrary to **PANDUREVIĆ**'s testimony, as far back as November 1992 the VRS explicitly stated in Directive 4 and Drina Corps order 2-126 that the goal of the RS and the VRS leadership was to force the Muslim forces *and* the civilian population to leave this area. **PANDUREVIĆ** played a key role in the 1993 military campaign which almost succeeded in achieving this criminal goal. Given this background, and the fact that the Muslim civilian population actually *was* removed in July 1995, **PANDUREVIĆ**'s claim that "Muslims still live in Srebrenica to this date, so obviously that was not the objective" is disingenuous. By the night of 13 July 1995, there were *no* Muslims left in Srebrenica after they were forcibly removed by VRS and MUP forces. The fact that some may have returned after the war, after the Dayton Accords, is entirely irrelevant to what the VRS, and **PANDUREVIĆ**, intended at the time.

1316. During his testimony, **PANDUREVIĆ** also attempted to distance himself from the unlawful nature of Drina Corps Order Operative No. 7 by claiming that the particular tasks assigned to the Zvornik Brigade "had nothing to do with the area of either Srebrenica or Žepa and, hence, the population in those two enclaves."<sup>3485</sup> However, among the specific orders issued to the Zvornik Brigade was the order to launch active combat operations to "*tie down as many enemy forces as possible during the operation carried out by IBK and DK and inflict the greatest possible losses in personnel and material.*"<sup>3486</sup> This order was clearly intended to divert part of the Muslim forces and thus contribute to the larger operations being carried out by the IBK and the Drina Corps. **PANDUREVIĆ**'s attempt to distance himself from the military operations around the Srebrenica and Žepa enclaves pursuant to Directive 7 provides additional proof that he knew that the operations against the enclaves were criminal.

<sup>3484</sup> **PANDUREVIĆ**, T.32139:19-23.

<sup>3485</sup> **PANDUREVIĆ**, T.30827:19-23.

<sup>3486</sup> Exh. P00203, p.9.

**(lxxx) The Zvornik Brigade, under PANDUREVIĆ's command, implemented the policy laid out in Directive 7 to restrict humanitarian aid convoys.**

1317. On at least two occasions after the issuance of Directive 7, the Zvornik Brigade confiscated non-military material from convoys bound for the Srebrenica enclave in accordance with the Main Staff's objectives outlined in Directive 7. On 2 April 1995, the Zvornik Brigade confiscated a "veld steriliser" from an UNPROFOR convoy *en route* to Srebrenica.<sup>3487</sup> Two days later, on 4 April, the Zvornik Brigade confiscated from an MFS convoy four tonnes of laundry detergent, 1,500 bottles of floor detergent, 744 litres of hair shampoo, towels, alcohol beverages, coffee and cigarettes.<sup>3488</sup> **PANDUREVIĆ** confirmed that the Zvornik Brigade received an order to confiscate this material.<sup>3489</sup>

1318. During his examination-in-chief, **PANDUREVIĆ** also testified that:

*The brigade didn't have any powers to either allow or reject the passage of convoys. The people who manned check-points were only to act in compliance with the usual procedure upon receiving a notice that a convoy was coming and to check the contents of what they are carrying....*

*All the convoys were stopped there and checked. If everything tallied with the declaration that the convoy leader had on him, they would be allowed to continue. However, if certain commodities or other items were detected that were not permissible to be transported in that way, then the superior command would be advised, and they would tell us what to do in that situation.*<sup>3490</sup>

*I didn't receive any order for us to deliberately obstruct the passage of any convoys on our own initiative.*<sup>3491</sup>

1319. While **PANDUREVIĆ** may not have been obstructing the passage of convoys purely on his "own initiative," **PANDUREVIĆ** would have known that the orders from above were designed to restrict aid to the enclaves and facilitate that unlawful objective.

**(lxxxi) On 25 April 1995, PANDUREVIĆ issued Zvornik Brigade report 15-12/95, the content of which showed that he shared the intent of the RS and VRS leadership to remove the Muslim population from parts of eastern Bosnia.**

1320. **PANDUREVIĆ** testified that derogatory language towards Muslims was largely absent from Zvornik Brigade documents at the start of the war. However, as the anger and hatred towards Muslims built over the course of the war, terms such as Turk and *poturice*<sup>3492</sup> increasingly pervaded the official military documents of the Zvornik Brigade:

<sup>3487</sup> Exh. 5D00320, 1Zvpbr Regular combat report no 06/101, type-signed by Vinko **PANDUREVIĆ**, dated 2 April 1995.

<sup>3488</sup> Exh. 5D00321, Zvornik Brigade regular combat report 06/105, type-signed by Vinko **PANDUREVIĆ**, dated 4 April 1995.

<sup>3489</sup> **PANDUREVIĆ**, T.32142:3-7.

<sup>3490</sup> **PANDUREVIĆ**, T.30809:17 – 30810:4 (emphasis added).

<sup>3491</sup> **PANDUREVIĆ**, T.30809-30810 (emphasis added).

<sup>3492</sup> For the meaning of *poturice*, see Exh. P04282, VRS Main Staff Combat Order No. 02/2-135, type-signed Gen. Manojlo MILOVANOVIC, dated 15 February 1993. See also [REDACTED]; and **PANDUREVIĆ**, T.30834, who [REDACTED] acknowledged that the term "poturice" had negative

No, they were not used throughout the war – or, rather, from its beginning. At one point in the war, they crept into our documents. I don't know exactly what that happened. You can see in the documents themselves ... Six months into the war, some people were still not aware of the reality of the situation. They were not aware that the war was really going on, but as the war continued, as the casualties mounted, the anger and hatred also mounted, and those words assumed a different meaning and gained in prominence.<sup>3493</sup>

1321. On 25 April 1995, after the issuance of Directive 7, Vinko **PANDUREVIĆ** issued Zvornik Brigade report no. 15-12/95<sup>3494</sup> which contains some of the most ethnically derogatory and inciting language seen in this trial. This Report states, *inter alia*, that:

The moment has come when the issue of *liberating the Serbian lands from poturice* will be finally resolved in this area by a resolute and successful action of our forces...

One should not be short-sighted and fail to see that precisely by doing this they have given us a unique chance *to push them away from us for all time* as they are asking for it, and put them under control in this area...

We must dash for all time their hope of creating a *Muslimanija* extending to the Drina and the Sava, and make it possible for our people to return to their centuries-old homes, Vitinice, Rastošnice and other Serbian places in the area...

The adequate response of our forces meant that we realised that there would be no peace and security in Semberija and Donje Podrinje until the poturice were completely defeated *and driven out of this area*...

Therefore, let us gather our strength with determination and focus it on the most important goal at the moment, *driving the enemy away from this area forever* and defeating him. That is the only guarantee of our freedom and survival in these lands.

1322. This document shows that **PANDUREVIĆ** shared the intent of the RS and VRS leadership of removing the Muslim population from parts of eastern Bosnia. It also reflects **PANDUREVIĆ**'s ethnic bias towards the Muslim people.

1323. During his testimony, **PANDUREVIĆ** acknowledged that the document "should never have been written, and my signature should never have been put on this kind of document because there are certain parts and sections that, as they are, should never have been included in this kind of report."<sup>3495</sup> However, **PANDUREVIĆ** also attempted to shift responsibility for the content of the report onto the Zvornik Brigade's Assistant Commander for Morale, Religious and Legal Affairs, claiming that he (**PANDUREVIĆ**) "just glanced at it without reading the whole document."<sup>3496</sup> **PANDUREVIĆ**'s alleged recall of this particular document which he supposedly "just glanced at" was a futile attempt to minimise his involvement in the drafting and approval of this document.

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connotations. **PANDUREVIĆ** claimed that Muslims use the word amongst themselves, but conceded that "if the word is used between the two different ethnic groups, it assumes a different connotation" (at T.30834:20-22).

<sup>3493</sup> **PANDUREVIĆ**, T.30835-30836.

<sup>3494</sup> Exh. P02920, Zvornik Brigade Document No. 15-12/95 report on success of combat operations, signed by Vinko **PANDUREVIĆ**, dated 25 April 1995.

<sup>3495</sup> **PANDUREVIĆ**, T.30833.

<sup>3496</sup> **PANDUREVIĆ**, T.30832-30833.

1324. In any event, the fact that his Assistant Commander for Moral drafted a document in such language and presented it to **PANDUREVIĆ** provides clear evidence of the culture of ethnic bias against Muslims which pervaded the Zvornik Brigade Command.

**(lxxxii) PANDUREVIĆ participated in the *Krivaja-95* operation in the knowledge that it had dual goals: a legitimate military purpose to disarm the 28<sup>th</sup> Division; and a criminal goal to reduce the enclaves to their urban areas and create conditions for the elimination of the enclaves (i.e., the removal of the Muslim population).**

1325. The VRS had a legitimate military purpose to conduct military operations against Srebrenica and Žepa enclaves; that is, to disarm the ABiH forces who were present in the enclaves. However, the *Krivaja-95* operation also had a criminal goal to reduce the enclaves to their urban areas and created the conditions for the elimination of the enclaves,<sup>3497</sup> i.e., to create a humanitarian disaster which would result in the removal of the Muslim population from the enclaves.

1326. The criminal goal of the RS and VRS leadership to remove the Muslim population from eastern Bosnia was outlined as early as May 1992 in the Six Strategic Objectives and was restated in Directive 4 and DK Order 2-126 in November 1992. In early 1993, **PANDUREVIĆ** and forces under his command conducted military operations through the Kamenica, Cerska and Konjević Polje areas pursuant to Directive 4 which showed that **PANDUREVIĆ** both intended and desired the removal of the Muslim population from those areas.<sup>3498</sup>

1327. Following the humanitarian disaster in Srebrenica in March and April 1993 created by the arrival of thousands of Muslim refugees who had fled their homes before the VRS attack, the VRS leadership and **PANDUREVIĆ** knew that reducing the enclaves to their urban areas would result in another humanitarian disaster which, if all went to plan, would lead to the final removal of the Muslim population from the enclaves. Thus, while there is no doubt that the *Krivaja-95* operation had a legitimate military purpose of disarming the 28<sup>th</sup> Division; it was the second, criminal goal behind the operation which led to the final takeover of the enclave on 11 July and the removal of the civilian population in the days that followed.

1328. [REDACTED].<sup>3499</sup>

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<sup>3497</sup> Exh. P00107, Drina Corps Command Order 04/156-2, Operations Order No.1 “*Krivaja-95*.”

<sup>3498</sup> See paras. 1281-1312.

<sup>3499</sup> [REDACTED].

1329. **PANDUREVIĆ** testified that on 1 July, he went to Pribićevec where Gen. Krstić briefed him and other brigade commanders about the Krivija 95 operation and stated that the aims of the operation were to separate the Srebrenica and Žepa enclaves and to prevent the 28<sup>th</sup> Division from assisting to lift the blockade around Sarajevo or launching an operation to reach the Drina River.<sup>3500</sup> Given that Directive 7 was explicitly referenced in both the preparatory order and the combat order for this operation, the broader significance and goals of the operation would have been discussed at this meeting, including the reduction of the enclaves to their urban areas and the creation of conditions for their elimination.

1330. On 2 July, **PANDUREVIĆ** received the Drina Corps' preparatory order for the *Krivaja-95* operation<sup>3501</sup> and later that day, **PANDUREVIĆ** received the combat order which, pursuant to Directives 7 and 7/1, ordered the VRS units to "split apart the enclaves of Srebrenica and Žepa, and to reduce them to their urban areas," and "create conditions for the elimination of the enclaves."<sup>3502</sup> The reference to Directive 7 in the *Krivaja-95* preparatory order and the combat order clearly indicates that, in addition to the motive of disarming the 28<sup>th</sup> Division, the *Krivaja-95* operation had the criminal goal of removing the Muslim population from this area. The manner in which this was to be achieved was stated explicitly, *i.e.*, by "reducing the enclaves to their urban areas."

1331. During his testimony, **PANDUREVIĆ** claimed that the urban areas meant "the centre of the town and the surrounding settlements,"<sup>3503</sup> not just the town itself.<sup>3504</sup>

ŠIĆ: If we applied that to the urban part of the town knowing what Srebrenica is like, then all these people would have been driven out into the street because there's only one main street and two cross streets. What would have that been like?<sup>3505</sup>

1332. **PANDUREVIĆ** and the VRS leadership knew full well the humanitarian disaster that would result from cramming thousands of Muslims into the centre of Srebrenica town. In March and April 1993, the humanitarian disaster caused by cramming thousands of Muslims into the small urban area of Srebrenica resulted in the evacuation of thousands of Muslims. Thus, the VRS leadership knew that forcing tens of thousands of Muslims into the urban areas of Srebrenica and Žepa would create the "unbearable situation of total insecurity with no hope of further survival or life for the inhabitants of

<sup>3500</sup> **PANDUREVIĆ**, T.30840-30841.

<sup>3501</sup> Exh. P00106, Drina Corps Order No. 01/04-156-1 Preparatory Order No. 1, type-signed by Milenko Živanović, dated 2 July 1995.

<sup>3502</sup> Exh. P00107, Drina Corps Command Order 04/156-2, Operations Order No. 1 *Krivaja-95*, dated 02 July 1995.

<sup>3503</sup> **PANDUREVIĆ**, T.32143:4-5.

<sup>3504</sup> **PANDUREVIĆ**, T.32143-32144.

<sup>3505</sup> **PANDUREVIĆ**, T.32145:6-11.

Srebrenica and Žepa” envisaged by Directive 7 and ultimately create the conditions for the elimination of the enclaves.

**(lxxxiii) By 11 July, PANDUREVIĆ knew that the goal of the *Krivaja-95* operation had expanded to include the takeover of the entire Srebrenica enclave and units under his command took the features around Srebrenica and the town itself.**

1333. Vinko PANDUREVIĆ personally commanded a VRS tactical group (“TG-1”) during the *Krivaja-95* operation.<sup>3506</sup> The deputy commander of TG-1 was Milan Jolović (*a.k.a.*, Legenda) from the Drina Wolves<sup>3507</sup> and TG-1 itself was comprised of a combat group drawn from the ranks of the Drina Wolves manoeuvre battalion, which included an 82mm mortar platoon; a second combat group drawn from other battalions of the Zvornik Brigade; an armoured and mechanised company which included four T-55 tanks, a Praga and two hand-held anti-aircraft rocket launchers; a battalion firing group (122mm Howitzer platoon); and a logistics platoon.<sup>3508</sup>

1334. As described above at paras. 282-310, Srebrenica town, the UN Bravo Company compound and the Muslim population were shelled intensively by VRS forces from 6 through 11 July. TG-1’s involvement is confirmed by the presence of an 82mm mortar platoon, a 122mm Howitzer platoon and four T-55 tanks among its arsenal. Also, DutchBat soldiers were removed from their observation posts around the enclave during the *Krivaja-95* operation. PANDUREVIĆ acknowledged that the units under his command were responsible for removing UNPROFOR soldiers from two UN OPs in the Zeleni Jadar sector.<sup>3509</sup> The removal of UNPROFOR from their OPs was a critical step in enabling the VRS to takeover the enclave and remove the Muslim population. PANDUREVIĆ knew this at the time.

1335. On 10 July, PANDUREVIĆ received orders from Gen. Krstić to advance towards Srebrenica and take control of the town.<sup>3510</sup> Former DutchBat soldiers, UNMO Joseph Kingori and Muslim witnesses all described how the VRS intensively shelled the urban area of Srebrenica on 10 July.<sup>3511</sup> In particular, shells fired by VRS units hit a hospital where 2,000 civilians had gathered for refuge and six of them were killed.<sup>3512</sup> While it is

<sup>3506</sup> Exh. 5DP00106, Drina Corps Command order 01/04-156-1 - Preparatory Order Operations number 1; Exh. P00318, Zvornik Brigade Order No. 01-244, dated 2 July 1995; DRAGUTINOVIĆ, T.12575:6-8.

<sup>3507</sup> Exh. P00318; DRAGUTINOVIĆ, T.12575:6-8.

<sup>3508</sup> Exh. P00318; DRAGUTINOVIĆ, T.12574:19-25.

<sup>3509</sup> PANDUREVIĆ, T.30857-30858. See also DRAGUTINOVIĆ, T.12687-12688.

<sup>3510</sup> DRAGUTINOVIĆ, T.12577:7-15. See also PANDUREVIĆ, T.30867, 30874-30875, who claimed that he received the order on the morning of 11 July.

<sup>3511</sup> See paras. 297-301.

<sup>3512</sup> Prosecution Adjudicated Fact 106.

not known precisely which VRS units shelled the urban area of Srebrenica on 10 July, **PANDUREVIĆ** must have been aware of this shelling.

1336. On 11 July, as testified by DutchBat officer Van Duijn, Srebrenica town was in chaos as the scared Muslim population grabbed whatever belongings they could take with them and gathered near the UN Bravo Company compound.<sup>3513</sup> **PANDUREVIĆ** testified that on this day, units under his command took features to the east and west of the town and Zvornik Brigade soldiers from the Drina Wolves entered the town with **PANDUREVIĆ** himself.<sup>3514</sup> Later that afternoon, **PANDUREVIĆ** spoke with Gen. Mladić in the middle of Srebrenica just minutes after Mladić, on camera, had uttered the ominous words: “the time has come to take revenge on the Turks in this region.”<sup>3515</sup>

1337. **PANDUREVIĆ**’s admission that units under his command (as opposed to the units from the 2<sup>nd</sup> Romanija Brigade and the 1<sup>st</sup> Birač Brigade) took the features around the town of Srebrenica and ultimately the town itself is significant because the UN’s Bravo Company compound and the Muslim population in it were shelled at around noon on 11 July, injuring several people.<sup>3516</sup> **PANDUREVIĆ** knew that these indiscriminate shelling attacks were occurring and were carried out by the units under his command.

1338. The indiscriminate shelling of Muslim civilians and UNPROFOR soldiers with **PANDUREVIĆ**’s knowledge and approval is entirely consistent with the evidence that on 12 March 1993, VRS units shelled Muslim civilians and UNPROFOR soldiers during the attack on Konjević Polje despite the UN commander explicitly requesting that **PANDUREVIĆ** stop the shelling. The attack on Konjević Polje resulted in 12 Muslim civilian deaths and ultimately contributed to the climate of fear which caused the Muslim population to flee that area.<sup>3517</sup> Given his knowledge of, and involvement in, the shelling of Konjević Polje in 1993, **PANDUREVIĆ** would have known that shelling the town of Srebrenica indiscriminately would inevitably cause the Muslim population to flee.

### **Conclusion**

1339. **PANDUREVIĆ** acknowledged that his units assaulted the Srebrenica enclave and removed UNPROFOR soldiers from two of their observation posts around the perimeter of the enclave. **PANDUREVIĆ**’s actions enabled the VRS to take control of the UN facilities and the enclave and remove the Muslim population. **PANDUREVIĆ** must have

<sup>3513</sup> VAN DUIJN, T.2268.

<sup>3514</sup> **PANDUREVIĆ**, T.30875:16 – 30876:16.

<sup>3515</sup> Exh. P02048, Srebrenica Trial Video and transcripts at ERN: L009-2407.

<sup>3516</sup> Prosecution Adjudicated Fact 109.

<sup>3517</sup> See paras. 1295-1297.



been aware that the military assault on the enclave and the disabling of UNPROFOR was a key precondition to the successful takeover of the enclave and the removal of the Muslim population. Therefore, his actions made a significant contribution to the Joint Criminal Enterprise to remove the Muslim population from Srebrenica.

**(lxxxiv) On 12 July, soldiers from TG-1 under PANDUREVIĆ's command were present in Potočari and PANDUREVIĆ has acknowledged that by the evening of 12 July he was aware that the Muslim population was being removed.**

1340. The Defence for **PANDUREVIĆ** has attempted to show that the Drina Wolves were not subordinated to the Zvornik Brigade when it moved outside of the Zvornik Brigade's area of responsibility. That is irrelevant for the Drina Wolves unit which was a part of TG-1. All Drina Wolves members of TG-1 were subordinated to **PANDUREVIĆ** throughout the *Krivaja-95* operation.<sup>3518</sup>

1341. On 12 July, soldiers from the Drina Wolves under **PANDUREVIĆ**'s command were seen in Potočari by three witnesses. [REDACTED] soldier [REDACTED] PW-100 testified that "later in the day" on 12 July he saw a "few" VRS soldiers from the Drina Wolves whom he recognised from the insignia on their left shoulder with a wolf's head.<sup>3519</sup> [REDACTED] PW-100's evidence was unchallenged by the Defence for **PANDUREVIĆ**.<sup>3520</sup> Bratunac Brigade Assistant Commander for Rear Services, Dragoslav Trisić, also testified that he went to Potočari at around noon on 12 July where he saw members of the Zvornik Brigade.<sup>3521</sup> Trisić stood by his prior testimony from the Blagojević case that the patches worn by these soldiers read "Wolves from the Drina."<sup>3522</sup> Momir Nikolić gave evidence that he worked in coordination with numerous units in Potočari on 12 July, including the Drina Wolves, as he coordinated and supervised the transport of the Muslim women and children and the separation and detention of the able-bodied Muslim men.<sup>3523</sup>

1342. The Drina Wolves were a highly disciplined and motivated unit and would only have been in Potočari pursuant to orders from their commander, Vinko **PANDUREVIĆ**.

<sup>3518</sup> See Exh. P00318, which outlines the "organisational structure and establishment of the TG command and subordinated units" and clearly shows that the combat group from the Drina Wolves was subordinated to the commander of the Tactical Group, Vinko **PANDUREVIĆ**. See also Exh. 7D00941, Zvornik Brigade Tactical Group order to march no. 4 dated 13 July 1995, in which **PANDUREVIĆ** issued orders to the members of the tactical group (including the members of the POSS *a.k.a.* Drina Wolves) to march to Žepa.

<sup>3519</sup> [REDACTED] PW-100, T.14810:17 - 14811:4.

<sup>3520</sup> At T.14850:7-10, the Presiding Judge noted that the Pandurević Defence had no questions for [REDACTED] PW-100.

<sup>3521</sup> TRISIĆ, T.27069:9-10.

<sup>3522</sup> TRISIĆ, T.27165-27166.

<sup>3523</sup> Exh. C00001, Momir Nikolić's Statement of Facts, para. 6; **NIKOLIĆ**, T.32927:17-18.

### **Conclusion**

1343. The presence of these soldiers from the Drina Wolves contributed to the climate of fear which facilitated the forcible removal of the Muslim population. The Drina Wolves soldiers also would have seen the appalling conditions in which the Muslim civilians were suffering and they would have noticed the presence of at least some of the approximately 2,000 Muslim men who were in Potočari and the separation of these men from their families. Such information would have been reported back to their commander, Vinko **PANDUREVIĆ**.

1344. **PANDUREVIĆ** also acknowledged that he met Gen. Krstić on the evening of 12 July at Viogor where Krstić told him (**PANDUREVIĆ**) that the Muslims in Potočari had “expressed a desire to be evacuated in the direction of Tuzla and Kladanj, and that the process was actually underway.”<sup>3524</sup> While it is likely that **PANDUREVIĆ** knew of the forcible transfer much earlier in the day, if not the previous night, this is nonetheless a significant admission which shows that **PANDUREVIĆ** was fully aware of the forcible transfer operation as it was being carried out.

1345. **PANDUREVIĆ**’s contribution to the forcible removal of the Muslim population from the Cerska, Kamenica and Konjević Polje areas in 1993 has been discussed at length in this brief. **PANDUREVIĆ** was fully aware of the wartime history of the enclaves and the Bosnian Serbs’ intentions from 1992 through 1995 to remove the Muslim civilian population from eastern Bosnia. **PANDUREVIĆ** also would have understood the attachment of the Muslims to their land, their homes, their religious monuments and their communities (as were the Serbs) and that the Muslims would only leave this area through fear or brute force. The VRS, with **PANDUREVIĆ**’s wilful and knowing participation, used both fear *and* force to remove the Muslim population. Thus, when **PANDUREVIĆ** testified that Gen. Krstić told him on the night of 12 July that the Muslims had “expressed a desire to be evacuated in the direction of Tuzla and Kladanj,” there can be no doubt that **PANDUREVIĆ** would have known that the only way the Muslims truly would have agreed to be “evacuated” is if they had no other choice.

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<sup>3524</sup> **PANDUREVIĆ**, T.30902:17 – 30903:1.

(lxxxv) On 14 July, units under PANDUREVIĆ's command attacked the Žepa enclave and PANDUREVIĆ knew that the attack had the unlawful motive of forcing the Muslim population to leave the Žepa enclave.

1346. At around 10:00 hours on 13 July, Gen. Mladić went to Viogor where the VRS units and commanders, including Vinko **PANDUREVIĆ**, were assembled.<sup>3525</sup> Miodrag Dragutinović testified that Mladić issued the following order to the assembled units:

Tactical groups 1 and 2 should be ready to start marching towards the Žepa sector and the mission was to continue combat activities *and to eventually take the Žepa enclave.*<sup>3526</sup>

1347. Dragutinović's testimony about the content of Mladić's speech is corroborated by Mirko Trivić's contemporaneous diary, in which Trivić recorded that: "General Mladić addressed the soldiers – the task is clear – liberate Žepa."<sup>3527</sup> On the morning of 13 July, the Muslim men were fleeing from the Srebrenica enclave and the Muslim civilian population was in the process of being removed from Potočari. In these circumstances, **PANDUREVIĆ** must have known that Mladić's order to "liberate Žepa" meant that the goal of the pending attack on the Žepa enclave was to remove the Muslim population from the Žepa area, as it was for Srebrenica.

1348. The VRS's goal to remove the entire Muslim population from Žepa was explicitly confirmed on 13 July when Gen. Tolimir and the Rogatica Brigade Commander, Col. Rajko Kušić, met with the local Bosnian authorities at the UN checkpoint at Bokšanica. Hamdija Torlak, who attended that meeting as a representative of the Muslims from Žepa, testified that the message from the VRS was that "Srebrenica had fallen and it was Žepa's turn now."<sup>3528</sup> Gen. Tolimir offered the Bosnian Muslim representatives of Žepa two alternatives: either the entire population could be "evacuated" in the same manner as Srebrenica, or the Bosnian Serbs would take military action.<sup>3529</sup> Despite Tolimir's threat, Torlak testified that the Muslims rejected the VRS's demand, partly because of stories they had heard about people being taken off the buses at Potočari.<sup>3530</sup>

1349. Tactical Group 1, under the command of **PANDUREVIĆ**, arrived in the village of Rijeka at around 02:00 hours on the morning of 14 July.<sup>3531</sup> Later that morning, **PANDUREVIĆ** went to the Drina Corps IKM at Krivače where he received orders from Gen. Krstić to attack along the axis of Pozeplje-Brloznik-Purtići in the direction of

<sup>3525</sup> DRAGUTINOVIĆ, T.12586; Exh. P04309, diary of Mirko Trivić, p.31.

<sup>3526</sup> DRAGUTINOVIĆ, T.12587 (emphasis added).

<sup>3527</sup> Exh. P04309, diary of Mirko Trivić, p.31.

<sup>3528</sup> TORLAK, T.9725.

<sup>3529</sup> TORLAK, T.9723-9724.

<sup>3530</sup> TORLAK, T.9726-9728.

<sup>3531</sup> DRAGUTINOVIĆ, T.12589.

Žepa.<sup>3532</sup> During the day, units from Tactical Group 1 took the village of Brloznik.<sup>3533</sup> Also on 14 July, an UNPROFOR report recorded that the local VRS commander demanded that UNPROFOR evacuate its OPs and told UNPROFOR that an assault would begin at 14:00 that day.<sup>3534</sup> The VRS started “bombarding” UNPROFOR positions at 15:00 hours on 14 July.<sup>3535</sup>

1350. During his testimony, **PANDUREVIĆ** claimed that the objective of the Žepa operation was to “neutralise the Žepa Brigade”<sup>3536</sup> and that “the civilian population and UNPROFOR were not the targets of the actions of the VRS.”<sup>3537</sup> However, given Gen. Tolimir’s explicit demand on 13 July that the entire Muslim population leave the enclave or be attacked, and given that the VRS attacked UNPROFOR positions on the afternoon of 14 July, **PANDUREVIĆ**’s testimony on this point can only be viewed as an attempt to conceal the true nature of his knowledge about the criminal goal behind the attack.

### **Conclusion**

1351. The attack on the Žepa enclave was launched as a direct response to the Muslim’s rejection of Tolimir’s demand that the Muslim population leave the Žepa enclave. By attacking the enclave to enforce Gen. Tolimir’s threat, **PANDUREVIĆ**’s actions made a significant contribution to the Joint Criminal Enterprise to remove the Muslim population from Žepa. Given **PANDUREVIĆ**’s knowledge of what had happened in Srebrenica, and the clear message Mladić had delivered during his speech at Viogor on the morning of 13 July, **PANDUREVIĆ** participated in this attack in the full knowledge that the goal was to force the Muslim population of Žepa to leave the enclave.

### **(lxxxvi) On 26 July, PANDUREVIĆ was present at the UN checkpoint in Bokšanica during the forcible removal of the Muslim population from Žepa.**

1352. During his testimony, **PANDUREVIĆ** stated that he went to the Godenje IKM on 27 July in order to speak with Gen. Krstić.<sup>3538</sup> **PANDUREVIĆ** also gave the following testimony about what was occurring in the Žepa area on this date:

<sup>3532</sup> DRAGUTINOVIĆ, T.12591-12592. See also **PANDUREVIĆ**, T.30913-30914, who testified that he met with Krstić on the morning of 14 July at the Drina Corps IKM at Krivače, where he received the Žepa attack order.

<sup>3533</sup> DRAGUTINOVIĆ, T.12592-12593.

<sup>3534</sup> Exh. P02875, UNPROFOR Sector Sarajevo Weekly Situation Report of Civil Affairs Officer David Harland, 15 July 1995.

<sup>3535</sup> Exh. P02875.

<sup>3536</sup> **PANDUREVIĆ**, T.30916:12-20.

<sup>3537</sup> **PANDUREVIĆ**, T.30916:2-4.

<sup>3538</sup> **PANDUREVIĆ**, T.31172-31180.

I'm sure that there were no combat actions. I think that the evacuation of the civilian population was underway, *but I didn't have any specific information about the manner in which this was being done.*<sup>3539</sup>

1353. Contrary to **PANDUREVIĆ**'s testimony, the so-called "Bokšanica Footage" shows that **PANDUREVIĆ** was present at the UN checkpoint at Bokšanica on 26 July with Generals Mladić, Krstić and **GVERO** immediately prior to and during the start of the removal of the Muslim civilian population through that checkpoint.<sup>3540</sup> At one point during the footage, Gen. Mladić can be heard announcing: "The Turks are coming, come over here boys."<sup>3541</sup> Gen. Mladić, Gen. **GVERO**, Gen. Krstić and Vinko **PANDUREVIĆ** then all lined up alongside the road passing through the checkpoint.<sup>3542</sup> Just seconds later, busses arrive containing Muslims from Žepa.<sup>3543</sup> **PANDUREVIĆ** knew exactly how the forcible removal of the Muslim population was being carried out, in direct contradiction of his testimony on this point.

### **Conclusion**

1354. As with the Srebrenica enclave, **PANDUREVIĆ** was fully aware of the history of the Žepa enclave and the Bosnian Serbs' intention to remove the Muslim population from this area. As he stood alongside Generals Mladić, **GVERO** and Krstić and watched the removal of the Muslim population from Žepa, **PANDUREVIĆ** knew that the Muslims were leaving because they had no other choice. The fact that these senior VRS generals allowed **PANDUREVIĆ** to stand with them as they triumphantly oversaw the removal of the Muslim population from Žepa is a clear indication that they knew that **PANDUREVIĆ** shared their intent to remove the Muslim population from this area.

<sup>3539</sup> **PANDUREVIĆ**, T.31180:11-14 (emphasis added).

<sup>3540</sup> Exh. P04537, Footage of Gen. Mladić, Gen. **GVERO**, Gen. Krstić, Lt. Col. **PANDUREVIĆ**, Hamdija Torlak and refugees from Žepa at the UN checkpoint at Boksanica on 26 July 1995.

<sup>3541</sup> Exh. P04537.

<sup>3542</sup> Exh. P04537 at 14 minutes and 24 seconds.

<sup>3543</sup> Exh. P04537 at 14 minutes and 50 seconds.

**(L) PANDUREVIĆ KNEW OF, SIGNIFICANTLY CONTRIBUTED TO, AND SHARED THE INTENT WITH THE OTHER JCE MEMBERS TO PARTICIPATE IN THE JCE TO MURDER THE MUSLIM MEN FROM SREBRENICA.**

**(lxxxvii) On the evening of 12 July, PANDUREVIĆ met with Gen. Mladić, Gen. Krstić and others in Bratunac and following that meeting, PANDUREVIĆ would have known of the forcible transfers; the appalling conditions in Potočari; that hundreds of Muslim men had been separated and detained in Bratunac; and that those Muslim men were to be murdered by the Bosnian Serb forces.**

1355. On the evening of 12 July, Vinko PANDUREVIĆ attended a meeting at the Bratunac Brigade HQ with Gen. Mladić,<sup>3544</sup> Gen. Krstić,<sup>3545</sup> Gen. Živanović,<sup>3546</sup> Mirko Trivić,<sup>3547</sup> Radomir Furtula<sup>3548</sup> and Milenko Jevđević.<sup>3549</sup> This is proven by the contemporaneous diary of Mirko Trivić; the testimony of Mirko Trivić; [REDACTED]; and the extensive body of evidence -- including an intercepted conversation at 18:50 hours on 12 July -- which proves that Milenko Jevđević attended this meeting on 12 July, not 11 July as he claimed.

1356. PANDUREVIĆ and his defence witnesses Milenko Jevđević and Zvonko Bajagić attempted to mislead the Trial Chamber as to the date of this meeting. PANDUREVIĆ's knowledge of the events in and around Srebrenica and the existence and planned execution of hundreds of Muslim prisoners who were detained in Bratunac on the night of 12 July, as well as his lack of credibility, is established by this evidence.

**Mirko Trivić's diary records that on the evening of 12 July, he attended a meeting in Bratunac with Mladić, Krstić and other officers including PANDUREVIĆ.**

1357. Mirko Trivić, the former commander of the 2<sup>nd</sup> Romanija Brigade, recorded the following entry in his contemporaneous diary for 12 July 1995:

- General Krstić came to the sector of Vijogor village...
- Order:
  - Remain at the line reached
  - the brigade commanders are to come to the DK IKM in Bratunac by 2100 hours via Srebrenica and Potočari (the Bratunac Brigade KM)
- General Mladić came at 2200 hours
  - after congratulations and greetings (despite the fact that Vinko PANDUREVIĆ and I warned him that the soldiers should rest) he ordered:
    - By 08:00 hours tomorrow, General Kostić Šićić must prepare a decision for the liberation of Žepa! ...

<sup>3544</sup> TRIVIĆ, T.11839-11841.

<sup>3545</sup> TRIVIĆ, T.11839-11841.

<sup>3546</sup> Milenko JEVĐEVIĆ, T.29607.

<sup>3547</sup> TRIVIĆ, T.11839-11841.

<sup>3548</sup> Milenko JEVĐEVIĆ, T.29607.

<sup>3549</sup> Milenko JEVĐEVIĆ, T.29607.

In the morning of 13 July, at 1000 hours, General Mladić will personally address the soldiers in the Vijogor village sector at the line reached.<sup>3550</sup>

1358. Trivić's entry that "By 08:00 hours *tomorrow*, General Kostić Ššić must prepare a decision for the liberation of Žepa!" is significant because Gen. Krstić issued the Žepa attack order on 13 July;<sup>3551</sup> thus, the meeting at which Mladić ordered Krstić to produce this order "*tomorrow*" could only have occurred on 12 July. The fact that Mladić issued this order on 12 July is further corroborated by the fact that the very next day, 13 July, Vinko **PANDUREVIĆ** issued an order to TG-1 to march to Žepa.<sup>3552</sup>

1359. Trivić was cross-examined rigorously about the date of this meeting<sup>3553</sup> and the accuracy of the entries in his diary.<sup>3554</sup> Trivić stood by the accuracy of his diary.<sup>3555</sup> Trivić also confirmed the contemporaneous nature of his diary, stating that "the notes referring to the 12<sup>th</sup> were made on the 13<sup>th</sup> at the latest when I was drafting the tasks for the units that were supposed to move away from that area to a new area."<sup>3556</sup> Moreover, as highlighted below, the dates of other key events recorded in Trivić's diary on 11 and 12 July are also corroborated by a significant amount of evidence.

1360. For example, in his entry for 11 July, Trivić recorded the attack by NATO planes on VRS forces at 14:00 and 14:15 hours.<sup>3557</sup> The attack by NATO planes at around 14:30 hours on 11 July is an adjudicated fact in this case<sup>3558</sup> and had been confirmed by numerous witnesses at trial.<sup>3559</sup> Also in his entry for 11 July, Trivić recorded a conversation he had with Gen. Mladić in Srebrenica: "I told him that it was interesting that on this day two years ago (nearly at the same time) he entered Trnovo with he – I was also the first one to greet him and I gave him the flag of the RS. He "snapped" at me – "Forget history, go to the men and secure the town."<sup>3560</sup> This date and content of this entry is corroborated by the Srebrenica Trial Video, which shows that Trivić recorded this exchange in his diary in extraordinarily accurate detail.<sup>3561</sup> In his entry for 12 July, Trivić

<sup>3550</sup> Exh. P04309 at ERN 0608-5856.

<sup>3551</sup> Exh. P00114, Drina Corps Command Order No. 02/04-158-1, Žepa Op Order 1, signed by Radislav Krstić, dated 13 July 1995.

<sup>3552</sup> Exh. 7D00941, Zvornik Brigade Tactical Group order to march no. 4, dated 13 July 1995.

<sup>3553</sup> See e.g. cross-examination of TRIVIĆ, T.11978.

<sup>3554</sup> See e.g. cross-examination of TRIVIĆ, T.11992.

<sup>3555</sup> See e.g. TRIVIĆ, T.11978; T.11993-11994.

<sup>3556</sup> TRIVIĆ, T.11998.

<sup>3557</sup> Exh. P04309 at ERN 0608-5848-0608-5849.

<sup>3558</sup> Prosecution Adjudicated Fact 113.

<sup>3559</sup> See e.g., MOMČILOVIĆ, T.14114; JEVĐEVIĆ, T/29540; **PANDUREVIĆ**, T.30868.

<sup>3560</sup> Exh. P04309 at p.29 (Eng).

<sup>3561</sup> Exh. P02048 at ERN L009-2405. Trivić: "Two years ago, we took the flag to the Trnovo. Two years ago today... at this time, two years ago... on July 11<sup>th</sup>. Congratulations..." Mladić: "Trivić, Trivić, don't...forget history, please. Move forward! So we get to Bratunac. Come on, forget history."

recorded that he received tasks from Col. Vičić in the Bojna sector;<sup>3562</sup> which is consistent with **PANDUREVIĆ**'s own testimony that he (**PANDUREVIĆ**) met with Krstić, Trivić and Vičić near the Bojna repeater on 12 July to receive further tasks.<sup>3563</sup> Trivić also recorded that Gen. Krstić came to the sector of Viogor in the early evening of 12 July,<sup>3564</sup> which again matches **PANDUREVIĆ**'s testimony on this point.<sup>3565</sup>

1361. Accordingly, it is clear that Trivić accurately recorded the date of significant events and meetings in his diary during the Srebrenica operation and it is particularly significant that, aside from the one contested meeting in Bratunac, **PANDUREVIĆ** himself agreed with the timeline of Trivić's diary.

**Trivić's diary entry regarding this meeting is corroborated by Trivić's testimony.**

1362. The date of the meeting recorded in Mirko Trivić's contemporaneous diary is corroborated by his *viva voce* testimony. Trivić testified that on the afternoon of 12 July, he spoke with Gen. Krstić at Viagor and Krstić ordered him (Trivić) to go to the Bratunac Brigade HQ by 21:00 hours that evening to attend a meeting.<sup>3566</sup> Trivić drove to Bratunac that evening via Srebrenica and Potočari, where he saw crowds of men, women and children of all ages.<sup>3567</sup> Trivić also saw MPs and civilian police in Potočari.<sup>3568</sup> The evidence has shown that VRS and MUP units did not enter Potočari until the morning of 12 July 1995; thus, Trivić's observation of MPs and civilian police in Potočari clearly establishes that he passed through Potočari on 12 July, not 11 July.

1363. Trivić testified that he arrived at the Bratunac Brigade HQ shortly before 21:00 hours.<sup>3569</sup> When the meeting commenced, Gen. Krstić, Vinko **PANDUREVIĆ** and several other VRS officers were present.<sup>3570</sup> Gen. Mladić arrived at 22:00 hours, congratulated the officers present on their successes to date and assigned to Gen. Krstić the task of continuing the operation towards Žepa.<sup>3571</sup> Trivić recalled that **PANDUREVIĆ** suggested that the troops involved in the Srebrenica operation should be rested but Mladić ordered that the same troops should continue in the Žepa operation.<sup>3572</sup>

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<sup>3562</sup> Exh. P04309 at p.26.

<sup>3563</sup> **PANDUREVIĆ**, T.30897.

<sup>3564</sup> Exh. P04309 at p.27.

<sup>3565</sup> **PANDUREVIĆ**, T.30901.

<sup>3566</sup> **TRIVIĆ**, T.11837.

<sup>3567</sup> **TRIVIĆ**, T.11838 and T.11853.

<sup>3568</sup> **TRIVIĆ**, T.11838.

<sup>3569</sup> **TRIVIĆ**, T.11838.

<sup>3570</sup> **TRIVIĆ**, T.11839-11841.

<sup>3571</sup> **TRIVIĆ**, T.11839-11841.

<sup>3572</sup> **TRIVIĆ**, T.11842.



1364. Trivić also testified that at one point, Mladić had a telephone conversation with an unknown person regarding the procurement of vehicles and fuel in order to transport the Muslim population from Potočari.<sup>3573</sup> At the end of the meeting Mladić agreed to address the troops on 13 July, before the move to Žepa,<sup>3574</sup> and the attendees of the meeting then went to a dinner that had been organised for them.<sup>3575</sup>

1365. Trivić claimed that at this meeting, he could not recall any discussion of the procedure for treating military-aged Muslim men who were captured or who surrendered to the VRS forces;<sup>3576</sup> he was not aware that separations had taken place that day;<sup>3577</sup> and that there was no discussion about detaining captured or surrendered Muslim men in Bratunac.<sup>3578</sup> This was an attempt by Trivić to minimise his own knowledge of the prisoners and their subsequent fate. Nonetheless, as an admission against his own interests, Trivić's testimony which puts him at a meeting with Generals Mladić and Krstić in the centre of Bratunac after a day of forcible transfers and separations in Potočari and while hundreds of Muslim men were detained nearby in the Hangar, is reliable.

**/REDACTED/**

1366. [REDACTED].<sup>3579 3580</sup>

1367. [REDACTED]<sup>3581 3582 3583 3584 3585 3586</sup>

1368. [REDACTED].<sup>3587 3588</sup>

1369. [REDACTED].<sup>3589</sup>

**The evidence has clearly proven that Defence witness Milenko Jevđević attended a meeting at the Bratunac Brigade HQ on the evening of 12 July.**

1370. Milenko Jevđević testified that at around 19:00 hours on 11 July, he packed up the Drina Corps IKM at Pribićevac, without any orders to do so,<sup>3590</sup> and drove to Bratunac

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<sup>3573</sup> TRIVIĆ, T.11845.

<sup>3574</sup> TRIVIĆ, T.11843.

<sup>3575</sup> TRIVIĆ, T.11846.

<sup>3576</sup> TRIVIĆ, T.11848.

<sup>3577</sup> TRIVIĆ, T.11848:22-25, 11851:3-6.

<sup>3578</sup> TRIVIĆ, T.11851:15-23.

<sup>3579</sup> [REDACTED].

<sup>3580</sup> TRIVIĆ, T.11837; PANDUREVIĆ, T.30901-30902.

<sup>3581</sup> [REDACTED].

<sup>3582</sup> [REDACTED].

<sup>3583</sup> [REDACTED].

<sup>3584</sup> [REDACTED].

<sup>3585</sup> [REDACTED].

<sup>3586</sup> [REDACTED].

<sup>3587</sup> [REDACTED].

<sup>3588</sup> [REDACTED].

<sup>3589</sup> [REDACTED].

via Srebrenica and Potočari.<sup>3591</sup> Jevđević testified that he then attended a meeting at the Bratunac Brigade HQ at 22:00 hours which was attended by Gen. Mladić, Gen. Krstić, Gen. Živanović, Radomir Furtula and **PANDUREVIĆ**.<sup>3592</sup> Jevđević recalled that Mladić ordered the VRS units to proceed to Žepa the following day<sup>3593</sup> and he also recalled **PANDUREVIĆ**'s proposal to Gen. Mladić (which was rejected) that it would be a "very good idea" for the VRS units to consolidate the situation around Srebrenica before moving to Žepa.<sup>3594</sup> Given Jevđević's testimony about the attendees and the content of this meeting, it is clear that he, Mirko Trivić and **PANDUREVIĆ** all attended the same meeting. As outlined below, a significant amount of evidence proves that Jevđević could only have attended this meeting on 12 July, not 11 July as he claimed.

1371. First, in an intercepted conversation at 18:50 hours on 12 July, Major Jevđević is recorded as saying: "from now on we are going to be at Badem, extension 385, and you can reach Badem through Zlatar."<sup>3595</sup> This intercept alone clearly proves that Jevđević packed up the IKM at around 19:00 hours on 12 July -- not 11 July as he claimed -- and then moved to the Bratunac Brigade HQ (*a.k.a.*, Badem).

1372. During cross-examination, Jevđević acknowledged the accuracy of the content of this conversation but claimed that it must have been intercepted on 11 July.<sup>3596</sup> However, the intercept report containing this conversation is dated 12 July and is entitled "Strictly confidential no. 06/1207," which means that it was the sixth report of conversations that were intercepted on 12 July.<sup>3597</sup> The fourth intercept report from 12 July (04/1207)<sup>3598</sup> and the seventh intercept report (07/1207)<sup>3599</sup> both detail intercepted conversations about buses going to Srebrenica which could only have occurred on 12 July; thus, it is clear that Jevđević's conversation recorded in the sixth report (*i.e.*, in-between the fourth and seventh reports) was also intercepted on 12 July. The conversation involving Jevđević was also recorded in a handwritten notebook and, while the handwritten entry is undated,

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<sup>3590</sup> Milenko JEVĐEVIĆ, T.29544.

<sup>3591</sup> Milenko JEVĐEVIĆ, T.29541-29544.

<sup>3592</sup> Milenko JEVĐEVIĆ, T.29607-29610.

<sup>3593</sup> Milenko JEVĐEVIĆ, T.29607-29608.

<sup>3594</sup> Milenko JEVĐEVIĆ, T. 29608.

<sup>3595</sup> Exh. P04087, Intercept dated 12 July 1995 at 18:50 hours.

<sup>3596</sup> Milenko JEVĐEVIĆ, T.29827-29831, 29841-29842, 29865-29868, 29908-29909.

<sup>3597</sup> See the explanation given by [REDACTED] PW-131 at T.4638-4641.

<sup>3598</sup> Exh. P04115, Report strictly confidential no. 04/1207 dated 12 July 1995. In this report, a conversation at 12:05 hours records that "they are collecting trucks and buses and that they'll transport from Srebrenica and that they are going to put even 300 in a truck and that at least 10 of them will die in crowd until it reaches Tuzla." Another conversation at 10:10 hours records that "the buses are getting ready for evacuation and other things." The vehicles that transported the population from Srebrenica first arrived on 12 July; thus, it is clear that these conversations were intercepted on 12 July, not 11 July.

<sup>3599</sup> Exh. P01417, Report strictly confidential no. 07/1207 dated 12 July 1995. In this report, a conversation at 22:00 hours records that "at 1000 hours we took Potočari." This can only be 12 July.

two of the immediately preceding conversations contain details about buses going to Srebrenica and thus could only have occurred on 12 July, not 11 July.<sup>3600</sup>

1373. Second, the 5<sup>th</sup> Communications Battalion roster for July 1995 indicates that Milenko Jevđević, Oliver Sekulić, Momir Bakmas, Veljko Vukosaljević and Mirko Plakalović were all deployed to Pribićevac and then Žepa.<sup>3601</sup> Jevđević confirmed that Sekulić, Bakmas, Vukosaljević and Plakalović were at Pribićevac with him.<sup>3602</sup> The rows on the roster which correspond to the names of Jevđević, Sekulić, Bakmas, Vukosaljević and Plakalović all have a thick black line marked between the dates of 12 and 13 July. Despite Jevđević's claims to the contrary,<sup>3603</sup> this line marks the point in time when these five soldiers were redeployed from Pribićevac to Žepa via Bratunac, *i.e.*, on 12 July.

1374. Third, DutchBat officer Eelco Koster gave evidence that on 11 July, he was commanding approximately 50 DutchBat soldiers who were guarding and guiding the refugees located outside the Potočari compound.<sup>3604</sup> The DutchBat soldiers had installed a roadblock to guide and guard the refugees and Koster stated that a vehicle could not get through the roadblock without being seen by him or reported to him.<sup>3605</sup> Koster was on duty at this position from the afternoon until approximately 20:00 hours, after which he went to the UN compound for two hours and then returned to his position at the roadblock for the rest of the night and through to the evening of 12 July.<sup>3606</sup> Koster testified that it would have been a significant event had a VRS vehicle come through this area on 11 July<sup>3607</sup> and he was sure that no VRS vehicle came through the area on 11 July after 19:00 hours because it would have had to move through the crowd and pass through the roadblock and he would have known.<sup>3608</sup> Moreover, during the two hours Koster was at the UN compound, he left a deputy in command in his absence and Koster stated that no VRS vehicle movement was reported to him by his deputy during the night of 11 July.<sup>3609</sup> Significantly, Koster stated that on the evening of 12 July, he was told by the VRS to clear the road because there could be some transport moving from Srebrenica to

<sup>3600</sup> Exh. P04262, Excerpt from handwritten intercept notebook 231, which records conversations at 1205 hours and 1310 hours referring to buses coming to Srebrenica. These conversations could not have occurred on 11 July. The conversation involving Jevđević is recorded *after* these two conversations; thus, the only reasonable conclusion is that the conversation involving Jevđević also did not occur on 11 July.

<sup>3601</sup> Exh. P04095, 5th Communications Battalion roster for July 1995.

<sup>3602</sup> Milenko JEVĐEVIĆ, T.29760.

<sup>3603</sup> Milenko JEVĐEVIĆ, T.29824-29826.

<sup>3604</sup> KOSTER, Exh. P02187 at T.9037-9038.

<sup>3605</sup> KOSTER, Exh. P02187 at T.9040.

<sup>3606</sup> KOSTER, Exh. P02187 at T.9040.

<sup>3607</sup> KOSTER, Exh. P02187 at T.9041.

<sup>3608</sup> KOSTER, Exh. P02187 at T.9041, 9044.

<sup>3609</sup> KOSTER, Exh. P02187 at T.9040.

Potočari<sup>3610</sup> and Koster saw VRS soldiers in the area and trucks and jeeps passing through that night.<sup>3611</sup> Accordingly, Jevđević drove through Potočari on the night of 12 July, not 11 July as he claimed.

1375. Fourth, Jevđević testified that he saw “a few Serb soldiers with rifles on their soldiers Šićić talking to the civilians” when he drove through Potočari.<sup>3612</sup> However, VRS forces did not enter Potočari until 12 July; DutchBat officer Rutten testified that there were no Serb soldiers in the vicinity of the UN compound in Potočari on 11 July;<sup>3613</sup> and DutchBat officer Koster also confirmed that on the afternoon and evening of 11 July he did not see any VRS soldiers in this area around where the Muslim people were, the UN compound or around the road.<sup>3614</sup> Koster stated that had any VRS soldiers been in Potočari on 11 July he would have seen them and it would have been reported to him.<sup>3615</sup> Thus, Jevđević’s recollection of seeing armed Serb soldiers in Potočari indicates that he did not drive through that area on the evening of 11 July as he claimed.

1376. Fifth, Jevđević claimed that he packed up and moved the IKM at around 19:00 hours on 11 July, without any orders, because he had information that the 28<sup>th</sup> Division was trying to break through towards Tuzla and Žepa and he considered that it would be dangerous to remain in that location.<sup>3616</sup> Jevđević’s claim that he packed up the IKM without orders is entirely implausible because not only would this have violated the applicable VRS rules,<sup>3617</sup> there is no conceivable way that Gen. Mladić and Gen. Krstić would have allowed Jevđević to decide of his own volition when to disable the *Krivaja-95* communications network for several hours and move the IKM when the VRS had not even taken the area of Potočari yet. Jevđević also claimed that his information about the location of the 28<sup>th</sup> Division came from the Radio Reconnaissance Platoon;<sup>3618</sup> however, a report from the Radio Reconnaissance Platoon (“4<sup>th</sup> RIV”) shows that at 04:30 hours on 12 July (*i.e.*, the day *after* Jevđević claimed to have left Pribićevac), the 4<sup>th</sup> RIV still had no idea of the direction in which the Muslim men were travelling.<sup>3619</sup> Thus, Jevđević

<sup>3610</sup> KOSTER, Exh. P02269, R.61 Testimony, p.12; KOSTER, Exh. P02187 at T.9041.

<sup>3611</sup> KOSTER, Exh. P02187 at T.9042.

<sup>3612</sup> Milenko JEVĐEVIĆ, T.29543:18-19.

<sup>3613</sup> RUTTEN, T.4835.

<sup>3614</sup> KOSTER, Exh. P02187 at T.9041.

<sup>3615</sup> KOSTER, Exh. P02187 at T.9041; KOSTER, Exh. P02269, R.61 Testimony, p.7.

<sup>3616</sup> Milenko JEVĐEVIĆ, T.29544:17-24, 29766-29767.

<sup>3617</sup> See Exh. P00412, General Staff of the Armed Forces, SFRY, Rules for Land Forces Corps Provisional. Para. 129 states: “The Command moves from one command post to another following the plan or in emergency, but *always by decision of the Commander* and with the approval of the senior officer” (emphasis added). At T.29899, Jevđević himself acknowledged that “The forward command post moves according to need, but it’s up to the commander to make that decision.”

<sup>3618</sup> Milenko JEVĐEVIĆ, T.29762:15-23.

<sup>3619</sup> Exh. P00160, Drina Corps Command Radio Intercept Detachment Report 13-34/3 dated 12 July 1995.

could not have obtained information from the 4<sup>th</sup> RIV at 19:00 hours on 11 July regarding the direction in which the Muslim men were travelling.

1377. Sixth, there are three documents in evidence<sup>3620</sup> which were addressed to the Drina Corps IKM (two of them specifically to the IKM at Pribićeovac) and which were signed as received by 5<sup>th</sup> Communications Battalion member Oliver Sekulić<sup>3621</sup> late at night on 11 July and during the morning hours on 12 July, *i.e.*, *after* the time when Jevđević claimed to have packed up the IKM. Significantly, the two documents that were specifically addressed to the Pribićeovac IKM<sup>3622</sup> were reports from the 4<sup>th</sup> RIV who were based at the Pribićeovac IKM.<sup>3623</sup> Given that the communications van and the squad from the 4<sup>th</sup> RIV were both located at the Pribićeovac IKM, the 4<sup>th</sup> RIV would have known when the communications van packed up and left Pribićeovac and would have stopped sending reports addressed to the Pribićeovac IKM. Contrary to Jevđević's testimony, these documents *were* received by the 5<sup>th</sup> Communications Battalion at the Pribićeovac IKM on the night of 11 July and the morning of 12 July, which provides further proof that Jevđević did not pack up the IKM on the evening of 11 July as he claimed. Jevđević's claim that he received these documents in Vlasenica, while *en route* to Žepa,<sup>3624</sup> was obviously made up by him in his effort to assist the defence of **PANDUREVIĆ**.

1378. It is clear that Jevđević attended a meeting with Mladić, Krstić, **PANDUREVIĆ** and other officers at the Bratunac Brigade HQ on 12 July. Moreover, Jevđević's repeated and obvious untruths also provide the Trial Chamber with clear evidence that the contrary was in fact the truth, thus providing further support for the already significant volume of evidence which proves that this meeting occurred on 12 July. The Trial Chamber will recall that this was not a situation where Jevđević was merely mistaken; instead, Jevđević went out of his way to argue that he was in Bratunac on 11 July, not 12 July.

1379. Milenko Jevđević has already been shown to have been less than candid about his role in the attack on OP Echo in June 1995 and the existence of sniper weapons in the Drina Corps' arsenal. Given Jevđević's obvious lack of candour about the date of this

<sup>3620</sup> Exh. P00439, Document dated 11 July, No: 03-157/4; 04/1, Order to block the linking up of 28<sup>th</sup> Division forces; Exh. P00160, Drina Corps Command Radio Intercept Detachment Report 13-34/3 dated 12 July 1995; Exh. P04086, Radio Reconnaissance Platoon interim report No. 13-35-1, type-signed Mirko Petrović, dated 12 July 1995.

<sup>3621</sup> Oliver Sekulić was a 5<sup>th</sup> Communications Battalion member and the 5<sup>th</sup> Communications Battalion roster for July 1995 indicates was he at Pribićeovac until 12 July (*see* Exh. P04095, 5th Communications Battalion roster for July 1995).

<sup>3622</sup> Exh. P00160; Exh. P04086.

<sup>3623</sup> Milenko JEVĐEVIĆ, T.29762:21-23 ("at the Pribićeovac Forward Command Post we had a squad from the 4<sup>th</sup> Radio Reconnaissance Platoon of the Drina Corps listening in to the communications of the 28<sup>th</sup> Division").

<sup>3624</sup> Milenko JEVĐEVIĆ, T.29802-29813.

meeting, the entirety of Jevđević's evidence should only be used to conclude that he was part of a concerted effort to mislead the Trial Chamber.

**Dragutinović was mistaken or untruthful about the date on which PANDUREVIĆ told Dragutinović that he (PANDUREVIĆ) had attended this meeting in Bratunac.**

1380. Miodrag Dragutinović claimed that **PANDUREVIĆ** told him on the morning of 12 July that he (**PANDUREVIĆ**) had attended a meeting at the Bratunac Brigade HQ the previous evening.<sup>3625</sup> However, Dragutinović also testified that the first indication that TG-1 would proceed to Žepa came on the evening of 12 July when Gen. Krstić came to Viogor.<sup>3626</sup> As the operations officer for TG-1, Dragutinović would have been aware of Mladić's order to move to Žepa had it truly been issued at a meeting on the night of 11 July as **PANDUREVIĆ** claimed. Thus, Dragutinović was either mistaken about the date when **PANDUREVIĆ** told him about this meeting, or he gave untruthful testimony in favour of his former commander, **PANDUREVIĆ**.

**Vinko PANDUREVIĆ, Milenko Jevđević and Zvonko Bajagić deliberately attempted to mislead the Trial Chamber about the date of this meeting.**

1381. It is clear from **PANDUREVIĆ**'s testimony that he attended the same meeting at the Bratunac Brigade HQ as Mirko Trivić and Milenko Jevđević.<sup>3627</sup> Nevertheless, despite the evidence outlined above, which **PANDUREVIĆ** had been made aware of at trial, **PANDUREVIĆ** maintained that the date of this meeting was 11 July.<sup>3628</sup> **PANDUREVIĆ**'s testimony about the date of this meeting was knowingly untruthful, which revealed his personal arrogance and willingness to collaborate with others to mislead the Trial Chamber.

1382. First, by acknowledging that Gen. Mladić ordered the VRS units to move towards Žepa at this meeting but claiming that the meeting was on 11 July, **PANDUREVIĆ** had the difficult task of explaining why his units did not actually march to Žepa until 13 July (i.e., more than 36 hours after Mladić's order). **PANDUREVIĆ**'s attempt to explain this delay by claiming that one of the tasks of his units on 12 July was to "gradually" move towards Žepa<sup>3629</sup> was implausible and is directly contradicted by the fact that he (**PANDUREVIĆ**) did not actually issue an order to his units to march towards Žepa until

<sup>3625</sup> It has been clearly proven that this meeting occurred on 12 July; thus, Dragutinović's testimony that **PANDUREVIĆ** told him that the meeting occurred on the night of 11 July was clearly erroneous and demonstrative of Dragutinović's bias in favour of **PANDUREVIĆ**.

<sup>3626</sup> DRAGUTINOVIĆ, T.12583-12584.

<sup>3627</sup> **PANDUREVIĆ**, T.30884-30885. **PANDUREVIĆ** described how Mladić gave the order to go to Žepa and described how he (**PANDUREVIĆ**) proposed to wait until the situation around Srebrenica stabilised.

<sup>3628</sup> **PANDUREVIĆ**, T.30882.

<sup>3629</sup> **PANDUREVIĆ**, T.30898:1-3, 30899:4-7

13 July.<sup>3630</sup> It is also significant that the Drina Corps did not issue the Žepa attack order until 13 July.<sup>3631</sup> It is unreasonable for Gen. Krstić to have waited a day and a half to issue an order which Gen. Mladić had demanded be prepared by 08:00 hours the following morning.<sup>3632</sup>

1383. Second, **PANDUREVIĆ** and Milenko Jevđević both testified that after the meeting at the Bratunac Brigade HQ, Zvonko Bajagić served a fish dinner to the attendees of the meeting. Jevđević, and **PANDUREVIĆ** both claimed that they saw the service of fish as connected with the fast day of 11 July as opposed to the feast day of St. Peter's Day on 12 July.<sup>3633</sup>

1384. In line with **PANDUREVIĆ**'s and Jevđević's testimony, Zvonko Bajagić stated that he brought a fish dinner to the Bratunac Brigade HQ on the evening of 11 July.<sup>3634</sup> The Defence for **PANDUREVIĆ** presented Bajagić to the Trial Chamber as a simple logistics clerk from the Drina Corps;<sup>3635</sup> however, it is clear that Bajagić was much more than that. He was a close confidant of President Karadžić;<sup>3636</sup> he dealt personally with Generals Mladić and Perišić over the acquisition of goods for the VRS from Serbia;<sup>3637</sup> and he personally donated thousands of litres of fuel to the VRS.<sup>3638</sup> Bajagić also socialized with Milenko Jevđević<sup>3639</sup> and he was acquainted with **PANDUREVIĆ**.<sup>3640</sup>

<sup>3630</sup> Exh. 7D00941, Zvornik Brigade Tactical Group order to march no. 4, dated 13 July 1995.

<sup>3631</sup> Exh. P00114, Drina Corps Command Order No. 02/04-158-1, Žepa Op Order 1, signed by Gen. Krstić, dated 13 July 1995. The Prosecution acknowledges that on 10 July, the Main Staff issued an order to the Drina Corps and the 65<sup>th</sup> Protection Regiment ordering that the 1<sup>st</sup> Podrinje Ipbr and the 65<sup>th</sup> Protection Regiment launch combat operations around Žepa starting from 12 July (see Exh. P00181, Main Staff Order No. 03/4-1807 to take defence lines and improve tactical position in the area of enclaves of Srebrenica and Žepa., type-signed by Ratko Mladić, 10 July 1995). However, this order is clear on its face that it did not relate to Drina Corps units other than the 1<sup>st</sup> Ipbr, which was already located in the Žepa area. Instead, the units involved in the attack on Srebrenica itself (including the Zvornik Brigade) received a separate Žepa-related combat order from the Drina Corps on 13 July (Exh. P00114).

<sup>3632</sup> See paras. 1357-1358.

<sup>3633</sup> **PANDUREVIĆ**, T.30885-30886; Milenko JEVĐEVIĆ, T.29609.

<sup>3634</sup> Exh. 7D01092, Defence witness statement of Zvonko Bajagić.

<sup>3635</sup> Exh. 7D01092.

<sup>3636</sup> See BAJAGIĆ, T.32506-32510.

<sup>3637</sup> Exh. P04416, Intercepts dated 21 April 1995 at 19:55 hours; Exh. P04417, Intercept dated 7 June 1995 at 10:05 hours;

<sup>3638</sup> Exh. P04415, Drina Corps report no. 21/6-1150, signed by Lt. Col. Aćamović, dated 1 December 1994.

<sup>3639</sup> BAJAGIĆ, T.32485-32486.

<sup>3640</sup> See **PANDUREVIĆ**, T.31177-31178; Exh. P00377 at ERN: 0293-5805.

1385. Bajagić deliberately lied about a whole range of issues.<sup>3641</sup> He also stated that he was certain that he brought this fish to Bratunac on the evening of 11 July because it was the eve of St. Peter's Day and fish needed to be served.<sup>3642</sup> Significantly, when the Prosecution put its case to Bajagić in cross-examination that the meeting and dinner in Bratunac actually occurred on 12 July, Bajagić's response left no doubt that according to him, fish *could not* be eaten on 12 July and therefore the dinner (and thus the meeting) could only have occurred on 11 July:

You say what you want. How could it have been on the 12th? *On the 12th was the day when you were supposed to eat meat.* This would be like not eating meat on Christmas or asking me if I eat meat at Christmas or not, if I eat fish at Christmas.<sup>3643</sup>

1386. Bajagić's claim that fish could not be eaten on 12 July is utterly contradicted by video footage taken on 12 July 1995 at Bajagić's house which shows several large fish being prepared and then served to a number of guests.<sup>3644</sup> Given that Bajagić actually hosted the fish lunch on 12 July, his false testimony can only be seen as a deliberate attempt to mislead the Trial Chamber. Moreover, given the clear similarities between the testimony of **PANDUREVIĆ**, Jevdević and Bajagić on this point, their collective testimony must have been a deliberate and coordinated attempt to mislead the Trial Chamber as to the date of this meeting.

### **Conclusion**

1387. **PANDUREVIĆ**'s claim that there was no information at the meeting to suggest that any prisoners had been taken<sup>3645</sup> is false and should be viewed in light of the fact that

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<sup>3641</sup> Bajagić was less than candid with the Trial Chamber on several issues including his claim that he was not involved in arming Serbs in 1991 (T.32490), which is contradicted by an intercept dated 11 December 1991 in which Bajagić advised Radovan Karadžić that the SDS (of which he was a member) assisted in clothing and arming 600 volunteers (see Exh. P04412); his claim that he did not speak with Generals Mladić and Perišić about issues to do with the Main Staff or the military leadership (T.32496-32497), which is contradicted by two intercepts from April and June 1995 showing that Bajagić dealt with both Mladić and Perišić over the import of cargo and fuel from Serbia (see Exh. P04416 and Exh. P04417); and his claim that he never personally donated fuel to the VRS (T.32506:2-7), which is contradicted by a Drina Corps report from October 1994 showing that Bajagić personally donated 8,270 litres of D2 diesel and 14,690 litres of petrol to the Drina Corps (see Exh. P04415). Bajagić also distanced himself from the vehicle log of a Golf car that was assigned to him during this period (see Exh. P04418), which records a trip to Srebrenica on 13 July and a trip to "Pal" on 14 July. Bajagić acknowledged that he took this vehicle to Pale on 14 July (T.32530:1-2) but denied taking it to Srebrenica on 13 July (T.32529:9-14) despite the fact that two separate fuel dispersal logs show that Bajagić was given fuel for that vehicle on 13 July (see Exh. P04419 and Exh. P04420). At T.32528, Bajagić claimed, absurdly, that his signature on Exh. P04420 had been forged. Bajagić's efforts to distance himself from this vehicle log are significant because it does not record any trips on 11 July, i.e., the night when Bajagić supposedly went to Bratunac with the fish dinner.

<sup>3642</sup> Exh. 7D01092.

<sup>3643</sup> BAJAGIĆ, T.32535 (emphasis added).

<sup>3644</sup> See Exh. P04535, Video containing footage of the St Peter's Day church service in Vlasenica and a speech by General Živanović at a lunch hosted by Zvonko Bajagić on 12 July 1995. Fish can be seen being prepared at 19:55 mins and 20:55 mins, and a fish is shown on the table in front of Živanović at 22:34 mins.

<sup>3645</sup> **PANDUREVIĆ**, T.30888.



he attempted to cover up the date of this meeting. Gen. Mladić and Gen. Krstić had been in Potočari that day and they knew that Muslim men had been separated from their families and detained in facilities just down the road in Bratunac.<sup>3646</sup> Mladić and Krstić had no reason to conceal this information from their most trusted officers when hundreds of other VRS and MUP soldiers who participated in the separation, transport and detention of those prisoners would have known of the prisoners' existence.

1388. Momir Nikolić has also given evidence that on the night of 12 July, between 18:00 and 21:00 hours (*i.e.*, before the meeting at the Bratunac Brigade HQ attended by **PANDUREVIĆ**), the Commander of the Bratunac Brigade, Col. Blagojević, was appraised of the separation and detention of the Muslim men and the plan to murder them.<sup>3647</sup> Given that Mladić, Krstić, Blagojević, Momir Nikolić and numerous other VRS and MUP soldiers in the area knew that the VRS had hundreds of Muslim men in its custody on the night of 12 July; given **PANDUREVIĆ**'s physical proximity to the prisoners' detention site in Bratunac; and given that other VRS officers knew of the murder operation at that point, **PANDUREVIĆ** also *must* have known that the VRS had hundreds of Muslim men in its custody and that those men were to be murdered.

**(lxxxviii) By the evening of 13 July, PANDUREVIĆ knew that the thousands of additional Muslim prisoners in the VRS's custody were to be murdered.**

1389. Throughout the day of 13 July, VRS and MUP forces continued separating Muslim men from their families in Potočari and took thousands of other Muslim men into their custody along the Konjević Polje – Bratunac – Milići road. [REDACTED].<sup>3648 3649</sup>

1390. [REDACTED].<sup>3650</sup> [REDACTED] **PANDUREVIĆ** had attended at least two meetings with Gen. Mladić by that time at which he would have been informed of the murder operation.

1391. The first of these meetings occurred on the evening of 12 July at the Bratunac Brigade HQ, just a few hundred metres away from the Hangar in Bratunac where hundreds of Muslim men were detained by Bosnian Serb forces. As described at paras. 1381-1388, **PANDUREVIĆ** attempted to mislead the Trial Chamber as to the true date of

<sup>3646</sup> See *e.g.*, [REDACTED] PW-169, T.17312-17313, who testified that after he had been separated and detained in Potočari on the afternoon of 12 July, General Mladić arrived and told the prisoners that he needed 180 men to exchange for 180 Serb prisoners who were being held in Tuzla.

<sup>3647</sup> Exh. C00001, Momir Nikolić Statement of Facts and Acceptance of Responsibility, dated 6 May 2003, para. 6.

<sup>3648</sup> [REDACTED].

<sup>3649</sup> [REDACTED].

<sup>3650</sup> [REDACTED].

this meeting in order to distance himself from being associated with Gen. Mladić, who had ordered the murder operation. **PANDUREVIĆ** also wanted to avoid being in Bratunac and thus in close physical proximity to the hundreds of Muslim men detained in the Hangar who were marked for death. The second of these meetings occurred at Viogor on the morning of 13 July, when Gen. Mladić spoke to the assembled VRS units and commanders, including **PANDUREVIĆ**. **PANDUREVIĆ** also would have received further information about the murder operation on 14 July when he went to the Krivače IKM and met with Gen. Krstić.<sup>3651</sup>

### **Conclusion**

1392. On the evening of 13 July, **PANDUREVIĆ** would have known that the VRS had taken thousands of additional prisoners on 13 July. He must have known that the murder operation would include the execution of those additional prisoners. It is unclear whether **PANDUREVIĆ** would have known at this point that the murder operation was about to move to the Zvornik area; nevertheless, [REDACTED], **PANDUREVIĆ** must have known of the actual plan to murder the Muslim men. This conclusion is further supported by the testimony of Momir Nikolić, who testified that it was clear to everyone by that time that the prisoners were to be murdered:

On the afternoon of the 13th and on the evening of the 13th, it was clear to everyone - of course I am referring to those who wanted to see things - that these men who were separated were going to be put to death, and it was clear to everyone, including myself.<sup>3652</sup>

**(lxxxix) On the morning of 15 July, PANDUREVIĆ met with Krstić at the Krivače IKM where Krstić would have informed PANDUREVIĆ that the executions were being carried out in the Zvornik Brigade's area of responsibility.**

1393. On the morning of 15 July, **PANDUREVIĆ** went to the Drina Corps IKM at Krivače where he received an order from Gen. Krstić to return to Zvornik because the Muslim column was behind the Zvornik Brigade positions and was threatening the areas of Memići, Baljkovica and Petkovica.<sup>3653</sup> Two significant operations were occurring in the Zvornik Brigade's area of responsibility at the time of this meeting: first, the combat against the Muslim column; and second, the detention, transport, murder and burial of thousands of prisoners. Krstić knew about both of these operations on the morning of 15 July and would have been aware of the significant threat which each of them posed to the security of the Zvornik Brigade. Against this backdrop, Krstić must have informed

<sup>3651</sup> DRAGUTINOVIĆ, T.12591-12592. See also **PANDUREVIĆ**, T.30913-30914, who testified that he met with Krstić on the morning of 14 July at the Drina Corps IKM at Krivače, where he received the Žepa attack order.

<sup>3652</sup> M.NIKOLIĆ, T.32938:14-20.

<sup>3653</sup> DRAGUTINOVIĆ, T.12596-12598.

**PANDUREVIĆ** that the murder operation was being carried out in the Zvornik Brigade's area of responsibility by, *inter alia*, significant elements of the Zvornik Brigade.

**Gen. Krstić must have told PANDUREVIĆ about the murder operation in the Zvornik Brigade's area of responsibility.**

1394. As noted at paras. 1387-1388, **PANDUREVIĆ** must have known of the murder operation following his meeting with Generals Mladić and Krstić in Bratunac on 12 July. [REDACTED]. Accordingly, the Trial Chamber should give no weight to **PANDUREVIĆ**'s self-serving claim that he knew nothing about prisoners of war -- in Zvornik or anywhere else -- at the time of his meeting with Gen. Krstić on the morning of 15 July.<sup>3654</sup>

1395. **PANDUREVIĆ** went even further during his cross-examination by the Prosecution and claimed that not only was he unaware of prisoners at this juncture, but that he did not need to know about them:

I don't see a single tactical or military or combat reason why I should need to know what someone else is doing completely unconnected with combat activities or with the Zvornik Brigade.<sup>3655</sup>

1396. **PANDUREVIĆ**'s testimony on this point was disingenuous and militarily dishonest. First, it has been shown in great detail throughout this trial that members of the Zvornik Brigade, including some of the most senior members of the command staff - - Dragan Obrenović, Dragan Jokić, Sreten Milošević and Drago **NIKOLIĆ** -- as well as officers and soldiers from the 1<sup>st</sup> Battalion, the 2<sup>nd</sup> Battalion, the 4<sup>th</sup> Battalion and the 6<sup>th</sup> Battalion, participated in some way in the murder operation. Having sat through this trial for some three years and heard numerous former Zvornik Brigade members testify about their own involvement in the murder operation, **PANDUREVIĆ**'s claim that the murder operation was nothing to do with the Zvornik Brigade is so untruthful that it can only be seen as a deliberate attempt to conceal his responsibility for those murders.

1397. Second, **PANDUREVIĆ**'s claim that he did not need to know about the murder operation because it was "completely unconnected with combat activities" is a lie. As outlined below in further detail at paras. 1399-1400, on the night of 13 July, [REDACTED];<sup>3656</sup> MUP members were brought in as reinforcements; and on the night of 14 July, Gen. **MILETIĆ** told Dragan Jokić to mobilise "everything on two feet" and that

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<sup>3654</sup> **PANDUREVIĆ**, T.30953:25 – 30954:13. "Q. Did you at the time you were at Krivače have any knowledge of the presence of prisoners of war in the Zvornik area? A. No, I didn't. *I didn't know that there were prisoners of war anywhere. I didn't know that at all.*"

<sup>3655</sup> **PANDUREVIĆ**, T.32195:23 – 32196:2.

<sup>3656</sup> [REDACTED].

“everyone who can carry a gun must go up there.”<sup>3657</sup> During this time, while the Zvornik Brigade urgently sought reinforcements, at least 50 Zvornik Brigade soldiers and officers plus engineering equipment and trucks were involved in the murder operation at Orahovac and Pilica on 14 July;<sup>3658</sup> while at least 40 Zvornik Brigade soldiers and officers plus engineering equipment and trucks were engaged in the murder operation at Orahovac, Petkovci, Pilica and Ročević/Kozluk on 15 July.<sup>3659</sup> The fact that significant numbers of Zvornik Brigade soldiers and officers, as well as engineering and transport equipment, were engaged in something other than combat during this critical period was information that **PANDUREVIĆ** needed to know about.

1398. Gen. Krstić would not have allowed **PANDUREVIĆ** to head into an extremely dangerous combat zone without first telling **PANDUREVIĆ** about the security threat and the demand on the Zvornik Brigade’s resources -- both in men and materials -- caused by the murder operation. Accordingly, Gen. Krstić would have informed **PANDUREVIĆ** about the murder operation in the Zvornik Brigade’s area of responsibility.

**The Muslim column posed a significant threat to the Zvornik Brigade on 15 July**

1399. [REDACTED]<sup>3660</sup> <sup>3661</sup> <sup>3662</sup> An intercepted conversation that night at 22:27 hours shows that the Duty Operations Officer Dragan Jokić reported the deteriorating situation in the Zvornik area to a “General Vilotić,”<sup>3663</sup> which the evidence has shown to be a mistaken reference to Gen. **MILETIĆ**.<sup>3664</sup> **MILETIĆ** acknowledged the seriousness of the situation and ordered Jokić to mobilise “everything on two feet.”<sup>3665</sup> At approximately 23:00 hours on 14 July, Dragan Obrenović sent an interim combat report to the Drina Corps command stating that the Muslim column was threatening the rear of the 4<sup>th</sup> and 7<sup>th</sup> Battalions and requesting urgent reinforcement.<sup>3666</sup>

1400. At approximately 04:00 hours on the early morning of 15 July, the ABiH 2<sup>nd</sup> Corps attacked from the direction of Kalesija and Tuzla the entire left flank of the

<sup>3657</sup> Exh. P01166a.

<sup>3658</sup> See para. 1401.

<sup>3659</sup> See para. 1402.

<sup>3660</sup> [REDACTED].

<sup>3661</sup> [REDACTED].

<sup>3662</sup> [REDACTED].

<sup>3663</sup> Exh. P01166a, intercept dated 14 July 1995 at 22:27 hours.

<sup>3664</sup> BUTLER, T.19973-19974, 20608-20614. [REDACTED].

<sup>3665</sup> Exh. P01166a.

<sup>3666</sup> Exh. 5D00327, Zvornik Brigade Interim Report No. 06-216/2, dated 14 July 1995; Exh. P00377 at ERN: 0293-5752; [REDACTED].

Zvornik Brigade in the areas of the 4<sup>th</sup>, 6<sup>th</sup> and 7<sup>th</sup> Battalions<sup>3667</sup> and over the next few hours, the Muslim column continued to move in behind the positions of the 4<sup>th</sup>, 6<sup>th</sup> and 7<sup>th</sup> Battalions.<sup>3668</sup> [REDACTED].<sup>3669 3670</sup> In the circumstances, the Muslim column posed a significant threat to the Zvornik Brigade 4<sup>th</sup>, 6<sup>th</sup> and 7<sup>th</sup> Battalion positions on the morning of 15 July.

**On 14 July, at least 50 Zvornik Brigade members plus engineering equipment and trucks were engaged in the murder operation; while on 15 July, at least 40 Zvornik Brigade personnel, plus engineering equipment and trucks, were engaged in the murder operation.**

1401. While the Zvornik Brigade and its attached units fought the Muslim column on 14 and 15 July, significant elements of the Zvornik Brigade (including soldiers, officers, logistics and engineering equipment) were engaged in the detention, transport, execution and burial of the Muslim prisoners. As noted above at paras. 764-766, on 14 July, Zvornik Brigade officers Drago **NIKOLIĆ**, Sreten Milošević, Mimir Jasikovac, Milorad Trbić, Tanacko Tanić and Lazar Ristić were present at the Orahovac School along with at least ten Zvornik Brigade MPs, ten soldiers from the 4<sup>th</sup> Battalion, Gojko Simić (4<sup>th</sup> Battalion), [REDACTED] 3DW-PW10 [REDACTED] and [REDACTED] PW-101 [REDACTED]. Zvornik Brigade personnel were also present at the Orahovac execution site including Drago **NIKOLIĆ**, Gojko Simić, Milan Maksimović (driver), Risto Lazić (soldier), [REDACTED] PW-101, Milorad Birčaković and Engineering Company members Slavko Bogičević, Cvijetin Ristanović and Milovan Miladinović. Also on 14 July, some ten to fifteen 1<sup>st</sup> Battalion soldiers<sup>3671</sup> were sent by Capt. Pelemiš, the Deputy Commander of the 1<sup>st</sup> Battalion, to the Kula School near Pilica to guard prisoners who arrived there.<sup>3672</sup> Thus, on 14 July, at least 50 Zvornik Brigade soldiers and officers plus three engineering machines and a number of trucks were engaged in the detention, transport, murder and burial of Muslim prisoners.

1402. On the morning of 15 July, some 15-20 Zvornik Brigade soldiers continued to guard the prisoners at the Kula School;<sup>3673</sup> engineering equipment continued to work at

<sup>3667</sup> [REDACTED]; RISTIĆ, T.10097; Exh. 5DP00328, Zvornik Brigade Daily Combat Report 06-217, type-signed by Vinko **PANDUREVIĆ**, dated 15 July 1995; Exh. P00329, Zvornik Brigade Daily Interim Combat Report No. 06-217-1, dated 15 July 1995.

<sup>3668</sup> [REDACTED]; Exh. P00328; Exh. P00329.

<sup>3669</sup> [REDACTED].

<sup>3670</sup> [REDACTED].

<sup>3671</sup> S.PERIĆ, T.11381:1-5; S.PERIĆ, T.11383:21

<sup>3672</sup> R.BABIĆ, T.10219:16-10222:23.

<sup>3673</sup> S.PERIĆ, T.11405:22-25 (Perić testified that on 15 July, Capt. Pelemiš substituted in some fifteen 1<sup>st</sup> Battalion soldiers for the ones who had been initially assigned to the school). See also R.BABIĆ, T.10233:10-22, who claimed that the number was closer to 20.

Orahovac<sup>3674</sup> and the Dam near Petkovci;<sup>3675</sup> and in the later morning and early afternoon hours, as outlined at paras. 862-863, additional Zvornik Brigade resources were engaged in the murder operation at Ročević and Kozluk including the 2<sup>nd</sup> Battalion commander Srećko Aćimović; 2<sup>nd</sup> Battalion drivers Dragan Jović, Veljko Ivanović, Radivoje Jekić, Mićo Stanić and Đjoko Nikolić; MPs [REDACTED] PW-142, Dragoje Ivanović, [REDACTED] PW-143, Stanoje Birčaković, [REDACTED] PW-165, Milorad Birčaković and Predrag Ristić; 2<sup>nd</sup> Battalion members Zoran Simanić, Ljubo Ristanović, Milivoje Lazarević and Milorad Ristanović; and Zvornik Brigade officers Lt. Miomir Jasikovac; Milorad Trbić; and Drago **NIKOLIĆ**. Later that day, two trucks with drivers from the 6<sup>th</sup> Battalion were also used to take the bodies of murdered prisoners from the Petkovci School to the Dam.<sup>3676</sup> Thus, at least 40 Zvornik Brigade members plus engineering equipment and a number of trucks were engaged in the murder operation on 15 July.

**Gen. Krstić knew about the murder operation in the Zvornik Brigade's area of responsibility on the morning of 15 July when he spoke with PANDUREVIĆ.**

1403. By the morning of 15 July, Gen. Krstić knew of the murder operation and knew that the prisoners had been transferred to the Zvornik Brigade's area of responsibility to be murdered there. First, Krstić would have heard about the murder of hundreds of Muslim men at Kravica Warehouse from his subordinate officer Ljubiša **BOROVČANIN**, who was present at the Kravica Warehouse on the afternoon of 13 July. Second, Krstić would have received and read the 5<sup>th</sup> Engineering Battalion regular combat report dated 14 July, which detailed the arrest and killing of 1,000 to 1,500 Muslim soldiers and civilians.<sup>3677</sup> Third, on the morning of 14 July, Vujadin **POPOVIĆ** led the convoy of vehicles containing thousands of prisoners from Bratunac to the Zvornik area and **POPOVIĆ** must have done so with the knowledge and authority of his commander, Gen. Krstić.

1404. Fourth, and most importantly, an intercepted conversation records that Gen. Krstić spoke with **BEARA** (who was at the Zvornik Brigade HQ)<sup>3678</sup> at 10:00 hours on the

<sup>3674</sup> See paras. 759-760.

<sup>3675</sup> Exh. P00297, Zvornik Brigade Engineering Company Daily Orders Log Book, for the period 13 to 16 July 1995, at ERN 0084-6762.

<sup>3676</sup> See paras. 801-804.

<sup>3677</sup> Exh. P02672, 5th Engineering Battalion Regular Combat Report to the Drina Corps command, 38-56, dated 14 July 1995.

<sup>3678</sup> Exh. P01177, intercept dated 15 July 1995 at 09:52 hours, which shows that just eight minutes before the conversation with Krstić at 10:00 hours, **BEARA** was located at extension 139 which belonged to the Zvornik Brigade Chief of Security (see Exh. P00368, Zvornik Brigade Telephone List). It is reasonable to conclude that **BEARA** was still at the Zvornik Brigade when he spoke with Krstić.

morning of 15 July and it is clear from this conversation that Gen. Krstić had been fully informed, *prior* to this conversation, that the prisoners escorted to Zvornik by **POPOVIĆ** were being murdered there.<sup>3679</sup> In particular, Krstić knew that an intervention platoon from Furtula had been meant to reach **BEARA** on 13 July but had not arrived; **BEARA** complained to Krstić that this was the third day that he (**BEARA**) had been asking for resources; and **BEARA** asked for the additional resources to be sent to “Drago’s,” which given that **BEARA** was at the Zvornik Brigade HQ at the time, can only have been a reference to Drago **NIKOLIĆ**.<sup>3680</sup> It is also noteworthy that during his testimony, **PANDUREVIĆ** conceded that this conversation between **BEARA** and Krstić at 10:00 hours meant Krstić “probably” knew about the murder operation when he spoke with **PANDUREVIĆ** just an hour earlier.<sup>3681</sup> Accordingly, Gen. Krstić himself knew about the murder operation in the Zvornik area at the time of his meeting with **PANDUREVIĆ** on the morning of 15 July.

(xc) [REDACTED].

[REDACTED].

1405. [REDACTED].<sup>3682</sup> 3683

1406. [REDACTED].<sup>3684</sup> 3685

[REDACTED].

1407. [REDACTED].<sup>3686</sup> 3687 3688 3689

1408. Dragan Jokić had been the Zvornik Brigade’s Duty Operations Officer on 14 July.<sup>3690</sup> **BEARA**, **POPOVIĆ** and **NIKOLIĆ** met at the Zvornik Brigade HQ on 14 July,<sup>3691</sup> shortly after which Dragan Jokić ordered an excavator to go to Orahovac where

<sup>3679</sup> Exh. P01179[REDACTED], intercept dated 15 July 1995 at 10:00 hours.

<sup>3680</sup> BUTLER, T.19990.

<sup>3681</sup> **PANDUREVIĆ**, T.32194:21-25 (“Well, he probably knew something because he doesn’t sound surprised in his conversation with **BEARA**. He is not asking **BEARA** for any explanation why he needed those men.”)

<sup>3682</sup> [REDACTED].

<sup>3683</sup> [REDACTED].

<sup>3684</sup> [REDACTED]..

<sup>3685</sup> [REDACTED].

<sup>3686</sup> [REDACTED].

<sup>3687</sup> [REDACTED].

<sup>3688</sup> [REDACTED].

<sup>3689</sup> [REDACTED]

<sup>3690</sup> Exh. P00377 at ERN: 0293-5744-0293-5758.

<sup>3691</sup> See paras. 654-660.

it dug the mass graves for the burial of the murdered prisoners.<sup>3692</sup> Thus, by the morning of 14 July, Jokić knew of and was involved in the murder operation. Jokić also knew that **BEARA**, **POPOVIĆ** and **NIKOLIĆ** were coordinating the murder operation. Several entries in the Duty Operations Officer Notebook show that Jokić relayed messages to **BEARA** and **NIKOLIĆ** at various times on 14 July.<sup>3693</sup> Ostoja Stanišić, the Commander of the 6<sup>th</sup> Battalion, also testified that on the afternoon of 14 July he received a call from Jokić who told Stanišić that “**BEARA** was supposed to be notified that he should report to the command,”<sup>3694</sup> and that **BEARA** could be found outside “the new school in Petkovci.”<sup>3695</sup> Significantly, an intercepted conversation at 21:02 hours on 14 July also shows that Dragan Jokić passed a message to **BEARA** about “huge problems” with the prisoners,<sup>3696</sup> [REDACTED].

1409. Dragan Jokić knew that **BEARA**, **POPOVIĆ** and **NIKOLIĆ** were engaged in the murder operation [REDACTED].

[REDACTED]

1410. [REDACTED].<sup>3697 3698 3699 3700 3701 3702 3703 3704</sup>

1411. During his OTP interview, **BOROVČANIN** confirmed that prior to **PANDUREVIĆ**’s return, Obrenović made a telephone call to someone about opening the corridor and that when Obrenović returned, Obrenović stated that he had “exact orders to close this line.”<sup>3705</sup> **MILETIĆ**’s response to Obrenović’s request is also consistent with the intercepted conversation between **MILETIĆ** and Dragan Jokić at 22:27 hours the previous evening, in which **MILETIĆ** ordered Jokić to “mobilise everyone and take them up there to cut it [the column] off.”<sup>3706</sup>

<sup>3692</sup> See paras. 692-698.

<sup>3693</sup> Exh. P00377 at ERN: 0293-5744 “Colonel Salapura called – **Drago** and **BEARA** are to report to Golić;” at ERN: 0293-5751 “**BEARA** to call 155;” and at ERN: 0293-5752 “from **BEARA** – **Drago** to report Mane - Đukići.”

<sup>3694</sup> O.STANISIĆ, T.11601; M.MILOŠEVIĆ, T.13302-13303.

<sup>3695</sup> O.STANISIĆ, T.11604.

<sup>3696</sup> Exh. P01164(a), intercept dated 14 July at 21:02 hours. Jokić informed **BEARA** that: “We have huge problems over here...There are big problems. Well with the people, I mean, with the parcel.”

<sup>3697</sup> [REDACTED].

<sup>3698</sup> [REDACTED].

<sup>3699</sup> [REDACTED]. See also P02853, Transcript of OTP Interview of Ljubomir BOROVČANIN, dated 11 and 12 March 2002, p.102-105, where **BOROVČANIN** acknowledged that this meeting occurred.

<sup>3700</sup> [REDACTED].

<sup>3701</sup> [REDACTED].

<sup>3702</sup> [REDACTED].

<sup>3703</sup> [REDACTED].

<sup>3704</sup> [REDACTED].

<sup>3705</sup> See Exh. P02853, p.103.

<sup>3706</sup> Exh. P01166a.



1412. [REDACTED].<sup>3707</sup> [REDACTED].<sup>3708</sup> The arrival of a unit from the Bratunac Brigade on 15 July and its dispatch to the 4<sup>th</sup> Battalion is corroborated by the Barracks Duty Officer Notebook, which records that reinforcements arrived at the Zvornik Brigade HQ from Bratunac at approximately 10:00 hours;<sup>3709</sup> the Duty Operations Officer Notebook, which records that at 13:30 hours, “Lazo” reported that “the men from Bratunac have arrived and they are deployed at Parlog;”<sup>3710</sup> and the testimony of Lazar Ristić, who confirmed that two platoons from the Bratunac Brigade arrived on 15 July.<sup>3711</sup>

**[REDACTED]**

1413. [REDACTED].<sup>3712</sup> <sup>3713</sup>

1414. [REDACTED]. In addition, there were at least 40 Zvornik Brigade soldiers and officers plus Zvornik Brigade engineering equipment, trucks and ammunition being used for the murder operation<sup>3714</sup> and the Zvornik Brigade was entering a critical phase of the combat with the Muslim column and the ABiH 2<sup>nd</sup> Corps. [REDACTED].

1415. [REDACTED]. This is consistent with the evidence that on 14 July, **BEARA** held a meeting at the Zvornik Brigade HQ at which he told a representative of the Zvornik municipality, [REDACTED] PW-104, that he expected help from the municipality in burying the bodies of the prisoners.<sup>3715</sup>

1416. [REDACTED].<sup>3716</sup>

1417. [REDACTED].<sup>3717</sup>

**[REDACTED]**

1418. [REDACTED].<sup>3718</sup> <sup>3719</sup>

1419. [REDACTED].

1420. [REDACTED].<sup>3720</sup> [REDACTED].

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<sup>3707</sup> [REDACTED].

<sup>3708</sup> [REDACTED].

<sup>3709</sup> Exh. P00383, Zvornik Brigade Barracks Duty Officer Logbook, for period 5 July 1995 through 21 January 1996, entry for 15/16 July.

<sup>3710</sup> Exh. P00377 at ERN: 0293-5759.

<sup>3711</sup> RISTIĆ, T.10090:22-25.

<sup>3712</sup> [REDACTED].

<sup>3713</sup> [REDACTED].

<sup>3714</sup> See para. 1402.

<sup>3715</sup> [REDACTED] PW-104, T.7944:2-9.

<sup>3716</sup> Exh. 7D01154, Investigative notes of an interview with Milenko Zivanović and Vinko

**PANDUREVIĆ**, dated 2 October 2001.

<sup>3717</sup> **PANDUREVIĆ**, T.31281.

<sup>3718</sup> [REDACTED].

<sup>3719</sup> [REDACTED].

(xci) At 19:25 hours on 15 July, PANDUREVIĆ issued Zvornik Brigade interim combat report 06/217-1 which showed that Zvornik Brigade personnel were engaged in the murder operation with PANDUREVIĆ's full knowledge and authority; that PANDUREVIĆ knew some prisoners were still alive; and that PANDUREVIĆ had the ability to release those prisoners but chose not to.

1421. On the evening of 15 July at the Zvornik Brigade IKM, PANDUREVIĆ dictated and issued Interim Combat Report no. 06/217-1.<sup>3721</sup> This Report shows that on the evening of 15 July, PANDUREVIĆ and elements of the Zvornik Brigade under his command were fully engaged in guarding, murdering and burying thousands of Muslim men and boys who were detained in the Zvornik Brigade's zone of responsibility.

1422. This Report also shows that PANDUREVIĆ had taken personal responsibility for those actions and was demanding from his superiors that the guarding, murdering and burial of the remaining prisoners be taken over by other people. At the time he dictated this Report, PANDUREVIĆ had recently had men killed in battle by Muslim forces coming at him from both his front and his rear. He was facing the very real prospect of losing many more Bosnian Serb lives. PANDUREVIĆ's ability to withstand the upcoming Muslim assault with limited resources was seriously compromised by his burden to guard, murder and bury the remaining prisoners. In this Report, PANDUREVIĆ unleashed his frustration by rashly reporting on the dead and condemned prisoners and threatening to set free the remaining prisoners if someone else did not takeover the responsibility to guard, murder and bury them.

1423. For the next two days, PANDUREVIĆ consciously chose not to let any prisoners go and remained in command of his forces who continued to play a major role in the guarding, transporting, murdering and burying of prisoners detained in Ročević, Kula and Pilica.

**The first five paragraphs of the Report describe the security situation, measures taken to seal off and search the terrain and the casualties suffered by the Brigade.**

Since the fall of Srebrenica, in the territory of the 1<sup>st</sup> Zvornik Brigade area of responsibility, in the wider area of Pandurice, Planinići, Crni Vrh, Kamenica and Glodansko Brdo, there are about 3,000 armed and unarmed enemy soldiers. Brigade forces are sealing off and searching the aforementioned region. A few hundred enemy soldiers have so far been liquidated.

Throughout 15 July 1995, BH Army forces of the Tuzla 2<sup>nd</sup> Corps launched fierce attacks on the brigade defence area in order to link up with the forces which had been cut off. The attack on the defence area of the 4<sup>th</sup>, 6<sup>th</sup> and 7<sup>th</sup> pb /along the Petkovci – Memići stretch/ was launched at 0430, with simultaneous actions by the besieged forces.

Enemy attacks were vigorously supported by all calibres of artillery and tanks. Attacks of varying intensity followed one another from the direction of Nexuk and Kalesija on Memići. The attack on

<sup>3720</sup> [REDACTED].

<sup>3721</sup> Exh. P00329, Zvornik Brigade Daily Interim Combat Report No. 06-217-1, dated 15 July 1995.

Memići is still in progress. All targets deep inside the territory, and the suburbs and town of Zvornik have been under artillery fire. All attacks have been repulsed successfully so far. So far, according to information received, we have four dead and a dozen or so wounded. With all available forces, we have sealed off the wider area of Crni Vrh and Planinci, and partially the area of Kamenica. All brigade forces are fully engaged and we have no reserves.

1424. The first paragraph of the Report records that the Zvornik Brigade was in the process of fighting the Muslim column by sealing off and searching the areas of Pandurice, Planinci, Crni Vrh, Kamenica and Glodansko Brdo.<sup>3722</sup> This area is deep behind the front lines of the Zvornik Brigade and covers much of the terrain through which the Muslim column passed on 12, 13 and 14 July.<sup>3723</sup>

1425. The second paragraph describes the attack on the Zvornik Brigade from the ABiH 2<sup>nd</sup> Corps forces along the front lines of the Brigade's zone of defence. It notes that the Brigade suffered simultaneous attacks from the 2<sup>nd</sup> Corps along the frontline and the Muslim column attacking from the rear.

1426. The third paragraph describes the intensity of the attacks, the weaponry used by the enemy, the direction and object of the enemy attack and specifically notes that the Zvornik Brigade had four men killed and about a dozen wounded.

1427. The fourth paragraph identifies the areas that the Zvornik Brigade has been able to "seal off," meaning secure. The fifth paragraph notes that all forces are being used and that **PANDUREVIĆ** has no reserves.

1428. These five paragraphs accurately reflect the situation on the ground at the time. This can be seen from other reports coming out of the Zvornik Brigade during this time period, intercepts, the Duty Operation Officer Notebook and the testimony of various witnesses [REDACTED]. The reference to killed and wounded soldiers is confirmed by the Zvornik Brigade Regular Combat Report for 15 July<sup>3724</sup> and the Duty Operations Officer Notebook, which record the names of five soldiers who were killed that day.<sup>3725</sup> The death of the fifth soldier, Srećo Tanacković, is one of the last entries in the Duty Operations Officer Notebook for 15 July and was likely reported after **PANDUREVIĆ** drafted this Report. [REDACTED].<sup>3726</sup>

<sup>3722</sup> Exh. P00329.

<sup>3723</sup> See Exh. P01463, Map: *Krivaja-95*: Military map seized by OTP.

<sup>3724</sup> Exh. 5DP00328, Zvornik Brigade Daily Combat Report 06-217.

<sup>3725</sup> Exh. P00377 at ERN: 0293-5760.

<sup>3726</sup> [REDACTED].

**The “additional burden” for the Brigade was the security of the prisoners and the burial of bodies of the murdered prisoners.**

1429. Paragraphs six and seven of the Interim Combat Report state:

An additional burden for us is the large number of prisoners distributed throughout schools in the brigade area, as well as obligations of security and asanacija terena.

This command cannot take care of these problems any longer, as it has neither the material nor other resources. If no one takes on this responsibility I will be forced to let them go.

1430. Paragraph six speaks of an additional burden to that which was described in paragraphs one through five. The additional burden is specifically described as the “large number of prisoners distributed throughout schools in the brigade area,...”. At this time, there were least 1,500 prisoners still alive being detained in the Kula School and the Pilica Dom and the executions of over 1,400 prisoners from the Ročević School were ongoing. Roughly 1,000 prisoners detained in the Petkovci School had been executed during the early morning hours of 15 July and about 1,000 prisoners from the Orahovac School had also been murdered. The 2,000 deceased prisoners from the Orahovac and Petkovci murders were in the process of being buried on 14 and 15 July.

1431. **PANDUREVIĆ** clearly states in this Report that he is aware of the large number of prisoners in his Brigade zone. From this statement alone, **PANDUREVIĆ** must also know that many of those prisoners had been executed and many more were awaiting execution. By the evening of 15 July, the communities of Orahovac, Petkovci, Ročević and Pilica were all aware of the thousands of prisoners, dead and alive in their backyard. The commanders, officers and soldiers of the Zvornik Brigade Battalions in those areas -- the 4<sup>th</sup>, 6<sup>th</sup>, 2<sup>nd</sup> and 1<sup>st</sup> Battalions -- were aware of the thousands of prisoners. The Zvornik Brigade command staff including Chief of Staff Dragan Obrenović; Assistant Commander for Logistics Sreten Milošević; Chief of Engineering Dragan Jokić; Assistant Commander for Security Drago **NIKOLIĆ**; and many others, were aware of the prisoners and had been involved in organising their detention, transport, murder and burial. There cannot be the slightest doubt that **PANDUREVIĆ** was fully informed of the fate of those prisoners and the enormous Zvornik Brigade resources employed in guarding, transporting, murdering and burying them.

1432. As the Trial Chamber is well aware, the Zvornik Brigade on 14 and 15 July had expended tremendous resources in guarding, transporting, executing by firing squad and burying thousands of Muslims; the very Muslims **PANDUREVIĆ** spoke about to his superiors in this Report. It is inconceivable that **PANDUREVIĆ** would have been informed about the large numbers of Muslim men in the Schools but was not informed of

the Zvornik Brigade resources used in guarding, murdering and burying them. This was information he had to know to plan adequately for the defence of the Zvornik Brigade forces and the town of Zvornik itself. From his time at the Brigade Command from noon that day to his time at the other most important communication hub in the Brigade, the IKM, **PANDUREVIĆ** would have been informed.

1433. As we read the rest of the sentence of the sixth paragraph it is readily apparent that **PANDUREVIĆ** himself makes direct reference to the guarding and burial of those prisoners:

An additional burden for us is the large number of prisoners distributed throughout schools in the brigade area, *as well as obligations of security and asanacija terena.*

1434. In this last phrase, **PANDUREVIĆ** continued his explanation about the prisoners in cryptic terms, however, both parts of this last phrase represent precisely the “additional burden” the prisoners have placed on brigade resources; first, the burden of guarding the prisoners at the schools; and second, the burden of burying the dead. This cannot be a coincidence.

1435. The words “obligations of security” can only mean the obligations in relation to securing the prisoners. **PANDUREVIĆ** has succinctly described the security situation in his Brigade in paragraphs one through five and he would not repeat himself on this subject without providing specifics. When used simply, “obligations of security,” he means what he says and it must mean securing the prisoners, the main subject of the sentence.

1436. In his use of the words “asanacija terena,” **PANDUREVIĆ** can only be referring to the burial of the executed Muslims. There is no other reasonable use of the word “asanacija terena” by a VRS officer than burying the dead. We have seen the term used throughout this trial in the context of burying dead bodies, including Srebrenica victims.<sup>3727</sup> When this sentence is viewed as a whole, in the context of what is occurring on the ground, burying the dead prisoners is the only reasonable use of these words.

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<sup>3727</sup> See e.g., Exh. P00219, Bratunac Brigade Reports and Meetings Journal. Dated between 28-Jun-95 to 08-May-97, entry for 16 October 1995: “We are currently engaged in tasks issued by the Army of Republika Srpska Main Staff (asanacije).” At T.32960, Momir Nikolić confirmed that this was a reference to the reburial of bodies originally buried in the Glogova mass grave. See also Exh. P00426, JNA Military Lexicon, Privremeni Sastav, dated 1981 (defining terms Asanacija, Genocide and Triage); Exh. P03016, Drina Corps Command Order No. 18-146/95, signed by Lazar Aćimović, dated 20 July 1995, which ordered *asanacija* in the areas around Srebrenica, Žepa, Kamenica and Snagovo “with the aim of locating and collecting human bodies and animal carcasses in the zone of responsibility of the units and burying them (interment, cremation) and of removing, particularly in the areas of Srebrenica and Žepa and also Kamenica and Snagovo, everything which could be dangerous or harmful to the health of humans or animals, preventing the contamination of water, food, soil and air, and thereby guarding against contagious

1437. In this paragraph of the Report, **PANDUREVIĆ** fails to mention the burden of actually executing the prisoners. He leaves this specific burden out because it would have been too graphic an explanation of what he was communicating, not because his units were not involved in the executions. We know from Orahovac that members of the Zvornik Brigade were tasked with the summary executions and made up parts of the firing squads. We know from the executions occurring at Kozluk that elements of the Zvornik Brigade were actual shooters. We know that Drago **NIKOLIĆ** was responsible for overseeing and supervising the actual executions. There is no question that at the time **PANDUREVIĆ** wrote this report he was fully aware that his units were also responsible for taking part in the actual shooting of prisoners.

1438. **PANDUREVIĆ**'s reference to guarding and burying the prisoners was clearly enough to get his message across to his superiors as it is obvious that between guarding and burying, someone had to execute the prisoners. **PANDUREVIĆ**'s superiors would have been quite upset had he spelled out their criminal deeds in such detail and **PANDUREVIĆ** did not need to add that grim detail to get his point across.

1439. The next paragraph continues to make reference to the Muslim prisoners and the burden they pose to **PANDUREVIĆ** and his command. **PANDUREVIĆ** tells his superiors at the Drina Corps that he has no resources to handle these problems any longer:

This command cannot take care of these problems any longer, as it has neither the material nor other resources. If no one takes on this responsibility I will be forced to let them go.

1440. We can see from this paragraph that **PANDUREVIĆ** has no reserves; thus, no one to carry out the work required to guard, transport, and bury the prisoners.

1441. In the final sentence of this paragraph **PANDUREVIĆ** displays his frustration with being tasked with this burden and threatens to let the prisoners go if the Corps does not find further resources to take this burden away from him. This was not a real threat but likely done to get the attention of his superiors so they would understand how dire his situation was in fighting the Muslims.

1442. The Trial Chamber has learned that **PANDUREVIĆ** does have the ability to disregard Gen. Krstić's and Gen. Mladić's orders, as he did when he allowed the Muslim column through to Nežuk. However, **PANDUREVIĆ** did that to save Serb lives, where in the case of Muslim prisoners he clearly had the ability and opportunity to save them, but deliberately chose not to.

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diseases of humans and animals;" Exh. P03017, Drina Corps Command Order No. 23-104, request to clear up the battlefield terrain, signed by Lazar Aćimović, dated 18 July 1995.

1443. In the last important paragraph of the 15 July report **PANDUREVIĆ** makes a specific reference to the Muslim column and states that he has made an offer to the commander of those forces to separate out the civilians and have the military surrender, but explained to his superiors that the Muslims refused his offer. This is clearly a reference to **PANDUREVIĆ**'s discussions with ABiH 2<sup>nd</sup> Corps commander Šemso Muminović. This sentence shows that **PANDUREVIĆ** has been informed that the Muslim column contained significant numbers of civilians, but on 15 July was fully ready to carry out Gen. Krstić's order to destroy the entire group, army and civilians.

### **PANDUREVIĆ's defence**

#### *The "additional burden"*

1444. **PANDUREVIĆ** claimed that the words "additional burden" had no reference to guarding or burying prisoners but was a reference to the fact that the local Serb population were concerned by the presence of prisoners in their midst and may contact the soldiers on the lines.<sup>3728</sup> On cross-examination, however, **PANDUREVIĆ** conceded that he had no information that any such contacts had occurred.<sup>3729</sup>

1445. Given the problems facing the Zvornik Brigade at the time, it is inconceivable that **PANDUREVIĆ** would report to the Drina Corps about the mere possibility that Serb civilians might pass on information about the prisoners to the soldiers on the front lines -- without even having any information that this was actually happening -- when the Zvornik Brigade was simultaneously fighting the Muslim column and dealing with the very real and very serious "additional burden" caused by the detention, securing, transport and murder of prisoners at Ročević/Kozluk;<sup>3730</sup> the security of prisoners at the Kula School;<sup>3731</sup> the ongoing burials at Orahovac<sup>3732</sup> and the Dam at Petkovci<sup>3733</sup> and the pending burial operations at Kozluk and Branjevo Farm.<sup>3734</sup> In addition, had **PANDUREVIĆ** meant to communicate a specific military problem or burden to his superiors, he would have stated it clearly and succinctly as we have seen him do over and over again in his reports.

<sup>3728</sup> **PANDUREVIĆ**, T.30992, 32208.

<sup>3729</sup> **PANDUREVIĆ**, T.32208:18-24.

<sup>3730</sup> See paras 810-864.

<sup>3731</sup> See paras. 868-944.

<sup>3732</sup> See paras. 759-760.

<sup>3733</sup> See para. 805.

<sup>3734</sup> See paras. 856-861 and 987-1002.

*“Obligations of security” refers to the obligation to guard the prisoners.*

1446. **PANDUREVIĆ** claimed that the term “obligations of security” or “*obesbedjenja i asanacija terena*,” was essentially the same as the term “*obesbedjenja teritorije*,” which appeared in the R Battalion mobilisation order of 15 July,<sup>3735</sup> and made no reference to the burial of prisoners. On this basis, **PANDUREVIĆ** claimed that the reference to “obligations of security” in the Interim Combat Report referred to “combat activities undertaken by units of the Bratunac Brigade and the R Battalion.”<sup>3736</sup>

1447. **PANDUREVIĆ**’s testimony on this point is not credible. First, **PANDUREVIĆ** had already discussed the fact that his units were sealing off and searching the terrain in the area of, *inter alia*, Crni Vrh in the first three paragraphs of the Report. Thus, mobilising another unit to perform the very same function in the same area of Crni Vrh -- as the R Battalion was<sup>3737</sup> -- cannot be interpreted as an “*additional*” burden for the Brigade as he had clearly already discussed that task.

1448. Second, while there is no dispute that the R Battalion was mobilised on 15 July to perform “*obesbedjenja teritorije*,” this is an entirely different phrase from that which appears in the Interim Combat Report: “*obesbedjenja i asanacija terena*.” **PANDUREVIĆ**’s tortuous claim that these two phrases meant the same thing was pure nonsense. Not only are the words “*teritorije*” and “*terena*” not synonymous, **PANDUREVIĆ** simply ignored the fact that the words “*i asanacija*” were interposed between the words “*obesbedjenja*” and “*terena*” and then proceeded to explain the phrase as if he had actually written “*obesbedjenja terena*” in the Interim Combat Report; which of course he did not. Had **PANDUREVIĆ** truly intended this to be a cryptic reference to the combat activities of the R Battalion, he would have used the appropriate military term -- *obesbedjenja teritorije* -- which was used in all three of the R Battalion mobilisation orders that **PANDUREVIĆ** was shown during his testimony.<sup>3738</sup> However, **PANDUREVIĆ** *did not* use this term in the 15 July Interim Combat Report; he used a completely different term: “*obesbedjenja i asanacija terena*.”

<sup>3735</sup> **PANDUREVIĆ**, T.31001-31004. See particularly T.31004:6-7. See also Exh. 7D00775, RS Ministry of defence, order - 02-81/95 - complete version. See also Exh. 1D00698, Drina Corp. Command, mobilization request. Str. Conf. No. 05/1-241, which also contains the phrase “*obesbedjenja teritorije*.”

<sup>3736</sup> **PANDUREVIĆ**, T.31008:17-20.

<sup>3737</sup> See **PANDUREVIĆ**, T.31006:19-22, where **PANDUREVIĆ** acknowledged that the R Battalion, once mobilized, were sent to the Crni Vrh area to join units from the Bratunac Brigade.

<sup>3738</sup> Exh. 7D00775, RS Ministry of defence, order - 02-81/95; Exh. 7D00109, MO Secretariat Zvornik 15.07.95; Exh. 1D00698, Drina Corp. Command, mobilization request. Str. Conf. No. 05/1-241. See also **PANDUREVIĆ**, T.31000-31004.



1449. Third, during his testimony, **PANDUREVIĆ** also stated that the phrase “obligations of security and asanacija” from his Interim Combat Report had “nothing to do with guarding prisoners or burying their bodies. *It cannot even be suggested by the words that were used in this document.*”<sup>3739</sup> In response, the Prosecution showed **PANDUREVIĆ** statements by Gen. Radinović, who was an expert witness for Gen. Krstić at his trial;<sup>3740</sup> and Gen. Krstić himself, who was the intended recipient of this Interim Combat Report on 15 July 1995. Both Radinović and Krstić stated that “obligations of security” referred to the obligation to secure the prisoners.

1450. **PANDUREVIĆ** claimed that Gen. Krstić had interpreted the Report in this way because Krstić had information which **PANDUREVIĆ** did not have and because Krstić had allegedly been misled by the questions of the Prosecution.<sup>3741</sup> This response is significant because **PANDUREVIĆ** essentially acknowledged that “obligations of security” *could* be interpreted to mean obligations of security of the prisoners provided that the person reviewing the document had that information. This is precisely the Prosecution’s case; that **PANDUREVIĆ** included a cryptic reference to “obligations of security” in the full knowledge that the recipient of the Report, Gen. Krstić, would know exactly what **PANDUREVIĆ** meant.

1451. **PANDUREVIĆ** also claimed that Gen. Radinović, who **PANDUREVIĆ** respected enough to have review one of his (**PANDUREVIĆ**’s) books,<sup>3742</sup> was “misled;” that Radinović had drawn “contradictory conclusions;” and that the Prosecution had used only those parts of Radinović’s testimony that were to **PANDUREVIĆ**’s detriment.<sup>3743</sup> However, despite the fact that he obviously disagreed with Radinović, **PANDUREVIĆ** implicitly acknowledged that “obligations of security” had been interpreted by Radinović as a reference to the prisoners, which further undermines the credibility of **PANDUREVIĆ**’s claim that such an interpretation “cannot even be suggested by the words that were used in this document.”

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<sup>3739</sup> **PANDUREVIĆ**, T.31009:5-7 (emphasis added).

<sup>3740</sup> **PANDUREVIĆ**, T.32215.

<sup>3741</sup> **PANDUREVIĆ**, T.32223:14-18 (“General Krstić is talking based on his knowledge as to what was going on with these people, and I don’t have that knowledge, so based on your questions which take the facts of this report out of context, General Krstić is giving his answers because he is led to believe that this is a reference to prisoners of war.”)

<sup>3742</sup> **PANDUREVIĆ**, T.32224.

<sup>3743</sup> **PANDUREVIĆ**, T.32218-32219.

*“Asanacija terena” refers to the burial of the prisoners.*

1452. **PANDUREVIĆ** claimed that the reference to “asanacije” in the Report referred to the obligation to collect wounded and dead soldiers from the battlefield in the event of a major battle with the Muslim column.<sup>3744</sup> In particular, **PANDUREVIĆ** claimed that evacuating wounded soldiers from the battlefield required “at least two or three soldiers who are fit to take him to the field hospital and therefore you have fewer men to be used in fighting, so this is certainly a burden.”<sup>3745</sup>

1453. There are two key reasons why **PANDUREVIĆ**’s testimony is not credible. First, as noted at para. 1427, **PANDUREVIĆ** specifically discussed the wounded and dead Serb soldiers in the third paragraph of his Report and most of these casualties had already been taken to the Zvornik Hospital. Thus, the obligation to find and evacuate those and other wounded and deceased soldiers cannot be interpreted as an “*additional*” burden for the Brigade. Vinko **PANDUREVIĆ** is clearly an intelligent and articulate man and he would not have repeated himself in this important document.

1454. Second, **PANDUREVIĆ** told OTP investigator Eileen Gilleece in 2001 that the reference to “asanacija” in his handwritten report of 15 July<sup>3746</sup> was a reference to, “*a pig farm near the 4<sup>th</sup> Battalion. The soldiers of the Muslim 28<sup>th</sup> Division seized the command post and killed pigs.*”<sup>3747</sup> Gilleece recorded **PANDUREVIĆ**’s statement in an Investigative Note dated 2 October 2001<sup>3748</sup> and confirmed it during her *viva voce* testimony in 2007.<sup>3749</sup> The existence of a pig farm in the area of the 4<sup>th</sup> Battalion is confirmed by a Drinski article from February 1995.<sup>3750</sup> The information in Gilleece’s Information Note is further confirmed by the testimony of Lazar Ristić, who confirmed that the 4<sup>th</sup> Battalion command post was burned down on 16 July;<sup>3751</sup> [REDACTED].<sup>3752</sup>

<sup>3744</sup> **PANDUREVIĆ**, T.30994.

<sup>3745</sup> **PANDUREVIĆ**, T.30994:23 – 30995:1.

<sup>3746</sup> Eileen Gilleece recorded the date of this report as 15 July 1992; however, given the reference to “asanacija,” and the seizure of the 4<sup>th</sup> Battalion command post, this can only be a reference to 15 July 1995.

<sup>3747</sup> Exh. 7D01154, Investigative notes of an interview with Milenko Zivanović and Vinko

**PANDUREVIĆ**, dated 2 October 2001.

<sup>3748</sup> Exh. 7D01154.

<sup>3749</sup> GILLEECE, T.6725. “Yes, there was specifically a handwritten report that Mr. Butler refers to, and it’s about the killing of pigs, and Mr. Pandurevic stated that the -- the report actually -- the actual report would -- let me just rephrase this. The report actually referred to the 28th Division of the Muslims killing pigs in the area. Nothing else.”

<sup>3750</sup> Exh. P04296, Article from Drinski magazine titled, “The First Furrow of the War,” by M. Pantić, dated February 1995 re. “the unit of 2<sup>nd</sup> Lieutenant Pero Vidakovač”. At T.10117, Lazar Ristić, the Dep. Commander of the 4<sup>th</sup> Battalion, confirmed that Pero Vidaković was the Commander of the 4<sup>th</sup> Battalion.

<sup>3751</sup> RISTIĆ, T.100087.

<sup>3752</sup> [REDACTED].

1455. [REDACTED].<sup>3753</sup> [REDACTED] the reference to asanacija in the Interim Combat Report *cannot* be a reference to pigs being killed in the area of the 4<sup>th</sup> Battalion because that event had not yet happened at the time **PANDUREVIĆ** wrote the Report; not to mention the sheer implausibility of the suggestion that **PANDUREVIĆ** would report to the Drina Corps Command in the middle of a battle about the need to clean up the bodies of some dead pigs.

*Eileen Gilleece Investigative Note is reliable.*

1456. Eileen Gilleece was a professional investigator for the OTP and, while she acknowledged that there were some errors in her Investigative Note, there can be no doubt that most of her conversation with **PANDUREVIĆ**, including the most relevant parts, was recorded accurately. For example, Gilleece recorded that Drago **NIKOLIĆ** was the Chief of Security for the Zvornik Brigade who was replaced at the IKM by Major Galić; **PANDUREVIĆ** met Gen. Krstić on the morning of 15 July at the Krivače IKM and subsequently returned to Zvornik; **PANDUREVIĆ** had been criticised in 1994 for interfering with the work of the security organs; **PANDUREVIĆ** negotiated with Šemso Muminović from the Muslim side; that on 17 July three Colonels came to Zvornik on Gen. Mladić's orders; and **PANDUREVIĆ** had 23 prisoners on 22 July for whom he requested the immediate assistance of the Exchange Commission.<sup>3754</sup> **PANDUREVIĆ** even told Eileen Gilleece that he attended a meeting at the Bratunac Brigade HQ on 11 July and that the Drina Corps units marched towards Žepa on 12 July.

1457. At one point, Gilleece recorded that **PANDUREVIĆ** received three telegrams from Gen. Krstić on the morning of 15 July which read that "strong Muslim forces from Tuzla under the command of Naser Orić were coming towards Srebrenica."<sup>3755</sup> During his examination-in-chief, **PANDUREVIĆ** stated "Well, I don't know how I could say anything like that *if there was no information of that kind then*, and we've established throughout this trial that none of that happened."<sup>3756</sup> **PANDUREVIĆ**'s claim that there was "no information of that kind then" is manifestly contradicted by the evidence<sup>3757</sup> and **PANDUREVIĆ** conceded during cross-examination that he actually *did* tell Gilleece that

<sup>3753</sup> [REDACTED].

<sup>3754</sup> This is corroborated by Exh. P00340, Zvornik Brigade Interim Combat Report No. 06-229, dated 22 July 1995.

<sup>3755</sup> Exh. 7D01154..

<sup>3756</sup> **PANDUREVIĆ**, T.31279.

<sup>3757</sup> See e.g., Exh. P00201, 4. RIV extraordinary report with intercepted ABiH communication reporting the position of the ABiH troops led by Naser Orić, which attempted to meet the troops from Srebrenica, type-signed by Mirko Petrović; Exh. P00200, 4. RIV extraordinary report with intercepted ABiH communication reporting an attack by the ABiH troops led by ORIC Naser, type-signed by Mirko Petrović; Exh. P00170, Drina Corps Command Report 03/157-6; Exh. P01173d, intercept dated 15 July 1995 at 08:55 hours.

there were rumours at the time that Naser Orić was coming.<sup>3758</sup> Not only does this underscore the accuracy of Gilleece's Investigative Note, it also demonstrates the disingenuous nature of **PANDUREVIĆ**'s attack on her credibility.

1458. Significantly, **PANDUREVIĆ** also tried to discredit the reference in Gilleece's Investigative Note about the 4<sup>th</sup> Battalion pig farm by claiming that he gave her an example of removing pig carcasses from the village of Jeremići in 1992 as a way of illustrating what the term *asanacija* meant, thereby implying that Gilleece must have been mistaken when she wrote about the 4<sup>th</sup> Battalion pig farm [REDACTED]:<sup>3759</sup>

I...gave examples of what had happened earlier in Jeremići at Snagovo which in 1992 in December was looted and set fire to and the pigs slaughtered, killed, and so I mentioned that example. And I also spoke about *asanacija* which had been conducted in the Gornja, Kamenica and Snagovo areas in 1993.<sup>3760</sup>

1459. During his examination-in-chief, **PANDUREVIĆ** did not acknowledge that he told Gilleece *anything* about the 4<sup>th</sup> Battalion pig farm; the clear implication being that Gilleece had somehow made it up. However, as Gilleece explained, she investigated crimes which occurred in 1992-1993 and was unfamiliar with the events surrounding the fall of Srebrenica,<sup>3761</sup> let alone details such as the existence of a pig farm near the 4<sup>th</sup> Battalion or the killing of those pigs as the Muslim column overran the 4<sup>th</sup> Battalion Command. During cross-examination, **PANDUREVIĆ** obviously realised that there was no plausible way that Gilleece could have included this detail in her Investigative Note unless he (**PANDUREVIĆ**) had told her about it, so he changed his testimony and claimed that he told Gilleece about both the 1992 pigs *and* the 4<sup>th</sup> Battalion pigs.<sup>3762</sup>

Q. How does Eileen Gilleece know that the pig farm that you are talking about is the 4th Battalion unless you told her?

A. Well, pigs were mentioned in both locations, but here it is presented as if it was contained in my interim combat report of the 15th. It wasn't. I can't now give you an explanation why some things were noted down as they were.

Q. General, when you met with Eileen Gilleece, you told her, as you acknowledged, that Rick Butler talked about your 15th interim, and you disagreed with it. And you went on to tell her that "*asanacija*" in that report had to do with pigs that were killed at the 4th Battalion. That's what you did. And that's what is in here. Eileen Gilleece doesn't know the 4th Battalion from Adam. She's never dealt with that case, as it came out clearly. How does she know to say the 4th Battalion pigs unless you said it to her just like this?

A. I mentioned pigs from the 4th Battalion by way of explanation of what "*asanacija*" might refer to, and then she wrote down that this is mentioned in the interim combat report. I know that she wrote this report and we don't have any other trace apart from this report of hers, whether it was in any way doctored or in any way changed or manipulated. She didn't know about the 4th Battalion, but many other people did.

<sup>3758</sup> **PANDUREVIĆ**, T.32225-32232.

<sup>3759</sup> **PANDUREVIĆ**, T.31287:13-14.

<sup>3760</sup> **PANDUREVIĆ**, T.31288.

<sup>3761</sup> GILLEECE, T.6744-6745.

<sup>3762</sup> **PANDUREVIĆ**, T.32239-32240.

Q. You think Eileen Gilleece made up the 4<sup>th</sup> Battalion and just threw it in there?

A. No, not her, Mr. McCloskey.

Q. Who?

A. Well, I'm saying that I mentioned the 4<sup>th</sup> Battalion.

Q. With the pigs?

A. I mentioned the pigs in that area as an example of what "asanacija" means.

Q. You've got to pick your pigs, General. It's either the 1992 pigs or the 4<sup>th</sup> Battalion pigs; it makes a very big difference. Which is it?

A. Both, Mr. McCloskey.<sup>3763</sup>

1460. **PANDUREVIĆ** deliberately concealed the fact that he had discussed the 4<sup>th</sup> Battalion pig farm with Eileen Gilleece in an attempt to undermine the credibility of her Investigative Note. **PANDUREVIĆ** engaged in a misleading attempt to discredit the accuracy of Gilleece's Investigative Note because he knew that Gilleece had accurately recorded his explanation of the term "asanacija terena" in the Interim Combat Report and he knew that the explanation he had given her was not only false, but flawed.

*"I will be forced to let them go" refers to the prisoners.*

1461. During his testimony, **PANDUREVIĆ** also claimed that his reference in the paragraph "If no one takes on this responsibility I will be forced to let them go" related to the Muslim column and that "in this paragraph here, I indicated that I would let them go because that's the decision that I had reached after my conversations with Mr. Šemso Muminović."<sup>3764</sup> This statement is false and makes no sense in the context of the Report.

1462. First, **PANDUREVIĆ** had just told the Corps Command about the problems related to the security and burial of the prisoners in the previous paragraph and paragraph five continues on the same topic as it refers to "these problems," *i.e.*, the problems of guarding and burying the prisoners.

1463. Second, **PANDUREVIĆ** does not refer to the negotiations with the Muslim column until the paragraph *after* he makes the threat that "I will be forced to let them go," and it makes no sense that he would threaten to let the column go before he has explained anything about his negotiations with Muminović.

1464. Third, **PANDUREVIĆ** was shown Gen. Krstić's testimony where Krstić stated that in this paragraph, **PANDUREVIĆ** was threatening to let the prisoners go. **PANDUREVIĆ**'s response was significant because he claimed, without any basis, that

<sup>3763</sup> **PANDUREVIĆ**, T.32239-32240.

<sup>3764</sup> **PANDUREVIĆ**, T.31009.

Krstić was not shown the full Report<sup>3765</sup> and then stated that: “How would I be letting them go if somebody brought them from the Drina Corps or the Main Staff and they are guarding them?”<sup>3766</sup> This answer was disingenuous. Zvornik Brigade soldiers under the command of **PANDUREVIĆ** were guarding the prisoners at the Kula School in Pilica, who remained alive at that time,<sup>3767</sup> and Zvornik Brigade personnel under the command of **PANDUREVIĆ** including 2<sup>nd</sup> Battalion commander Srećko Aćimović, 2<sup>nd</sup> Battalion soldiers, Lt. Jasikovac and Zvornik Brigade MPs were engaged in the detention, transport and execution of Muslim prisoners at the Ročević School and Kozluk.<sup>3768</sup>

1465. Accordingly, when **PANDUREVIĆ** told the Drina Corps Command that the Zvornik Brigade could no longer take care of “these problems” and threatened that if “no one takes on this responsibility I will be forced to let them go,” **PANDUREVIĆ** was referring to the problems with the security and the burial of the prisoners and he was threatening to let the remaining prisoners go.

*Defence witness Radmilo Marojević is not credible.*

1466. The simple fact that **PANDUREVIĆ** called a linguistic expert in his Defence case in an attempt to counter the plain meaning of the Interim Combat Report indicates that **PANDUREVIĆ**’s suggested interpretation of the document is unreasonable. It was also clear during Marojević’s testimony that he was biased;<sup>3769</sup> unsuitably qualified;<sup>3770</sup> his analysis was methodologically unsound;<sup>3771</sup> and, most significantly, Marojević concluded that, “*It is absolutely certain that those for whom the report was written had to understand the text and all its above analysed segments in the way we have explained it*

<sup>3765</sup> **PANDUREVIĆ**, T.32224:14-23.

<sup>3766</sup> **PANDUREVIĆ**, T.32224:21-23.

<sup>3767</sup> See paras. 868-944.

<sup>3768</sup> See paras. 810-864.

<sup>3769</sup> At T.32626:10-14, Marojević stated: “What I know very well and what is not the subject of this analysis is the new world order. I know very well the scenario developed in Srebrenica. I know very well that the envoy of the new world order Clinton asked Izetbegović that everything be done to create a trap for Serbs and *entrap them into genocide*.” At T.32626:23-25, Marojević stated: “However, to prove a genocide, *it was necessary to invent a pseudo-nation*; first of all, Muslims with a capital M, and later, Bosniaks, although Bosniaks has no meaning at all.” At T.32626:6-10, Marojević stated: “I knew that this scenario of the new world order was being implemented in Srebrenica, not only by Serbs of Islamic faith and foreign mercenaries, but there must have been, also, Serbs of the Orthodox faith involved, so I could not suppose either of these things.” At T.32627:19-23, Marojević stated: “*The objective is to accuse the Serb people of genocide, although there could be no genocide because there is no other people. All of them are Serbs: On one side, Orthodox Serbs; on another side, Serbs of Islamic faith; and on the third side, Serbs of Catholic faith.*”

<sup>3770</sup> At T.32644:17-21, Marojević confirmed that he had never provided a linguistic analysis in court before; and at T.32623:21-25 and 32648:8-13, Marojević confirmed that he had never analysed a military text before.

<sup>3771</sup> Marojević failed to consider past interpretations of the document (T.32623:17-18) and Marojević confirmed that he only reviewed one other document for his contextual analysis, the Zvornik Brigade 16 July interim combat report (T.32669:6-9).

here”<sup>3772</sup> without being aware of, let alone considering, Gen. Krstić’s<sup>3773</sup> or Gen. Radinović’s<sup>3774</sup> alternative interpretation of the Report. Accordingly, Marojević’s testimony and report should be given no weight.

### **Conclusion**

1467. The 15 July Interim Combat Report confirms that the Zvornik Brigade Command was participating in the guarding, murdering and burial of the Muslim men from Srebrenica with the knowledge and authority of **PANDUREVIĆ**. The majority of the prisoners still alive at that point were guarded by Zvornik Brigade soldiers at the Kula School and some at the Ročević School. **PANDUREVIĆ** could have carried out his threat and transported the prisoners to Batković, Serbia or brought in an international organization or merely called in the press and saved those prisoners’ lives. He wilfully and knowingly chose not to.

### **(xcii) On 15 July, Zvornik Brigade soldiers under PANDUREVIĆ’s command participated in the detention, transport, execution and burial of Muslim prisoners.**

1468. On 15 July, elements of the Zvornik Brigade participated in the murder operation at all four major execution and burial sites in the Zvornik Brigade’s area of responsibility. As discussed above, the Zvornik Brigade’s Interim Combat Report of 15 July demonstrates that **PANDUREVIĆ** knew that elements of his Brigade were engaged in the murder operation. Zvornik Brigade personnel and equipment detained, transported, executed and buried the Muslim men from Srebrenica on 15 July with **PANDUREVIĆ**’s knowledge and authority.

1469. On 15 July, Zvornik Brigade engineering equipment and personnel continued to work at Orahovac burying the bodies of the murdered prisoners.<sup>3775</sup> 15-20 Zvornik Brigade soldiers continued to guard the prisoners at the Kula School near Pilica.<sup>3776</sup> The Zvornik Brigade engineering log shows that engineering equipment operated at Petkovci.<sup>3777</sup> Two trucks with drivers from the 6<sup>th</sup> Battalion were used to take the bodies

<sup>3772</sup> Exh. 7D00917, Pandurevic defence linguistic Report by Radmilo Marojević, p.12 (emphasis added).

<sup>3773</sup> MAROJEVIĆ, T.32683:10-15.

<sup>3774</sup> MAROJEVIĆ, T.32683:16-19.

<sup>3775</sup> See paras. 759-760.

<sup>3776</sup> S.PERIĆ, T.11405:22-25 (Perić testified that on 15 July, Capt. Pelemiš substituted in some fifteen 1<sup>st</sup> Battalion soldiers for the ones who had been initially assigned to the school). See also R.BABIĆ, T.10233:10-22, who claimed that the number was closer to 20.

<sup>3777</sup> Exh. P00297, Zvornik Brigade Engineering Company Daily Orders Log Book, for the period 13 to 16 July 1995, at ERN 0084-6762.

of murdered prisoners from the Petkovci School to the burial site at the Dam.<sup>3778</sup> Zvornik Brigade resources were also engaged in the murder operation at Ročević and Kozluk.<sup>3779</sup>

1470. The detention, transport and execution of Muslim prisoners at Ročević and Kozluk on 15 July, including the executions at Kozluk, began after **PANDUREVIĆ** had returned to the Zvornik Brigade's zone of responsibility. One of **PANDUREVIĆ**'s battalion commanders, Srećko Aćimović, was present at the Ročević School for several hours on 15 July and played a central role in coordinating the transport and execution of prisoners detained at the Ročević School.<sup>3780</sup> These prisoners were executed with ammunition issued by the Zvornik Brigade Logistics Organ.<sup>3781</sup> Zvornik Brigade drivers Dragan Jović, Veljko Ivanović, Radivoje Jekić, Mićo Stanić and Đjoko Nikolić transported the Muslim prisoners to the execution site. Zvornik Brigade MPs guarded the prisoners at the School. At least one Zvornik Brigade MP, [REDACTED], was present at the Kozluk execution site along with 2<sup>nd</sup> Battalion members Milorad Ristanović and Zoran Simonić. Zvornik Brigade officers Miomir Jasikovac, Milorad Trbić and Drago **NIKOLIĆ** were also at the Ročević School during the day on 15 July.

1471. **PANDUREVIĆ** testified Dragan Obrenović later told him that the prisoners held at Ročević had been executed near the Drina by soldiers from the 10<sup>th</sup> Sabotage Detachment and soldiers from Bratunac.<sup>3782</sup> **PANDUREVIĆ**'s attempt to deny the involvement of Zvornik Brigade MPs and 2<sup>nd</sup> Battalion members in the detention, transport, execution and burial of prisoners at Kozluk, in the face of extensive evidence to the contrary, indicates **PANDUREVIĆ**'s consciousness of wrongdoing and further supports that these Zvornik Brigade personnel participated in the murder operation at Ročević and Kozluk with **PANDUREVIĆ**'s knowledge and approval.

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<sup>3778</sup> See paras. 801-804.

<sup>3779</sup> See paras. 862-863.

<sup>3780</sup> V.IVANOVIĆ, T.18177. Ivanović testified that at approximately 11:00 or 11:15 hours that morning, Radislav Pantić passed on an order from Srećko Aćimović to take three crates of ammunition from the Zvornik Brigade HQ to Ročević, where it was loaded into a car and taken to the Kozluk execution site.

<sup>3781</sup> V.IVANOVIĆ, T.18177. Ivanović testified that at approximately 11:00 or 11:15 hours that morning, Radislav Pantić passed on an order from Srećko Aćimović to take three crates of ammunition from the Zvornik Brigade HQ to Ročević, where it was loaded into a car and taken to the Kozluk execution site.

<sup>3782</sup> **PANDUREVIĆ**, T.31084:21-25: "I believe he said that the executions had taken place in the vicinity of Drina, of those from Ročevići, and that those from Pilica had been executed at Branjevo. And that the executions had been carried out by the soldiers from the 10<sup>th</sup> Sabotage Detachment and some soldiers who had arrived from Bratunac."



(xciii) On the afternoon of 16 July, PANDUREVIĆ met with POPOVIĆ and PANDUREVIĆ would have known that POPOVIĆ was in the area of the 1<sup>st</sup> Battalion coordinating the execution of Muslim prisoners who were being secured by soldiers from the Zvornik Brigade's 1<sup>st</sup> Battalion.

1472. At approximately 16:40 hours on 16 July, the following entry was recorded in the Zvornik Brigade Duty Operations Officer Notebook:

- Message from Zlatar that Lieutenant Colonel **POPOVIĆ** must go to Vinko **PANDUREVIĆ** in the field at 16:40 hrs. Message through the 1<sup>st</sup> pb that **POPOVIĆ** must report to the duty officer so he can be sent on a task by Zlatar.<sup>3783</sup>

1473. This entry is corroborated by an intercepted conversation at 16:43 hours between the Drina Corps Duty Operations Officer and an unknown person in which the Drina Corps officer states that "the boss" wants "my **POPOVIĆ**" or Drago **NIKOLIĆ** to go to "Vinko" to see "what's going on there."<sup>3784</sup>

1474. This entry in the Duty Operation Officer Notebook is significant for three reasons. First, it shows that **POPOVIĆ** was in the area of the Zvornik Brigade's 1<sup>st</sup> Battalion where the executions occurred at Branjevo Farm and the Pilica Dom that day. Second, it shows that the Drina Corps Command and the Zvornik Brigade Duty Operations Officer knew that **POPOVIĆ** was in the area of the 1<sup>st</sup> Battalion and both Commands were aware that **POPOVIĆ** was coordinating the murder of Muslim prisoners at Branjevo Farm and the Pilica Dom. Third, it shows that in the middle of overseeing these executions, **POPOVIĆ** received an order to visit **PANDUREVIĆ**.

1475. An intercepted conversation dated 16 July at 21:16 hours between Vujadin **POPOVIĆ** and "Rašić" from the Drina Corps confirms that **POPOVIĆ** did, in fact, visit **PANDUREVIĆ** that afternoon or evening:

P: Hello, Lt. Col. **POPOVIĆ** speaking.

R: Rašić here, can I help you?"

P: Rale!

R: Yes?

P: I was just up there.

R: Yes.

P: *I was with the boss personally.*

R: Yes.

P: *Well, you got his interim report.*

R: All of it.

<sup>3783</sup> Exh. P00377 at ERN: 0293-5767.

<sup>3784</sup> Exh. P01225[REDACTED], intercept dated 16 July at 16:43 hours.

P: It's all just like he wrote it ... *I was there on the spot and saw for myself* he had received some numbers ... well, that's not even important ... I'll come there tomorrow so tell the General ... I've finished the job.<sup>3785</sup>

1476. Richard Butler testified that **POPOVIĆ**'s reference to "the boss" was a reference to Vinko **PANDUREVIĆ**.<sup>3786</sup> **PANDUREVIĆ** acknowledged that the reference to "the boss" was "probably" a reference to himself<sup>3787</sup> and that when **POPOVIĆ** said "Well, you got his interim report," **POPOVIĆ** was referring to **PANDUREVIĆ**.<sup>3788</sup>

1477. Despite **POPOVIĆ**'s report to the Drina Corps Command that he had been with **PANDUREVIĆ** personally, **PANDUREVIĆ** claimed that he did not see **POPOVIĆ** that afternoon.<sup>3789</sup> However, this intercept is clear on its face and **POPOVIĆ** had no reason to lie to his Command about the fact that he had visited **PANDUREVIĆ**; particularly when the Drina Corps, the Main Staff and the President all knew of **PANDUREVIĆ**'s decision to open the corridor and were looking for an explanation for his actions.<sup>3790</sup>

1478. **PANDUREVIĆ** denied seeing **POPOVIĆ** on 16 July for two possible reasons. First, **PANDUREVIĆ** realised that meeting with **POPOVIĆ** on the afternoon of 16 July would support a conclusion that he knew about the murder operation at that time, which would undermine his claim that he did not find out about the executions until the night of 16 July. Second, the evidence that **POPOVIĆ** was present in Baljkovica and his confirmation that the combat was severe contradicts **PANDUREVIĆ**'s claim that he exaggerated the severity of the combat in his 16 July Interim Combat Report in order to conceal his humanitarian motives for opening the corridor.<sup>3791</sup>

### Conclusion

1479. **POPOVIĆ** met with **PANDUREVIĆ** on the afternoon of 16 July and must have reported to **PANDUREVIĆ** about the ongoing operation to murder the Muslim prisoners. Thus, **PANDUREVIĆ** knew that **POPOVIĆ** had been in the area of the 1<sup>st</sup> Battalion coordinating the execution of prisoners who had been guarded by soldiers from the Zvornik Brigade 1<sup>st</sup> Battalion at the Kula School. This shows that **POPOVIĆ** and **PANDUREVIĆ** were both working together in the operation to murder the prisoners.

<sup>3785</sup> Exh. P01201a, intercept dated 16 July at 21:16 hours.

<sup>3786</sup> BUTLER, T.20020-20021.

<sup>3787</sup> **PANDUREVIĆ**, T.32244:18-21.

<sup>3788</sup> **PANDUREVIĆ**, T.32244:15-17.

<sup>3789</sup> **PANDUREVIĆ**, T.31050, 32247-32249.

<sup>3790</sup> See e.g., Exh. P01195[REDACTED], intercept dated 16 July at 16:02 hours.

<sup>3791</sup> **PANDUREVIĆ**, T.31059:21-24.

**(xciv) On 16 July, Zvornik Brigade soldiers under PANDUREVIĆ's command participated in the detention, transport, murder and burial of Muslim prisoners.**

1480. On 16 July, elements of the Zvornik Brigade participated in the murder operation at Pilica and Kozluk with Vinko PANDUREVIĆ's knowledge and authority.

1481. Elements of the Zvornik Brigade's 1<sup>st</sup> Battalion were involved in the detention of Muslim prisoners at the Kula School on 16 July. On the night of 15 July, 1<sup>st</sup> Battalion Deputy Commander Capt. Pelemiš substituted in some fifteen to twenty 1<sup>st</sup> Battalion soldiers for the ones who had been initially assigned to the School.<sup>3792</sup> Babić estimated that there were approximately forty to fifty soldiers in total at the School that night.<sup>3793</sup> On the morning of 16 July, at least four members of the 1<sup>st</sup> Battalion Workers Platoon were also sent to the Kula School to secure the prisoners there: Jevto Bogdanović; Stevo Ostojić; Rajo Jurosević; and Capt. Lakić.<sup>3794</sup>

1482. NIKOLIĆ, the Duty Operations Officer on the morning of 16 July, also facilitated the murder operation at Pilica by directing that fuel be sent to the 1<sup>st</sup> Battalion for the transport of the troops to Kula.<sup>3795</sup>

1483. As outlined at paras. 854-860, the following Zvornik Brigade personnel admitted being at the Kozluk execution and primary burial site on 16 July: Damjan Lazarević, platoon commander from the Engineering Company; and Miloš Mitrović, excavator operator. The evidence has also shown that Nikola Rikanović, Engineering Company member; and Rade Bošković, mobilised Zvornik Brigade member,<sup>3796</sup> were present at Kozluk on 16 July. In addition, Major Dragan Jokić gave the order to Miloš Mitrović and Nikola Rikanović to go to Kozluk with the Torpedo excavator on 16 July.<sup>3797</sup>

1484. The Zvornik Brigade vehicle log for a "Rovokopač" Torpedo excavator shows that it performed work for the VRS in Kozluk for 8 hours on 16 July.<sup>3798</sup> An ULT 220 loader also operated at Kozluk on 16 July. Miloš Mitrović testified that the ULT 220 belonged to the Josanica Quarry but "when necessary it was commandeered for the needs of the Zvornik Brigade."<sup>3799</sup> Damjan Lazarević testified that he "supposed" that the order

<sup>3792</sup> S.PERIC, T.11405:22-25; R.BABIĆ, T.10233:10-22.

<sup>3793</sup> R.BABIĆ, T.10233:17-18.

<sup>3794</sup> J.BOGDANOVIĆ, T.11320-11321. See also paras. 922-924.

<sup>3795</sup> Exh. P00377 at ERN:0293-5761.

<sup>3796</sup> D.LAZAREVIĆ, T.14522 (emphasis added). Counsel for PANDUREVIĆ asked: "He was not a member of the Zvornik Brigade, was he?" Lazarević answered: "Occasionally, when the machine was there, he was there with it so *he must have been a member at such times*" (emphasis added).

<sup>3797</sup> M.MITROVIĆ, Exh. P02259, at T.5603. See also D.LAZAREVIĆ, T.14457, who only referred to Mitrović arriving at the site.

<sup>3798</sup> Exh. P00301, Zvornik Brigade Vehicle Log for Rovakopac Torpedo from Birac Holding.

<sup>3799</sup> M.MITROVIĆ, Exh. P02259, at T.5607:23-24.

to send this machine came from the Engineering Company.<sup>3800</sup> Rade Bošković, the ULT 220 operator, also reported to Damjan Lazarević.<sup>3801</sup> Lazarević was in charge of the burial work performed by Bošković and the ULT 220 at Kozluk on 16 July.

**(xcv) On the afternoon of 17 July, PANDUREVIĆ drove past the Orahovac execution site [REDACTED].**

1485. [REDACTED].<sup>3802 3803 3804</sup>

1486. [REDACTED].<sup>3805 3806 3807</sup>

1487. [REDACTED].

1488. During his testimony, **PANDUREVIĆ** confirmed that he drove through Orahovac on the evening of 17 July and saw disturbed earth next to the road at a point between the villages of Križevići and Orahovac.<sup>3808</sup> [REDACTED].<sup>3809</sup> However, **PANDUREVIĆ**'s vehicle log for 17 July records that two trips were made that day from the IKM to Zvornik,<sup>3810</sup> [REDACTED]. Moreover, **PANDUREVIĆ**'s repeated attempts to distance himself from information that would implicate members of the Zvornik Brigade -- and thus himself -- in these executions renders his testimony on this point simply not credible.

**(xcvi) On 17 July, Zvornik Brigade resources, under the command of PANDUREVIĆ, buried the bodies of murdered prisoners at the Branjevo Farm.**

1489. On 17 July, Zvornik Brigade resources from the 1<sup>st</sup> Battalion, the R Battalion, the Engineering Commander for Logistics.<sup>3811</sup>

1490. Jovan Bogdanović, Jovan Ilić, Rajo Jurosević, Stevo Ostojić, Vojo Lakić, and Capt. Lakić from the 1<sup>st</sup> Battalion Workers Platoon removed bodies from the Pilica

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<sup>3800</sup> D.LAZAREVIĆ, T.14458:9-14: "I suppose that the order came from the unit. I suppose that they had realised that nothing could be done with the small machine, that that small machine was not fit for that job in that location, that it would take a very long time to accomplish the task, and I suppose that they had sent the big machine from the unit."

<sup>3801</sup> M.MITROVIĆ, Exh. P02259, at T.5610.

<sup>3802</sup> [REDACTED].

<sup>3803</sup> [REDACTED].

<sup>3804</sup> [REDACTED].

<sup>3805</sup> [REDACTED].

<sup>3806</sup> [REDACTED].

<sup>3807</sup> [REDACTED].

<sup>3808</sup> **PANDUREVIĆ**, T.31113:1-7.

<sup>3809</sup> [REDACTED].

<sup>3810</sup> Exh. 7D00091.

<sup>3811</sup> Exh. P00377 at ERN 0293-5771.

Dom.<sup>3812</sup> R Battalion member Milenko Tomić drove the bodies of the murdered prisoners from the Pilica Dom to the Branjevo Farm.<sup>3813</sup>

1491. Damjan Lazarević received an assignment to go to Branjevo Farm from Vojkan Sekonić, Desk Officer of the Engineering Company and Deputy Commander Slavko Bogičević.<sup>3814</sup> The Engineering Company Daily Order Log Book also records that a BGH-700 and an ULT 220 were tasked with working at Branjevo Farm.<sup>3815</sup> This is confirmed by Cvijetin Ristanović, who was sent by Damjan Lazarević to the Branjevo Military Farm on 17 July with a G-700 backhoe excavator;<sup>3816</sup> and by the vehicle log for an ULT-220 mobilised from “Birac-Holding” which was active for eight and one-half hours “digging trenches at Branjevo” for the VRS.<sup>3817</sup>

**(xcvii) At 13:17 hours on 18 July, PANDUREVIĆ issued Zvornik Brigade interim combat report 06-222, which provides further proof that PANDUREVIĆ knew that thousands of Muslims had been detained and executed in the Zvornik area.**

1492. At approximately 13:17 hours on 18 July, Vinko PANDUREVIĆ sent interim combat report 06-222 to the Drina Corps Command, which stated:

During the last 10 days or so the municipality of Zvornik has been swamped with Srebrenica Turks /derogatory term for Muslims/. It is inconceivable to me that someone brought in 3,000 Turks of military age and placed them in schools in the municipality, in addition to the 7,000 or so who have fled into the forests. This has created an extremely complex situation and the possibility of the total occupation of Zvornik in conjunction with the forces at the front. These actions have stirred up great discontent among the people and the general opinion is that Zvornik is to pay the price for the taking of Srebrenica.<sup>3818</sup>

1493. This Report constitutes further proof that PANDUREVIĆ knew that thousands of Muslim prisoners had been placed in schools in the Zvornik municipality; that the presence of those prisoners had created an extremely complex situation for the Zvornik Brigade at a time when the Brigade was under attack from the ABiH 2<sup>nd</sup> Corps at the front and the Muslim column in the rear; and that those Muslim prisoners had been executed. PANDUREVIĆ himself acknowledged that the reference in this Report to “these actions [which] have stirred up great discontent among the people” was a cryptic

<sup>3812</sup> J.BOGDANOVIĆ, T.11326:24-T.11327:7.

<sup>3813</sup> M.TOMIĆ, T.21001.

<sup>3814</sup> D. LAZAREVIĆ, T.14459 - 14460.

<sup>3815</sup> Exh. P00297 at ERN 0084-6762.

<sup>3816</sup> Exh. P02256, at T. 5389-5392. See also Exh. P00299, Zvornik Brigade Vehicle Log for Mercedes 2626 (indicating that a 700 loader was towed by a truck observing the following route: “Base-Standard-Branjevo-Base”); See also Exh. P00281, Zvornik Brigade Fuel Dispersal Log (indicating a 100 litre disbursement of D-2 for a BGH-700).

<sup>3817</sup> Exh. P00302, Zvornik Brigade Vehicle Log for Birac-Holding ULT 220.

<sup>3818</sup> Exh. P00334, Zvornik Brigade Interim Combat Report 06-222, dated 18 July 1995.

reference to the execution of the prisoners.<sup>3819</sup> This is consistent with **PANDUREVIĆ**'s use of cryptic language in his 15 July Interim Combat Report to describe the security and burial of the Muslim victims.

1494. This Report continues the same complaint **PANDUREVIĆ** had made in his 15 July Interim Combat Report that the murder operation had been an "additional burden" for the Zvornik Brigade at a time when their resources should have been concentrated on blocking and destroying the Muslim column. This Report, when considered with the other evidence, shows that **PANDUREVIĆ** authorised elements of his Brigade to participate in the murder operation. The Report is also similar to Gen. Krstić's complaint to **BEARA** on the morning of 15 July that "you guys fucked me up so much."<sup>3820</sup> This was Krstić's simple way of telling **BEARA** that the allocation of resources to the murder operation was adversely affecting Krstić's ability to conduct combat operations around the Žepa enclave.

1495. **PANDUREVIĆ** does not express one word of shock or outrage about the murder of thousands of Muslim victims, who he describes as "Turks of military age." Instead, **PANDUREVIĆ**'s irritation arises solely from the fact that the murders caused a "complex situation" which may have led to the Muslim occupation of Zvornik, and that the people of Zvornik felt that they were paying the price for the taking of Srebrenica. His indifference to the murder of thousands of Muslim men, many hundreds of whom were *not* of military age (including **254** men who were detained at the Ročević School by Zvornik Brigade MPs, transported by 2<sup>nd</sup> Battalion drivers to Kozluk and executed),<sup>3821</sup> leaves no doubt that **PANDUREVIĆ** intended the deaths of those Muslim men.

**(xcviii) On 18 and 19 July, Zvornik Brigade resources, under the command of PANDUREVIĆ, continued the burial of murdered Muslim prisoners at Kozluk.**

1496. As noted at para. 860, on 18 July, the Zvornik Brigade Engineering Company Daily Orders Log Book records that a bulldozer was transported to Kozluk and "work on mending the trench" carried out.<sup>3822</sup> On 19 July, the Log Book records that this "trench mending" at Kozluk continued.<sup>3823</sup>

<sup>3819</sup> **PANDUREVIĆ**, T.31104 - 31105, T.32206.

<sup>3820</sup> Exh. P01179a, intercept dated 15 July 1995 at 10:00 hours.

<sup>3821</sup> See para. 843.

<sup>3822</sup> Exh. P00297, Zvornik Brigade Engineering Company Daily Orders Log Book at ERN: 0084-6765.

<sup>3823</sup> Exh. P00297 at ERN: 0084-6766.

1497. The presence of the bulldozer at Kozluk is corroborated by the vehicle log for a bulldozer TG-75,<sup>3824</sup> assigned to Zvornik Brigade excavator operator Mićo Mirković,<sup>3825</sup> which records that the bulldozer performed 1.5 hours of “special purposes work in Kozluk” on 18 July and one hour of “special purposes work in Kozluk” on 19 July. Kozluk is several kilometres from the front lines and was also some distance from the area through which the Muslim column passed. This bulldozer had to have been finishing the burial of the murdered prisoners at Kozluk.

**(xcix) On 19 July, a unit of soldiers from the 16<sup>th</sup> Krajina Brigade, under the command of PANDUREVIĆ, executed a group of Muslims near Nezuk.**

1498. As described at paras. 1003-1019, on 16 July, a unit of soldiers from the 16<sup>th</sup> Krajina Brigade arrived in the Zvornik area and was placed under the command of Vinko **PANDUREVIĆ**. The commander of that unit, Major Dragičević, went to the Zvornik Brigade IKM and was tasked by **PANDUREVIĆ** himself.<sup>3826</sup> On 19 July, the unit from the 16<sup>th</sup> Krajina Brigade was searching the terrain near Nezuk, in coordination with the Drina Wolves and other units under the command of **PANDUREVIĆ**, when they captured and summarily executed at least four Muslim men. [REDACTED]. The evidence has clearly shown that these executions were carried out by the unit from the 16<sup>th</sup> Krajina Brigade who were under **PANDUREVIĆ**'s command at the time.<sup>3827</sup>

1499. [REDACTED].<sup>3828</sup> [REDACTED].<sup>3829</sup> **PANDUREVIĆ** also testified that during the sweep operation, he ordered his men to “proceed with caution making sure that they were safe, and I was also counting on all sorts of perfidities that might have been used by the enemy soldiers.”<sup>3830</sup>

1500. [REDACTED].<sup>3831 3832</sup>

1501. On 19 July, an intercepted conversation at 08:12 hours between **PANDUREVIĆ** and Col. Cerović from the Drina Corps shows that **PANDUREVIĆ** had knowledge of the sweep operation near Baljkovica.<sup>3833</sup> During this conversation, **PANDUREVIĆ** told Cerović that “yesterday we liquidated a bit more than 20 of them,” and that earlier that

<sup>3824</sup> Exh. P00295, Zvornik Brigade July 1995 Transportation Records at ERN: 0087-6037-0087-6038.

<sup>3825</sup> Exh. P002851, Zvornik Brigade Engineering Company attendance roster for the month of July 1995.

<sup>3826</sup> Exh. P00377 at ERN: 0293-5768.

<sup>3827</sup> See paras. 1014-1019.

<sup>3828</sup> [REDACTED].

<sup>3829</sup> [REDACTED].

<sup>3830</sup> **PANDUREVIĆ**, T.31129:9-14.

<sup>3831</sup> [REDACTED].

<sup>3832</sup> [REDACTED].

<sup>3833</sup> Exh. P01261, intercept dated 19 July at 08:12 hours.

morning, **PANDUREVIĆ**'s units started chasing approximately 150 Muslims who were encircled near Planinci-Baljkovica.<sup>3834</sup>

1502. The same day, 19 July, the Zvornik Brigade Daily Combat Report stated that: *"During the search operation two Muslim soldiers were captured and 13 eliminated."*<sup>3835</sup> This Daily Combat Report was sent at 17:30 hours, some four hours after the executions;<sup>3836</sup> and the numbers of dead and captured Muslims reported are consistent with [REDACTED] and [REDACTED]'s evidence.

### **Conclusion**

1503. **PANDUREVIĆ** attempt to downplay his knowledge of this incident and the behaviour of the soldiers under his command. He was openly sceptical towards the evidence of the survivor witness, [REDACTED], and made the incongruous claim that "I don't know who mentioned this term, the people from Krajina,"<sup>3837</sup> when both [REDACTED] testified that their Serb captors were from the Krajina.

1504. **PANDUREVIĆ**'s position is unreasonable. He was fully informed about these particular executions and more generally about the criminal behaviour of the soldiers under his command during the sweep operation. By failing to take measures to prevent the units under his command from capturing and summarily executing Muslim prisoners and by failing to investigate the evidence that units under his command were engaging in such criminal behaviour, **PANDUREVIĆ** demonstrated his approval of these crimes.

### **(c) On or around 23 July 1995, PANDUREVIĆ received an order from Gen. Mladić, through POPOVIĆ, that the "Milići patients" were to be murdered.**

1505. As described at paras. 1032-1049, between 14 and 16 July, a group of approximately 14 wounded Muslims were transferred from the Milići Hospital to the Zvornik Brigade infirmary via the Zvornik Hospital. On 23 July, **PANDUREVIĆ** spoke with Col. Cerović from the Drina Corps and requested a solution for the "problem" of the wounded Muslims. Col. Cerović had been involved in the murder operation prior to this point when, on 16 July, he passed on an order to **BEARA** that "triage" was to be carried out on the prisoners in Pilica.<sup>3838</sup> Cerović called back five minutes after speaking with **PANDUREVIĆ** and left a message for **PANDUREVIĆ** that **POPOVIĆ** would arrive by

<sup>3834</sup> Exh. P01261, intercept dated 19 July at 08:12 hours.

<sup>3835</sup> Exh. P00336.

<sup>3836</sup> Exh. P00336 at ERN: 0068-4894.

<sup>3837</sup> **PANDUREVIĆ**, T.32259.

<sup>3838</sup> Exh. P01187, Intercept dated 16 July 1995, 11:11 hours.



17:00 hours with the solution. As an important message for the commander, **PANDUREVIĆ** would have received this information.

1506. **POPOVIĆ** went to the Zvornik Brigade on 23 July. One or two days later, the wounded Muslims disappeared. [REDACTED].<sup>3839</sup> **PANDUREVIĆ** was at the Zvornik Brigade command until approximately 20:00 hours on 23 July<sup>3840</sup> and was in a position to receive Mladić's order from **POPOVIĆ**. [REDACTED].

1507. **PANDUREVIĆ** acknowledged that by 23 July, he knew that **POPOVIĆ** had been involved in the murder operation.<sup>3841</sup> From the moment Col. Cerović and Ljubo Bojanović relayed the message that **POPOVIĆ** was coming with orders regarding the wounded Muslims, **PANDUREVIĆ** was on notice that the Muslims' lives were in danger. **PANDUREVIĆ** failed to take any measures to prevent these Muslims from being taken away pursuant to **POPOVIĆ**'s instructions because, as he testified, he (**PANDUREVIĆ**) cared more about getting rid of the wounded Muslims from the Zvornik Brigade HQ than what might actually happen to them:

Well, it was all the same to me who would deal with the problem. What was important to me was for this problem to be solved.<sup>3842</sup>

1508. **PANDUREVIĆ** claimed that his duty not to give prisoners into the custody of someone who may kill them only applied, "if I know for a fact that they are to be killed."<sup>3843</sup> **PANDUREVIĆ** is incorrect; his duty was to not turn over those prisoners without first satisfying himself that those prisoners would be afforded the treatment they were entitled to under the applicable law. **PANDUREVIĆ** acknowledged that he knew **POPOVIĆ** had been involved in the murder operation at this time.<sup>3844</sup> With this knowledge, **PANDUREVIĆ** could not have satisfied himself at the time that the wounded prisoners would be treated according to law if they were transported away from the Zvornik Brigade HQ pursuant to instructions from **POPOVIĆ**.

1509. Finally, **PANDUREVIĆ** attempted to pass sole responsibility for the Muslims' fate onto Dragan Obrenović, stating:

I did not hand them over to **POPOVIĆ**. Obrenović told me about that and I personally charged him with taking care of their safety and security, that those people had been transported to Batković and he did not mention **POPOVIĆ**. Now, whether somebody went to Batković and

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<sup>3839</sup> [REDACTED].

<sup>3840</sup> **PANDUREVIĆ**, T.31157:21-24 and T.31159:7-18.

<sup>3841</sup> **PANDUREVIĆ**, T.32261:23 – 32262:2.

<sup>3842</sup> **PANDUREVIĆ**, T.32264:23-24.

<sup>3843</sup> **PANDUREVIĆ**, T.32265.

<sup>3844</sup> **PANDUREVIĆ**, T.32261:23 – 32262:2.

picked them up, whether they were – they took a detour in the course of the transportation, I don't know.<sup>3845</sup>

1510. **PANDUREVIĆ**'s statement is contradicted by the intercepts and the Duty Operations Officer Notebook entry outlined above, which show that Col. Cerović dealt personally with **PANDUREVIĆ** about the wounded Muslims and that **PANDUREVIĆ** himself asked for the solution to the "problem" posed by these wounded Muslims. Furthermore, even had Obrenović been dealing with the Corps on this issue, Obrenović had no reason to lie to his commander about this issue when both men were already fully aware of **POPOVIĆ**'s involvement in the murder operation.

### Conclusion

1511. **PANDUREVIĆ**'s breach of his duty towards the wounded prisoners was intentional. His attempts to downplay his own knowledge and involvement and shift responsibility to Obrenović confirms that **PANDUREVIĆ** was informed and compliant with Mladić's orders to kill the wounded Muslims.

### (ci) On or around 26 July, **PANDUREVIĆ** knew of, and was complicit in, the murders of the four "Branjevo Farm survivors."

1512. As outlined at paras. 1056-1059, four Muslim men -- Sakib Kivirić, Emin Mustafić, Fuad Đozić and Almir Halilović -- survived the mass executions at Branjevo Farm and were subsequently captured and interrogated by Zvornik Brigade MPs and Drago **NIKOLIĆ**. After **NIKOLIĆ** discovered that the four Muslim men survived the Branjevo Farm executions, he informed Vinko **PANDUREVIĆ**, who asked **NIKOLIĆ** to stay after the briefing they were both attending. The four Muslim men subsequently were removed from the Zvornik Brigade HQ and summarily executed.

1513. During his testimony, **PANDUREVIĆ** attempted to place sole responsibility for investigating this incident and the subsequent fate of these four Muslim men with Drago **NIKOLIĆ**, in much the same way that he attempted to shift the responsibility for the murders of the "Milići patients" onto Dragan Obrenović (*see* paras. 1509-1510):

Q. And you have no knowledge whatsoever of his investigation, the conclusions, the results, the punishment, and if anyone does, it's only little Drago **NIKOLIĆ**?

A. *What I can conclude from all this is that the whole proceedings were conducted by Drago **NIKOLIĆ**. He was the one issuing the rulings. He took the statement. We see that the four gave almost identical statements, that they were apparently or obviously dictated, and that they signed them as such.*<sup>3846</sup>

<sup>3845</sup> **PANDUREVIĆ**, T.32266;24 - 32267:4.

<sup>3846</sup> **PANDUREVIĆ**, T.32333:5 – 32334:7 (emphasis added).

1514. However, even by his own admission, **PANDUREVIĆ** knew that **NIKOLIĆ** and a number of Zvornik Brigade MPs had coordinated the detention of thousands of prisoners who had then been murdered just days earlier.<sup>3847</sup> **PANDUREVIĆ** could not reasonably have satisfied himself that those prisoners would be treated according to law while in the custody of Drago **NIKOLIĆ** and the MPs.

1515. As with the Milići patients, **PANDUREVIĆ**'s failure in his duty of care towards these four Muslim prisoners was intentional. His attempts to downplay his own knowledge further confirms his knowledge and complicity in their murders.

(cii) **PANDUREVIĆ testified untruthfully that after leaving Žepa on 15 July, the next time he met Krstić face-to-face was on 27 July at the Godenje IKM near Žepa.**

1516. **PANDUREVIĆ** testified that after sending his interim combat report to the Drina Corps on 18 July, he and Dragan Obrenović concluded that this report “represented at that stage the most that we were able to do, and that after I personally meet General Krstić, we would be able to know if we would do something more or not.”<sup>3848</sup> **PANDUREVIĆ** then claimed that he went to the Godenje IKM on 27 July where he met with Gen. Krstić and asked Krstić if he had any “more specific and broader” information about the executions than the information contained in **PANDUREVIĆ**'s interim combat reports.<sup>3849</sup>

1517. Significantly, **PANDUREVIĆ** represented this conversation with Gen. Krstić at Godenje as the *first time* he had seen Krstić face to face since returning to Zvornik from Žepa on 15 July.<sup>3850</sup> However, the Bokšanica Footage shows that **PANDUREVIĆ** met with Krstić one day earlier, on 26 July, at the UN checkpoint at Bokšanica along with Generals Mladić and **GVERO**.<sup>3851</sup> The date of **PANDUREVIĆ**'s trip to Bokšanica is clear from the footage and is corroborated by **PANDUREVIĆ**'s vehicle log which records a trip from Zvornik to Rogatica (near Žepa) on 26 July.<sup>3852</sup> As such, the Bokšanica Footage contradicts **PANDUREVIĆ**'s claim that his trip to the IKM at Godenje on 27 July was the first time he spoke with Krstić face-to-face since leaving the Žepa area on 15 July.

<sup>3847</sup> See e.g., **PANDUREVIĆ**, T.31066-31068.

<sup>3848</sup> **PANDUREVIĆ**, T.31154:14-18.

<sup>3849</sup> **PANDUREVIĆ**, T.31172-31180.

<sup>3850</sup> See T.31173:7-8, where counsel for **PANDUREVIĆ** asked **PANDUREVIĆ**: “You told us that you had for some time wanted to speak to him face to face. Why did you not go before the 27<sup>th</sup> of July?”

**PANDUREVIĆ** then answered a series of questions premised on the understanding that this meeting at Godenje was the first time he had seen General Krstić face to face since 15 July.

<sup>3851</sup> Exh. P04537, Footage of Gen. Mladić, Gen. **GVERO**, Gen. Krstić, Lt. Col. **PANDUREVIĆ**, Hamdija Torlak and refugees from Žepa at the UN checkpoint at Bokšanica on 26 July 1995.

<sup>3852</sup> Exh. 7D00091.

1518. Given the extraordinary sight of a convoy of buses full of Muslims being forcibly removed from Žepa, as well as the presence of senior VRS Generals Mladić and **GVERO** at the Bokšanica checkpoint, **PANDUREVIĆ** could not have forgotten about this meeting with Gen. Krstić on 26 July. Nor can he claim that he somehow confused his meeting with Krstić on 27 July at Godenje with the meeting at Bokšanica on 26 July. Godenje, where the Drina Corps IKM was situated, is on the other side of the Žepa enclave from Bokšanica where the UN checkpoint was established in the woods above Žepa. It would have been impossible to confuse these two locations.

### **Conclusion**

1519. **PANDUREVIĆ**'s testimony on this point was a deliberate attempt to mislead the Trial Chamber as to when and under what circumstances he met with Gen. Krstić during this period. Consequently, **PANDUREVIĆ**'s testimony about the true nature of his communications with Gen. Krstić during this period including his meeting with Krstić at the Krivače IKM on 15 July, his 15 July Interim Combat Report and his testimony about whether or not he met with Gen. Krstić on 16 and 25 September, cannot be considered to have any credibility.

### **(ciii) On 16 September, PANDUREVIĆ was told by Gen. Krstić that POPOVIĆ “and his people” were to carry out the reburials.**

1520. Vinko **PANDUREVIĆ**'s vehicle log indicates that he returned to the Zvornik area from the Krajina on the evening of 15 September 1995.<sup>3853</sup> On 16 September, the Duty Operations Officer Notebook records that **PANDUREVIĆ** returned to the Zvornik Brigade Command at 11:30 hours.<sup>3854</sup> [REDACTED].<sup>3855 3856</sup>

1521. [REDACTED] **PANDUREVIĆ**'s vehicle log, [REDACTED] records a trip from Zvornik to Vlasenica on 16 September.<sup>3857</sup>

1522. During his testimony, **PANDUREVIĆ** denied going to Vlasenica to see Krstić, claiming that [REDACTED] the vehicle log was incorrect.<sup>3858</sup> **PANDUREVIĆ** also claimed that he only reported to Krstić by phone, despite **PANDUREVIĆ** having been in the Krajina for several weeks.<sup>3859</sup> **PANDUREVIĆ** pointed to an entry in the Duty

<sup>3853</sup> See Exh. 7D00770, vehicle log for Nisan T-2175.

<sup>3854</sup> Exh. P00379 at Eng. p.119 (entry for 16 July).

<sup>3855</sup> [REDACTED].

<sup>3856</sup> [REDACTED].

<sup>3857</sup> Exh. 7D00770, vehicle log for Nisan T-2175.

<sup>3858</sup> **PANDUREVIĆ**, T.32274.

<sup>3859</sup> **PANDUREVIĆ**, T.32276.

Operations Officer Notebook for 17 September which indicated that he did not go to Vlasenica on that day,<sup>3860</sup> which is entirely irrelevant to the question of whether he went Vlasenica the previous day (*i.e.*, on 16 September).

**Conclusion**

1523. Vinko **PANDUREVIĆ** went to Vlasenica on 16 September as [REDACTED] evidenced by **PANDUREVIĆ**'s vehicle log. **PANDUREVIĆ** attempted to cover up his trip to Vlasenica because he spoke with Gen. Krstić and he found out that Vujadin **POPOVIĆ** was coordinating the reburial operation. **PANDUREVIĆ**'s attempt to cover this up in the face of clear evidence is indicative of his consciousness of wrongdoing and the fact that he knew that elements of the Zvornik Brigade under his command, including the Security Organ and the Engineering Company, would play a major role in the reburial operation.

(civ) **On 25 September, PANDUREVIĆ resumed his duties as the Commander of the Zvornik Brigade while the reburials were being carried out by Zvornik Brigade Engineering Company equipment and personnel.**

1524. On 25 September, the Zvornik Brigade Regular Combat Report records that the Commander went to the Drina Corps Command and held a briefing with the Zvornik Brigade battalion commanders and "core members of the command."<sup>3861</sup> Due to the size and scope of the reburial operation, these meetings would have provided the Commander with specific knowledge about the operation. **PANDUREVIĆ** claimed that he (**PANDUREVIĆ**) did not take up the command of the Zvornik Brigade until 26 September;<sup>3862</sup> however, **PANDUREVIĆ** actually resumed command of the Zvornik Brigade on 25 September, one day earlier than he claimed.

**PANDUREVIĆ returned to the Zvornik Brigade Command on 25 September.**

1525. On 25 September, Vinko **PANDUREVIĆ** signed and stamped a document (Exh. P02927) as the Zvornik Brigade Commander, which puts him in command of the Brigade.<sup>3863</sup> During his examination-in-chief, **PANDUREVIĆ** claimed that he signed this document on 26 September (one day later) and that this was apparent because he

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<sup>3860</sup> **PANDUREVIĆ**, T.32274.

<sup>3861</sup> Exh. P02926, Zvornik Brigade Regular Combat Report No. 06-298, type-signed Vinko **PANDUREVIĆ**, dated 25 September 1995.

<sup>3862</sup> **PANDUREVIĆ**, T.32278.

<sup>3863</sup> Exh. P02927, Zvornik Brigade Document No. 01-440, signed by Vinko **PANDUREVIĆ**, dated 25 September 1995.

signed over the top of the official stamp.<sup>3864</sup> During **PANDUREVIĆ**'s cross-examination, a second document, Exh. P02927A,<sup>3865</sup> which contains a photocopy of **PANDUREVIĆ**'s original signature from P02927 because the positioning of the two signatures and distinctive ink blots within the signatures are identical, was presented to **PANDUREVIĆ**. Significantly, Exh. P02927A does not contain a photocopy of the Zvornik Brigade's official stamp, meaning that the original document must have been photocopied *after* **PANDUREVIĆ** had signed it but *before* it was stamped.

1526. Prior to cross-examination on this point, **PANDUREVIĆ** reviewed the original versions of both documents. **PANDUREVIĆ** claimed that it was possible someone had scanned his signature from P02927 and placed it over the stamp in P02927A:

Meanwhile, I remembered one thing, and that is that the gentleman who was in the Staff office had an opportunity to scan my signature. He even did that on one occasion before for certain permits for people, allowing them to cross the border, by scanning it with a computer. All I can assume is that he put stamps on all these documents that he later printed, which he shouldn't have done, and he knew that he couldn't bring them in that condition to me for signing, and therefore he probably scanned my signature and put them on the documents.<sup>3866</sup>

1527. **PANDUREVIĆ**'s testimony was a deliberate attempt to mislead the Trial Chamber. The signature on Exh. P02927A is clearly a photocopy from the original signature on Exh. P02927 and **PANDUREVIĆ**'s suggestion that the signature from the original document was scanned and placed on the second document by someone who may have been "abusing" their authority is simply not credible.

1528. Three additional pieces of evidence confirm that **PANDUREVIĆ** resumed command of the Zvornik Brigade on 25 September. First, [REDACTED].<sup>3867</sup> Second, the Daily Combat Report for 25 September was type-signed by **PANDUREVIĆ**.<sup>3868</sup> Third, an intercepted conversation dated 25 September at 15:40 hours indicates that **PANDUREVIĆ** was physically at the Zvornik Brigade HQ.<sup>3869</sup> During this conversation, **PANDUREVIĆ** spoke with Gen. Krstić and advised Krstić that "Legenda is here with me," from which it is reasonable to infer that **PANDUREVIĆ** was at the Zvornik Brigade HQ. During his examination-in-chief, **PANDUREVIĆ** claimed that he did not actually go to the Zvornik Brigade HQ on this date; instead, he claimed that he called Gen. Krstić from a friend's house in Zvornik "and pretended that Legenda was

<sup>3864</sup> **PANDUREVIĆ**, T.31238.

<sup>3865</sup> Exh. P02927A, Zvornik Brigade Document No. 01-440, signed by Vinko **PANDUREVIĆ**, dated 25 September 1995.

<sup>3866</sup> **PANDUREVIĆ**, T.32291.

<sup>3867</sup> [REDACTED].

<sup>3868</sup> Exh. P02926, Zvornik Brigade Regular Combat Report No. 06-298, type-signed Vinko **PANDUREVIĆ**, dated 25 September 1995.

<sup>3869</sup> Exh. P02929, Intercept dated 25 September 1995 at 15:40 hours.

with me.”<sup>3870</sup> In cross-examination, **PANDUREVIĆ** was asked why he would lie to Krstić about whether he was actually with Legenda or not:

Q. My question is: Why would you have to lie to General Krstić about this?

A. It's not a lie. I simply told him, "Legenda is here with me," which meant, in essence, that I had spoken with Legenda. Legenda was in Zvornik, but he was not standing next to me when I was talking to Krstić. That's -- that was just my way of putting things.

1529. **PANDUREVIĆ**'s answer to this question was not truthful. There was no conceivable reason for **PANDUREVIĆ** to lie to Krstić about whether he was actually with Legenda or not. **PANDUREVIĆ**'s explanation that this was “just my way of putting things” was a deliberate attempt to conceal the fact that **PANDUREVIĆ** had, in fact, returned to the Zvornik Brigade HQ on 25 September.

**PANDUREVIĆ went to Vlasenica and met with Gen. Krstić on 25 September.**

1530. The Zvornik Brigade Regular Combat Report of 25 September records that the Zvornik Brigade Commander went to the Drina Corps Command and presented a report.<sup>3871</sup> As noted above, it is clear that **PANDUREVIĆ** had returned to the Zvornik Brigade and resumed his duties as Commander on 25 September. [REDACTED].

1531. [REDACTED] in an intercepted conversation dated 23 September (*i.e.*, two days earlier), Capt. Petrović from the Zvornik Brigade advised Gen. Krstić that **PANDUREVIĆ** was due back on Monday evening (25 September).<sup>3872</sup> Gen. Krstić ordered Petrović to tell **PANDUREVIĆ** to come to see Krstić at seven o'clock on Monday (25 September).<sup>3873</sup> Not only does this indicate that **PANDUREVIĆ** was back in Zvornik on 25 September, but that **PANDUREVIĆ** was ordered by Krstić to go to Vlasenica on that date to meet with Krstić. **PANDUREVIĆ** would not have ignored this order from his commander.

1532. [REDACTED].<sup>3874</sup> However, the Zvornik Brigade transportation records show that *two* vehicles from the Zvornik Brigade command made trips to Vlasenica on 25 September. The first vehicle was assigned to Ljubiša Danojlović (Obrenović's regular driver) and Bogdan Pandurević (one of **PANDUREVIĆ**'s drivers).<sup>3875</sup> The evidence

<sup>3870</sup> **PANDUREVIĆ**, T.31229:5-6.

<sup>3871</sup> Exh. P02926, Zvornik Brigade Regular Combat Report No. 06-298, type-signed Vinko **PANDUREVIĆ**, dated 25 September 1995.

<sup>3872</sup> Exh. P04294, Intercept dated 23 September 1995, at 19:25 hours.

<sup>3873</sup> Exh. P04294.

<sup>3874</sup> [REDACTED].

<sup>3875</sup> Exh. 7D00261, VWL September - Danojlovic Ljubisa, Mercedes - BCS version.

indicates that Danojlović drove a different vehicle to Belgrade that day,<sup>3876</sup> which leaves Bogdan Pandurević (**PANDUREVIĆ**'s driver) as the only other registered driver of the car that went to Vlasenica. The second vehicle which went to Vlasenica that day was logged out to Milan Tojić,<sup>3877</sup> who **PANDUREVIĆ** himself acknowledged used to drive Obrenović on occasion.<sup>3878</sup> Thus, both Obrenović and **PANDUREVIĆ** went to Vlasenica that day; Obrenović driven by Milan Tojić, and **PANDUREVIĆ** driven by Bogdan Pandurević.

**PANDUREVIĆ held a meeting with his Battalion Commanders on 26 July at which he would have been informed about the reburial operation.**

1533. The Zvornik Brigade Daily Combat Report for 26 September shows that **PANDUREVIĆ** held another briefing with his battalion commanders on this day, at which **PANDUREVIĆ** must have been informed about the recent reburial activity in the areas of the 1<sup>st</sup> Battalion (Pilica), 2<sup>nd</sup> Battalion (Kozluk), 4<sup>th</sup> Battalion (Orahovac) and 6<sup>th</sup> Battalion (Petkovci).<sup>3879</sup>

**On 27 September, Zvornik Brigade assets were engaged in the exhumation and reburial of Muslim men murdered at Branjevo Farm.**

1534. During his testimony, **PANDUREVIĆ** claimed that Dragan Obrenović told him nothing about the reburial operation "because it wasn't anything that concerned the Zvornik Brigade."<sup>3880</sup> **PANDUREVIĆ** also claimed that he was told by Dragan Jokić, the Chief of Engineering, that "no one from the Engineering Company was involved."<sup>3881</sup>

1535. **PANDUREVIĆ**'s responses are contradicted by the evidence that Milorad Trbić; Drago **NIKOLIĆ**; Radislav Pantić, head of logistics transport services; Dragan Jokić, the Chief of Engineering; Slavko Bogičević, the Deputy Engineering Company Commander; Damjan Lazarević; and three Zvornik Brigade excavator operators were involved in the reburial operation. From 25 September onwards, when **PANDUREVIĆ** resumed his duties as commander, the continuing involvement of Zvornik Brigade resources in the reburial operation were authorised by **PANDUREVIĆ**.

1536. [REDACTED].<sup>3882</sup>

<sup>3876</sup> Exh. 7D00771, PRL September, Reno Fofran, Stupar, Pandurević, Milovnović, Danojlović, Obrenović. The signature for 25 September clearly reads Danojlović.

<sup>3877</sup> Exh. P04405, Vehicle log for Mercedes P-4687 for 17-30 September 1995.

<sup>3878</sup> **PANDUREVIĆ**, T.32300-32301.

<sup>3879</sup> Exh. 7D00680, Zvornik Brigade Regular Combat Report, 26 September 1995.

<sup>3880</sup> **PANDUREVIĆ**, T.32277.

<sup>3881</sup> **PANDUREVIĆ**, T.32279:2.

<sup>3882</sup> [REDACTED].



1537. The performance of the reburial operation on 27 September is also consistent with the Zvornik Brigade's use of an unusually large quantity of D2 diesel fuel on that date -- 3,870 litres -- without any description in the Daily Combat Report of legitimate engineering works in the Zvornik Brigade's zone of responsibility.<sup>3883</sup>

### **Conclusion**

1538. **PANDUREVIĆ** returned to the Zvornik Brigade Command and resumed his duties as the Commander on 25 September. **PANDUREVIĆ** went to the Drina Corps Command on 25 September and met with Gen. Krstić in accordance with the order Krstić issued on 23 September.

1539. **PANDUREVIĆ** deliberately attempted to mislead the Trial Chamber about the true date of his return to Zvornik and the fact that he met with Gen. Krstić and the core members of the Zvornik Brigade Command as indicated in the Regular Combat Report on 25 September. **PANDUREVIĆ** attempted to conceal this information because after his meetings with Gen. Krstić and the Zvornik Brigade Command, **PANDUREVIĆ** knew that Zvornik Brigade assets were carrying out the reburial of the Muslim victims. Upon receiving this information from Krstić, **PANDUREVIĆ** authorised the continuing involvement of Zvornik Brigade resources after resuming command of the Brigade; in particular, the removal of Muslim victims from the mass grave at Branjevo Farm to secondary sites along the Čančari Road starting on or around 27 September and concluding on or before 2 October 1995.

### **(M) CONCLUSION OF THE TWO JOINT CRIMINAL ENTERPRISES.**

1540. Vinko **PANDUREVIĆ** is individually criminally responsible under Article 7(1) of the Statute for the crimes with which he is charged in the Indictment as a member of the Joint Criminal Enterprise to forcibly remove the Muslim populations of Srebrenica and Žepa<sup>3884</sup> and the Joint Criminal Enterprise to murder the Muslim men of Srebrenica.<sup>3885</sup> As described above, Vinko **PANDUREVIĆ** made significant contributions to the execution of the common purpose of both JCEs and shared the intent to commit the crimes which fell within the common purpose of the JCEs.

<sup>3883</sup> Exh. 7D00681, Zvornik Brigade Regular Combat Report, 27 September 1995.

<sup>3884</sup> See para. 77 of the Indictment.

<sup>3885</sup> See para. 39 of the Indictment.

(N) **OTHER FORMS OF LIABILITY UNDER ARTICLE 7(1) OF THE STATUTE**

1541. In addition to his criminal liability for the crimes charged in the Indictment as a member of two Joint Criminal Enterprises, Vinko **PANDUREVIĆ** is criminally responsible for ordering, planning, instigating and otherwise aiding and abetting the commission of the crimes charged in the Indictment. **PANDUREVIĆ**'s criminal responsibility for ordering and planning the crimes charged is briefly outlined below.

1542. **PANDUREVIĆ** ordered the commission of the crimes for which he is charged in the Indictment. Of particular importance in this respect is that a person knowingly relaying illegal orders from superiors to subordinates is also individually responsible for the crime ordered.<sup>3886</sup> Thus, when **PANDUREVIĆ** passed on orders from his superior officers Gen. Mladić and Gen. Krstić to the Zvornik Brigade units engaged in the attacks on the Srebrenica and Žepa enclaves while sharing Mladić's and Krstić's intent to remove the Muslim population of those areas, **PANDUREVIĆ** is individually responsible for the crimes committed by the individuals who implemented those orders. Similarly, when **PANDUREVIĆ** authorised Zvornik Brigade resources to participate in the detention, transport, execution and burial of Muslim prisoners in the Zvornik area with the intent that those prisoners be murdered, **PANDUREVIĆ** is individually responsible for the crimes committed by the individuals who implemented those orders.

1543. **PANDUREVIĆ** also assisted in the planning (which may include organising)<sup>3887</sup> of the *Krivaja-95* Operation which had the unlawful motive of creating conditions for the elimination of Srebrenica and Žepa enclaves. **PANDUREVIĆ** also assisted in planning an organising the murders of thousands of Muslim men in the Zvornik area in July 1995, and the exhumation and reburial of their bodies in September 1995, through the provision of soldiers, equipment and logistical support of the Zvornik Brigade which was under **PANDUREVIĆ**'s command throughout July 1995 and from 25 September onwards.

(O) **VINKO PANDUREVIĆ INTENDED TO COMMIT GENOCIDE.**

1544. Vinko **PANDUREVIĆ** intended to bring about the destruction of the Bosnian Muslim people of Eastern Bosnia.

<sup>3886</sup> *Milutinović* TJ (Vol. 1), para. 87; *Kupreškić* TJ, para. 862; *Kupreškić* AJ, para. 451.

<sup>3887</sup> *Akayesu* TJ, para. 473.

(cv) **PANDUREVIĆ's intent to commit genocide is evidenced by the existence of a genocidal plan and PANDUREVIĆ's central involvement in it.**

1545. The existence of a plan is not an element of the crime of genocide; however, the existence of a plan may lead to the establishment of the specific intent for genocide.<sup>3888</sup> The genocidal plan for Srebrenica evolved from a policy directive and subsequent decisions by members of the RS and VRS leadership, culminating in the forcible removal of the Muslim populations of Srebrenica and Žepa and the murder of Muslim men of Srebrenica. Vinko **PANDUREVIĆ** and the Zvornik Brigade implemented the policy under Directive 7 to reduce humanitarian aid to the enclaves;<sup>3889</sup> **PANDUREVIĆ** personally led Zvornik Brigade units in the attack on the Srebrenica and Žepa enclaves;<sup>3890</sup> and most importantly, elements of the Zvornik Brigade, including its most senior officers, were instrumental in coordinating the murder of thousands of Muslim men with **PANDUREVIĆ**'s knowledge and approval.<sup>3891</sup> **PANDUREVIĆ** knew of the existence of this plan and led his units in the execution of this plan. His deliberate acts and omissions -- most notably his decision to murder the thousands of Muslim men who were still alive upon his return to Zvornik on 15 July -- which most emphatically confirms his intent to destroy, in part, the Bosnian Muslim population.

1546. **PANDUREVIĆ** reviewed the Drina Corps order containing the criminal language from Directive 7<sup>3892</sup> and implemented it by reviewing the *Krivaja-95* combat order and then leading one of two VRS Tactical Groups in the attack on the enclave.<sup>3893</sup> He received instructions from Gen. Krstić to enter the town of Srebrenica and in doing so, he either ordered his units or worked in coordination with other units to shell the Muslim civilian population of the town and force them to flee, which they did.<sup>3894</sup>

1547. When Srebrenica finally fell on 11 July and the Muslim civilians had gathered in Potočari, a concerted pattern of terrorisation of this population ensued so as to force them to leave. Zvornik Brigade soldiers under **PANDUREVIĆ**'s command were present in Potočari on 12 July.<sup>3895</sup> On 12 and 13 July 1995, VRS and MUP units participated in the

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<sup>3888</sup> *Jelišić* AJ, para. 48.

<sup>3889</sup> See paras. 1317.

<sup>3890</sup> See paras. 1325-1345.

<sup>3891</sup> See para. 1467.

<sup>3892</sup> See paras. 1313-1316.

<sup>3893</sup> See paras. 1325-1345.

<sup>3894</sup> See paras. 1333-1339.

<sup>3895</sup> See paras. 1340-1345.

forcible removal of the Muslim population from Srebrenica and the Zvornik Brigade supplied buses to assist with this operation.<sup>3896</sup>

1548. On 13 July, **PANDUREVIĆ**'s units moved towards Žepa and on 14 July, they attacked the Žepa enclave with the aim of forcing the Muslim population to surrender and leave the area.<sup>3897</sup> Also on 14 July, elements of the Zvornik Brigade murdered approximately 1,000 men at Orahovac and detained approximately 1,000 others at the Kula School near Pilica.<sup>3898</sup>

1549. On 15 July, **PANDUREVIĆ** returned to the Zvornik Brigade and, [REDACTED], **PANDUREVIĆ** clearly indicated that he was aware of the genocidal plan to murder the Muslim men but expressed his irritation that civil protection units were not performing the burials.<sup>3899</sup> His positive acts and deliberate omissions from this point in time, aimed at ensuring that thousands of Muslim men from Srebrenica were massacred, proves that he consciously intended to destroy those Muslim men.

1550. On the afternoon of 15 July, while Zvornik Brigade resources under **PANDUREVIĆ**'s command were engaged in the murder operation at all four major detention/execution sites in the Zvornik area,<sup>3900</sup> **PANDUREVIĆ** consciously turned his mind to the intimate logistical details of the genocidal plan and the ability of Zvornik Brigade units under his command to fight the Muslim column and participate in the murder operation at the same time. At 19:25 hours that night, **PANDUREVIĆ** sent the Drina Corps an Interim Combat Report in which he told the Corps that the obligations related to the murder operation were an "additional burden" for the Zvornik Brigade and that if no one else took on that responsibility, he would be forced to let the remaining prisoners go.<sup>3901</sup> Had **PANDUREVIĆ** acted and done what was within his power and what was his legal obligation to do, the crimes could not have continued being committed on the scale and with the efficiency and speed with which they were. He consciously *chose* not to do so. He also consciously *chose* not to confront Gen. Krstić at any time during this period or to resign in protest. By consciously choosing not to release those prisoners and instead asking for someone else to come and take over the murder operation so that he could concentrate his resources on fighting the Muslim column, **PANDUREVIĆ** confirmed his intent to destroy those Muslim men.

<sup>3896</sup> Exh. P00322, Zvornik Brigade Combat Report, dated 12 July 1995, type- signed by **PANDUREVIĆ**.

<sup>3897</sup> See paras. 1346-1351.

<sup>3898</sup> See paras. 764-766.

<sup>3899</sup> See paras. 1405-1420.

<sup>3900</sup> See paras. 1468-1471.

<sup>3901</sup> See paras. 1421-1467.

1551. The following day, the remaining prisoners who had been detained by Zvornik Brigade soldiers at the Kula School were transported to Branjevo Farm and executed there.<sup>3902</sup> Over the next few days, Zvornik Brigade engineering company equipment and personnel completed the burial of the murder victims at Kozluk<sup>3903</sup> and Branjevo Farm;<sup>3904</sup> while on or around 23 July, **PANDUREVIĆ** authorised the murders of the so-called “Milići Patients”<sup>3905</sup> and the four Branjevo Farm survivors.<sup>3906</sup> In September 1995, units under **PANDUREVIĆ**’s command participated in a massive reburial operation to conceal the evidence of their crimes by moving the bodies of the murdered Muslims to secondary graves in remote areas.<sup>3907</sup>

1552. This body of evidence alone supports the finding that Vinko **PANDUREVIĆ** intended the destruction of the Bosnian Muslims of Eastern Bosnia.

**(cvi) PANDUREVIĆ knew of the RS’s and the VRS’s strategic goal to remove the Muslim people from eastern Bosnia and he employed anti-Muslim propaganda and rhetoric to incite, justify and perpetuate the attainment of this criminal objective.**

1553. An individual’s intent to commit genocide can be inferred from the general political doctrine which from which his or her criminal acts arose.<sup>3908</sup> As described above at paras. 1281-1312, from as early as November 1992, **PANDUREVIĆ** knew that one of the strategic objective of the RS and VRS leadership was to remove the Muslim civilian population from eastern Bosnia. The main architects and executioners of this policy employed rhetoric and propaganda throughout the war to justify their actions and incite their units to attack Muslim forces, destroy Muslim property and, most importantly, attack and remove the Muslim civilian population from Serb-claimed parts of Bosnia. Much of this propaganda involved defining the VRS’s task as defending the Serb people from the threat of genocide posed by the “Muslim-Ustasha forces,” who were bent on expelling the Serbs from what they considered to be their territory.<sup>3909</sup>

<sup>3902</sup> See paras. 868-1002.

<sup>3903</sup> See paras. 854-861.

<sup>3904</sup> See paras. 987-1000.

<sup>3905</sup> See paras. 1505-1511.

<sup>3906</sup> See paras. 1512-1515.

<sup>3907</sup> See paras. 1520-1538.

<sup>3908</sup> *Karadžić and Mladić*, Rule 61 Decision, para. 94.

<sup>3909</sup> See e.g., Exh. P00414, Report titled Analysis of the Combat Readiness and Activities of the Army of Republika Srpska in 1992, at p.7 (“The objective of our operations, battles and engagements in the recent period has been to defend the Serbian people against genocide by the Muslim-Ustasha forces, to protect the property and cultural heritage of the Serbian people, to liberate the territories which are ours...to defeat his forces and expel them from the areas which have always belonged to us”); Exh. P00473, Article from Drinski magazine titled, “The Youngest but an Elite Corps Already,” by Vuk Kovačević, dated November 1995 (“At the beginning of the war, the task of the Drina Corps was to protect the Serbian people in this

1554. On 2 February 1993, **PANDUREVIĆ** sent a regular combat report to the Drina Corps which reported that a large number of Muslim civilians had pulled out of the Kamenica sector and that it could be assumed that “those who have stayed and are able-bodied, *and at the same time hold extremist views*, will continue operations in order to link Kamenica-Snagovo-Kalesija.”<sup>3910</sup> During his testimony, **PANDUREVIĆ** made it clear that he saw no problem in calling the Muslim defenders of Kamenica “extremists:”

If we know what had happened by that time with Kravica and the 140 villages and hamlets in the area of Bratunac municipality, and if we are aware of all the other sacrifices and victims on the side of the Serbian population, then this is something quite understandable then in this report of the 2<sup>nd</sup>, we know that the civilians had passed through based on the proposal we had made to them. I don't see why this word is so controversial. Why is it bad to call someone who had committed such a heinous crime something like that?<sup>3911</sup>

1555. **PANDUREVIĆ**'s attempt to justify his blanket labelling of all able-bodied Muslims who remained in the Kamenica area as “extremists” by invoking the attack on Kravica and the “sacrifices and victims on the side of the Serbian population” was a familiar theme invoked by the RS and VRS leadership throughout war to justify their attacks against the Bosnian Muslim people. **PANDUREVIĆ**'s espousal of this rhetoric demonstrates that he shared the same beliefs and aims as the RS and VRS leadership.

1556. On 15 February 1993, **PANDUREVIĆ** reported to the Drina Corps in even more inciting language that: “The success we achieved in the southern part of the front has been a morale booster for further combat operations to *expel the enemy from centuries-old Serbian homes*.”<sup>3912</sup> At the time of this report, **PANDUREVIĆ** was engaged in operations pursuant to Directive 4 and DK Order 2-126 which specifically ordered the removal of the Muslim forces and the civilian population from this area. Thus, **PANDUREVIĆ**'s reference to the “enemy” was a reference to the Muslim forces *and* the civilians. The fact that **PANDUREVIĆ** referred to the expulsion of the “enemy” from “Serbian homes” rather than military positions or installations is a further indication that the “enemy” included the Muslim civilians.

1557. During cross-examination, **PANDUREVIĆ** stated that this report referred to “the large number of Serb villages from which the Serbs had expelled been Šićić at the time

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region from extermination...at the beginning of May 1992, the Serbian people on the Romanijan plateau were left without protection. They were faced with the threat of genocide...All combat tasks undertaken by the brigade were successfully executed. The territory was liberated and the people saved from genocide.”)

<sup>3910</sup> Exh. P04253, Zvornik Brigade Regular Combat Report 1 No. 87-2, type-signed Maj. Vinko

**PANDUREVIĆ**, dated 2 February 1993.

<sup>3911</sup> **PANDUREVIĆ**, T.32101:25 – 32102:7.

<sup>3912</sup> Exh. P04254, Zvornik Brigade Regular Combat Report 2 No. 111-4, type-signed Major Vinko **PANDUREVIĆ**, dated 15 February 1993 (emphasis added).

and they had lived there for centuries;”<sup>3913</sup> then conceded that the villages were actually “mixed Muslim and Serb;”<sup>3914</sup> then claimed that although he was ultimately responsible for the report, he did not know what it meant because someone else wrote it.<sup>3915</sup> **PANDUREVIĆ**’s contorted attempts to explain this report and avoid responsibility further supports the conclusion that **PANDUREVIĆ**’s report advocated the removal of the Muslim civilian population in line with the goal of the RS and VRS leadership.

1558. During his testimony in 2009, **PANDUREVIĆ** continued to justify his actions during the war by employing some of the same exaggerated and inflammatory rhetoric that was present in his contemporaneous documents. For example, **PANDUREVIĆ** claimed that in 1992, the “Serbian population, in the areas of the municipality of Goražde, had been *expelled* from the left bank of the Drina River”<sup>3916</sup> and that they had been “*expelled*” from Višegrad.<sup>3917</sup> **PANDUREVIĆ** used similar language to describe his view of what the Muslim intentions in eastern Bosnia were:

The intention of the enemy was to link up the forces of the 2nd Corps on the north and north-west sides of Zvornik with the forces in Kamenica, Cerska, and Konjević Polje. In the second stage, they would have taken the area on the banks of the Drina River and would – *they would have eliminated any form of the Serbian life* in the eastern part of that area.<sup>3918</sup>

Also:

Šićf we understand that the objective of the Muslim leadership in Bosnia and Herzegovina was to create a unified Bosnia and Herzegovina dominated by the Islamic authorities, *the Serbs had to defend themselves from that. We had no choice.*<sup>3919</sup>

1559. **PANDUREVIĆ**’s use of rhetoric to justify his wartime actions clearly indicates that he understood and shared the goals of the RS and VRS leadership; and that those views still resonate with him more than 13 years after the end of the war.

**(cvii) PANDUREVIĆ’s intent to commit genocide is evidenced by his personal use of derogatory language towards Muslims.**

1560. Evidence of genocidal intent can also be shown through the Accused’s use of derogatory language towards members of the targeted group.<sup>3920</sup> As **PANDUREVIĆ** himself acknowledged, this language was largely absent from Zvornik Brigade documents at the start of the war but as the anger and ethnic hatred towards Muslims built

<sup>3913</sup> **PANDUREVIĆ**, T.32106:15-17.

<sup>3914</sup> **PANDUREVIĆ**, T.32106:18-21.

<sup>3915</sup> **PANDUREVIĆ**, T.32108:16-21.

<sup>3916</sup> **PANDUREVIĆ**, T.30787.

<sup>3917</sup> **PANDUREVIĆ**, T.31794:12-13.

<sup>3918</sup> **PANDUREVIĆ**, T.30793:16-22 (emphasis added).

<sup>3919</sup> **PANDUREVIĆ**, T.32139:8-11.

<sup>3920</sup> *Kayishema* TJ, para. 93.

over the course of the war, derogatory terms such as Turk and *poturice* were increasingly used in the official military documents of the Zvornik Brigade.<sup>3921</sup>

1561. By April 1995, **PANDUREVIĆ**'s use of derogatory language and anti-Muslim rhetoric had escalated to the point where he issued two information reports openly inciting members of the Zvornik Brigade to remove the *poturice* from parts of eastern Bosnia. First, on 3 April, **PANDUREVIĆ** issued a report titled "Basic characteristics of the Poturicas' preparation for spring offensive," which he signed personally. This report uses the term *poturice* no less than 16 times and stated that: "The task of the Zvpbr is that in coordination with other forces "finish off" *Poturice's* at Zečija Kosa and Vitinica and crash all *Poturice's* illusions that they are going to stay there."<sup>3922</sup>

1562. Second, on 25 April, **PANDUREVIĆ** issued Zvornik Brigade report no. 15-12/9, which refers to: "*liberating the Serbian lands from poturice*;" "they have given us a unique chance to push them away from us for all time as they are asking for it;" "We must dash for all time their hope of creating a *Muslimanija* extending to the Drina and the Sava, and make it possible for our people to return to *their centuries-old homes*;" "The adequate response of our forces meant that we realised that there would be no peace and security in Semberija and Donje Podrinje until the *poturice were completely defeated and driven out of this area*;" and "Therefore, let us gather our strength with determination and focus it on the most important goal at the moment, *driving the enemy away from this area forever and defeating him. That is the only guarantee of our freedom and survival in these lands*."<sup>3923</sup>

1563. These Reports provide clear evidence of **PANDUREVIĆ**'s ethnic bias towards Muslims as well as his support for the RS's and VRS's criminal objective of removing the Muslims from parts of eastern Bosnia. The April 25 Report, in particular, repeats the rhetoric espoused by the VRS and RS leadership that these were "centuries old" Serbian areas and that removing the Muslims was the "only guarantee of our freedom and survival

<sup>3921</sup> **PANDUREVIĆ**, T.30835-30836. "No, they were not used throughout the war – or, rather, from its beginning. At one point in the war, they crept into our documents. I don't know exactly what that happened. You can see in the documents themselves ... Six months into the war, some people were still not aware of the reality of the situation. They were not aware that the war was really going on, but as the war continued, as the casualties mounted, the anger and hatred also mounted, and those words assumed a different meaning and gained in prominence."

<sup>3922</sup> Exh. P04256, Zvornik Brigade IKM Kiseljak Information Report entitled, "Basic characteristics of the Poturicas' preparation for spring offensive," signed by Vinko **PANDUREVIĆ**, dated 3 April 1995.

<sup>3923</sup> Exh. P02920, Zvornik Brigade Document No. 15-12/95 report on success of combat operations, signed by Vinko **PANDUREVIĆ**, dated 25 April 1995.



in these lands,” and **PANDUREVIĆ**’s repetition of this rhetoric constitutes further evidence of his genocidal intent.<sup>3924</sup>

1564. While these two documents in April 1995 are the most overt demonstration of **PANDUREVIĆ**’s ethnic bias against Muslims, the use of the derogatory terms *Poturice* and Turk appeared regularly in other official documents issued by **PANDUREVIĆ** between April and June 1995 including numerous Zvornik Brigade Combat Reports sent to the Drina Corps.<sup>3925</sup> The habitual nature of **PANDUREVIĆ**’s use of these terms constitutes further evidence of his ethnic bias against Muslims.

1565. **PANDUREVIĆ**’s use of derogatory language towards Muslim also continued during and after the murder operation in July 1995. On 16 July, during the mass execution of over 1,000 Muslim men who had been detained by Zvornik Brigade 1<sup>st</sup> Battalion soldiers in the Kula School near Pilica, **PANDUREVIĆ** wrote to the Drina Corps Command complaining about the fact that the Zvornik Brigade had been left to deal with “the Srebrenica Turks.”<sup>3926</sup> Two days later, on 18 July, **PANDUREVIĆ** issued a document to all his subordinate units, this time referring to the “enraged criminal hordes of the Srebrenica Turks” and also describing the Muslim men in the column as “criminals arisen vampire-like” and “enraged beasts.”<sup>3927</sup>

1566. Most significantly, on 18 July, **PANDUREVIĆ** wrote to the Drina Corps Command and complained about the “3,000 Turks of military age” who had been placed

<sup>3924</sup> *Karadžić and Mladić*, Rule 61 Decision, para. 94.

<sup>3925</sup> See e.g., Exh. 5D00320 dated 2 April 1995, “At 07:30 hours, the *poturicas* launched a major infantry attack against the positions of our 1<sup>st</sup> pb;” Exh. 5D00324 dated 7 April 1995, “At 0610 hours, the *poturicas* launched an infantry attack against the defence line in the Visoka Glavica sector [...] The *poturicas* tried to unsettle out troops by firing at the defence sector of the 7<sup>th</sup> pb, but failed;” Exh. 5D00325 dated 8 April 1995, “During the day at approximately 1000 hours *Poturicas* carried out a minor infantry attack [...] There is sporadic MAD fire at predetermined targets, inflicting loses on the **Turks**;” Exh. 5D00326 dated 9 April 1995, “Except for sporadic infantry weapons fire in front of the 5<sup>th</sup> and 7<sup>th</sup> pb, it could be said that the *Poturicas* respected the truce up to a point;” Exh. 5D00327 dated 11 April 1995, “Yesterday from 1800 hours to 1900 hours, the *poturicas* launched a minor infantry attack;” Exh. 5D00332 dated 16 April 1995, “*Poturicas* fired several times at positions of the 2<sup>nd</sup> pb, and several shells struck the Kozluk sector;” Exh. 5D00333 dated 18 April 1995, “The *poturicas* shelled the Kiseljak settlement several times;” Exh. 5D00334 dated 19 April 1995, “Last night (18 April 1995) at about 1800 hours, the *poturice* fired four 120 mm MB shells ... Information on activities carried out by the *poturice* in Zečja Kosa will be sent in an interim combat report;” Exh. 5D00335 dated 22 April 1995, “There were no casualties, wounded or killed... but three civilians were wounded by a **Turk** shell fired in Kozluk;” Exh. 5D00322 dated 25 April 1995, “*Poturice* were active carrying out artillery and infantry attacks throughout the front part of our forward defence line.”; Exh. 5D00336 dated 26 April 1995, “At around 1900 hours yesterday evening, the *poturicas* launched an artillery and infantry attack against the positions of the 3<sup>rd</sup> pb;” Exh. 5D00337 dated 27 April 1995, “Yesterday afternoon, the *poturicas* fired five 120 mm mortar shells in the Kiseljak sector;” Exh. 5D00347 dated 23 May 1995, “At about 0615 hours today, *poturice* fired three mortar shells on Ravne Njive from the direction of Zečja Kosa.”; Exh. 5D00349 dated 7 June 1995, “At about 1200 hours, *poturice* carried out a small infantry attack on our positions in Ravne Njive ... The *poturice* were inactive in other areas in front of our forward defence line.”

<sup>3926</sup> Exh. P00330.

<sup>3927</sup> Exh. P00333.

in schools in the Zvornik area, all of whom had been murdered by this date with the significant involvement of elements of the Zvornik Brigade under the command of **PANDUREVIĆ**.<sup>3928</sup> **PANDUREVIĆ** acknowledged that he knew that these Muslim men had all been murdered by this point, and his use of an ethnically derogatory term to refer to these murder victims is a clear and unmistakable sign of **PANDUREVIĆ**'s ethnic hatred towards not just towards all Muslims; but specifically towards the ones who murdered with his knowledge and involvement.

1567. Finally, an intercepted conversation on 23 July 1995 at 08:00 hours shows that **PANDUREVIĆ** spoke with Col. Cerović from the Drina Corps Command<sup>3929</sup> and told Cerović that "we're still catching Turks."<sup>3930</sup> **PANDUREVIĆ** then proceeded to ask for a solution to the problem of the wounded prisoners who were in his custody at the time; *i.e.*, the Milići patients who were subsequently taken away on Gen. Mladić's order, passed down by **POPOVIĆ** to **PANDUREVIĆ**, and murdered. **PANDUREVIĆ**'s use of an ethnically derogatory term with a superior officer is indicative of the culture of ethnic bias against Muslims which pervaded many parts of the VRS at the time and which was shared by **PANDUREVIĆ**'s superiors, Generals Mladić and Krstić.

**(cviii) PANDUREVIĆ's intent to commit genocide is evidenced by the culture of ethnic bias against Muslims which pervaded the Zvornik Brigade.**

1568. As outlined in the JNA Brigade Rules<sup>3931</sup> and as testified by Richard Butler,<sup>3932</sup> the morale and conduct of soldiers in a unit is influenced by the temperament, qualities, moral courage and personality of their commanding officer. Thus, through his own ethnic bias and his use of derogatory language towards Muslims, **PANDUREVIĆ** promoted a culture or "command climate" within the Zvornik Brigade which reflected his own views and also allowed his subordinates to express their own ethnic bias towards Muslims with impunity.

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<sup>3928</sup> Exh. P00334.

<sup>3929</sup> At T.31146, **PANDUREVIĆ** confirmed that the other participant in this conversation was Col. Cerović.

<sup>3930</sup> Exh. P01309a, intercept dated 23 July 1995 at 08:00 hours.

<sup>3931</sup> Exh. P00408, para. 115. "Through his personal conduct, work, involvement, and the implementation of the SKJ policies, ethical standing, courage, ability, fairness, cool-headedness, consistency, and respect for the personality and opinion of subordinates, the commander vitally influences the entire condition of the brigade, especially the morale of units and command."

<sup>3932</sup> BUTLER, T.19626. "Of all of the individuals in a particular unit, from platoon level to the very top, the individual temperament, qualities, moral courage, personality of the commander is a decisive factor in influencing the brigade, and not just the brigade but obviously in any unit; and, certainly, subordinates, when they're ably led like that, will often reflect the character -- the positive characteristics and qualities of their command."

1569. Richard Butler testified that the April 25 Report described above at para. 1562 is indicative of the “command climate” of the Zvornik Brigade and would “be reflective of the types of behaviour and attitude that the Brigade Commander wanted to encourage through his command.”<sup>3933</sup> The Zvornik Brigade’s “command climate” is also reflected in documents issued by the Chief of Staff Dragan Obrenović<sup>3934</sup> as well as handwritten entries in the Duty Operations Officer Notebook from Zvornik Brigade officers Drago NIKOLIĆ;<sup>3935</sup> Milan Marić;<sup>3936</sup> Sreten Milošević;<sup>3937</sup> Dragan Jokić;<sup>3938</sup> Milorad Trbić;<sup>3939</sup> and Ljubislav Štrbac,<sup>3940</sup> each of whom described the Muslims as Turks.

1570. Intercepted conversations involving Zvornik Brigade officers also show that referring to Muslims in derogatory terms was acceptable both in the Zvornik Brigade Command and with the Drina Corps Commander Gen. Krstić. These include a conversation on 15 July at 09:10 hours in which Zvornik Brigade officer Milutin Mijatović reported to PANDUREVIĆ that “there is a huge column of Turks here;”<sup>3941</sup> a conversation on 17 July when Gen. Krstić asked Zvornik Brigade security assistant Milorad Trbić “have you killed the Turks up there?”<sup>3942</sup> a conversation on 19 July where Zvornik Brigade Duty Operations Officer Ljubo Bojanović reported to Gen. Krstić that “six Turks were captured;”<sup>3943</sup> and a conversation on 2 August where Gen. Krstić told Zvornik Brigade Chief of Staff Dragan Obrenović to “kill them all, God damn it... the Turks are probably listening; let them listen, the motherfuckers.”<sup>3944</sup>

<sup>3933</sup> BUTLER, T.19741.

<sup>3934</sup> Exh. 5D00305, 1<sup>st</sup> Zvpbr Regular Combat Report, type-signed Maj. Dragan Obrenović, dated 8 March 1995, “In the past 24 hours, *poturice*, had active b/d on the line of disengagement;” Exh. 5D00306, 1<sup>st</sup> Zvpbr Regular Combat Report, type-signed Maj. Obrenović, dated 11 March 1995, “In the past 24 hours the **Turks** have been violating the truce....This morning at about 0845 hours, the **Turks** attacked our newly taken positions on the juncture with our righthand [sic] neighbour;” Exh. 5D00307, 1<sup>st</sup> Zvpbr Regular Combat Report, type-signed Maj. Dragan Obrenović, dated 12 March 1995, “Last night at about 1830 hours, from the direction of Nezuk village, *poturice* fired five short bursts of infantry fire at our positions;” Exh. 5D00308, 1<sup>st</sup> Zvpbr Regular Combat Report, type-signed by Maj. Dragan Obrenović, dated 14 March 1995, “This morning, at about 0500 hours *poturice* carried out a low-intensity attack from the direction of Andelić village;” Exh. 5D00309, 1<sup>st</sup> Zvpbr Regular Combat Report, type-signed by Maj. Dragan Obrenović, dated 15 March 1995, “Thanks to the truce, the *poturice* were moving freely around their positions during the day and throughout the night, they fired from the direction the hill at Hemlijaši.”

<sup>3935</sup> Exh. P00377 at ERN:0293-5758 and 0293-5760 (reference to Turks).

<sup>3936</sup> Exh. P00377 at ERN:0293-5732-0293-5735 (reference to Turks).

<sup>3937</sup> Exh. P00377 at ERN:0293-5744 (reference to Turks).

<sup>3938</sup> Exh. P00377 at ERN:0293-5751 and 0293-5757 (reference to Turks).

<sup>3939</sup> Exh. P00377 at ERN:0293-5766 and 0293-5774 (reference to Turks).

<sup>3940</sup> Exh. P00377 at ERN:0293-5775 (reference to Turks).

<sup>3941</sup> Exh. P01174a, intercept dated 15 July 1995 at 09:10 hours.

<sup>3942</sup> Exh. P01206a, intercept dated 17 July 1995 at 06:15 hours.

<sup>3943</sup> Exh. P01307a, intercept dated 23 July 1995 at 06:40 hours;

<sup>3944</sup> Exh. P01387b, intercept dated 2 August 1995 at 09:50 hours.

1571. The culture of ethnic bias towards Muslims in the Zvornik Brigade is exemplified by the following entry by Ljubo Bojanović in the Duty Operations Officer Notebook on 23 July, [REDACTED]:<sup>3945</sup>

031-854-389 Skelani have two injured Turks (they cut themselves with glass) – I told them to kill them since Bratunac doesn't want to take them.<sup>3946</sup>

1572. [REDACTED]. Bojanović's advice was followed by the Skelani MUP because the evidence, as outlined below, indicates that these Muslims were murdered.

1573. First, a report from the Serbian MUP dated 23 July shows that two Muslims from Srebrenica, Sadik Salihović and Hamdija Delić, were handed over by the Serbian MUP to the Skelani MUP on 23 July.<sup>3947</sup> The Serbian MUP report notes that Salihović and Delić had both injured themselves to avoid being handed over. Second, the Bratunac Brigade MP log for 23 July shows that six Muslim prisoners were brought from Skelani to the Bratunac Brigade that day and that the Bratunac Brigade sent two other Muslims back to Skelani because the Muslims had cut themselves with a bottle and were bleeding heavily.<sup>3948</sup> Third, phone records indicate that the number recorded in the Zvornik Brigade Duty Operations Officer Notebook -- 031-854-389 -- belonged to the Skelani SJB.<sup>3949</sup> It is clear that these Muslims were returned by the Bratunac Brigade to the Skelani MUP; the MUP rang the Zvornik Brigade for advice on what to do (which of itself indicates that the Zvornik Brigade was widely known to be dealing with the issue of prisoners from Srebrenica) and Ljubo Bojanović's advice was to kill them. Both of these Muslims remain on the ICRC missing list.<sup>3950</sup> They were murdered in accordance with Bojanović's advice.

1574. **PANDUREVIĆ** was shown this entry during cross-examination and declared that he felt no responsibility for it:

These people were not killed, they were alive and it was said before if Ljubo wrote this, and I didn't know that he did, nobody from the Bratunac Brigade could have implemented this order because the relationship between the Zvornik and Bratunac Brigade is not one of subordination. I

<sup>3945</sup> [REDACTED].

<sup>3946</sup> Exh. P00377 at ERN: 0293-5796.

<sup>3947</sup> Exh. P02096, Republic of Serbia MUP report no. 28-264/95-338, signed by Risto Seovac, dated 23 July 1995. *See also* Exh. P03137, IT-02-60-T Exhibit P-871 - File containing documentation pertaining to the deportation from the FRY of two Muslims from Srebrenica, SALIHOVIĆ Sadik and DELIĆ Hamdija, dated 23 July 1995.

<sup>3948</sup> Exh. P00220, Bratunac Brigade Military Police Daily Log. Dated between 30-Jun-95 to 29-Apr-96, entry for 23/24 July.

<sup>3949</sup> Exh. P04386, Extract from the MOD Zvornik District Telephone Directory; Exh. P04387, Extract from a document from the RS Presidency: List of Municipalities with corresponding names, phone numbers and positions of individuals.

<sup>3950</sup> *See* Exh. P00566.

think this was written out of indignation and protest, something like why did you find me to deal with them? Ljubo is not that sort of person and I don't feel responsible for this entry.<sup>3951</sup>

1575. **PANDUREVIĆ** then qualified this and stated:

I think it's stupid. If someone wants to commit a crime, why would they write it down? There must be something wrong with them.<sup>3952</sup>

1576. **PANDUREVIĆ**'s callous reaction to Bojanović's entry makes it plain that he saw no problem with the fact that one of his subordinate officers openly incited the murders of these two Muslims; instead, he simply expressed irritation that Bojanović had actually written it down. **PANDUREVIĆ**'s response, combined with Bojanović's entry itself, provides compelling evidence of the culture of ethnic bias towards Muslims which existed in the Zvornik Brigade and the fact that this culture was tolerated and encouraged by **PANDUREVIĆ** through his own actions.

**(cix) PANDUREVIĆ knew that murder of the Muslim men from Srebrenica and the forcible transfer of the Muslim population would create conditions that would contribute to the destruction of the Muslim population of Eastern Bosnia.**

1577. As a Bosnian Serb, Vinko **PANDUREVIĆ** understood the attachment of the Bosnian Muslims to their land, their homes, their religious monuments, their families and their communities. **PANDUREVIĆ** also understood the patriarchal structure of the Bosnian Muslim community. **PANDUREVIĆ** knew that murdering thousands of Bosnian Muslim men from Srebrenica and forcibly transferring the Muslim population from Srebrenica and Žepa would create conditions that would contribute to the destruction of the Bosnian Muslim population of Eastern Bosnia.<sup>3953</sup>

**(cx) Other factors from which PANDUREVIĆ's genocidal intent can be inferred.**

1578. Several other factors exist from which **PANDUREVIĆ**'s intent to commit genocide can be inferred. These include **PANDUREVIĆ**'s involvement in the systematic perpetration of criminal acts against the same ethnic group in 1993;<sup>3954</sup> the massive scale of the forcible transfer of the Muslim populations in Srebrenica and Žepa to which his actions contributed;<sup>3955</sup> the high level of planning and coordination which went into the

<sup>3951</sup> **PANDUREVIĆ**, T.32063:16-24.

<sup>3952</sup> **PANDUREVIĆ**, T.32064.

<sup>3953</sup> See paras. 1105-1128.

<sup>3954</sup> See paras. 1281-1312. This is a factor that has previously been considered in the *Jelišić* AJ, para. 47; *Akayesu* TJ, para. 520 and para. 519; para. 728 and para. 726.

See *Karadžić and Mladić*, Rule 61 Decision, para. 94.

murder operation,<sup>3956</sup> including by members of the Zvornik Brigade Command; the systematic nature of the killings<sup>3957</sup> and the systematic nature in which the bodies of the murdered Muslim men were buried<sup>3958</sup> and then reburied with the involvement of Zvornik Brigade engineering equipment and personnel under **PANDUREVIĆ**'s command.

**(P) THE DEFENCE CASE OF VINKO PANDUREVIĆ**

1579. **PANDUREVIĆ** testified in his own defence from 26 January to 3 March 2009. As demonstrated above, much of his testimony on critical points was misleading or, at times, false.<sup>3959</sup> Three specific issues raised by **PANDUREVIĆ** in his defence will be discussed in further detail below. First, **PANDUREVIĆ**'s claim that a senior VRS officer issued orders related to the murder operation to Zvornik Brigade personnel outside of the normal chain of command. Second, **PANDUREVIĆ**'s claim that he opened the corridor at Baljkovica on 16 July for humanitarian reasons. Third, **PANDUREVIĆ**'s claim that engineering equipment and schools used in the murder operation were not requisitioned by the Zvornik Brigade.

**(cxi) Vinko PANDUREVIĆ had effective control over all Zvornik Brigade units during the commission of the crimes with which he is charged under the Indictment.**

1580. **PANDUREVIĆ** argued that a high-ranking officer could come into the Brigade Command and carry out tasks that by-pass the Brigade Commander<sup>3960</sup> and that hypothetically, if a Colonel from the Main Staff went to a small village in the Zvornik area and asked soldiers to guard a School, "without doing the guesswork, those people would have carried out the order."<sup>3961</sup> The hypothetical situation described by **PANDUREVIĆ** was intended to suggest that **BEARA** came to the Zvornik Brigade in July 1995 and used his rank and position to procure Zvornik Brigade soldiers and equipment for the murder operation outside of the formal chain of command. However, this unsubstantiated hypothetical is contradicted both by the facts of this case and the rule of exclusivity of command,<sup>3962</sup> which **BEARA** clearly followed at the time.

<sup>3956</sup> See *Sikirica* TJ, paras 46 and 61; *Kayishema and Ruzindana*, TJ, para. 93.

<sup>3957</sup> See *Sikirica* TJ, paras 46 and 61.

<sup>3958</sup> See *Sikirica* TJ, paras 46 and 61.

<sup>3959</sup> See paras. 1279-1280 for a list of the key points in **PANDUREVIĆ**'s testimony which were either false or misleading.

<sup>3960</sup> **PANDUREVIĆ**, T.30757:6-15.

<sup>3961</sup> **PANDUREVIĆ**, T.20740.

<sup>3962</sup> Exh. P00408, para. 115; Exh. P00694, p.37 (Eng); Exh. 7D00717, art.10: "The commander is responsible for the overall situation of the brigade or regiment, for the *correct and lawful work* of the command organs, and for the successful and timely completion of all tasks within the remit of the command organs. The commander has *direct control* over the brigade and regiment units through the chief of staff,

**The 15 July Interim Combat Report shows that PANDUREVIĆ had effective control over his units that were involved in the murder operation.**

1581. **PANDUREVIĆ**'s hypothetical argument that a senior officer could have issued orders relating to the murder operation to Zvornik Brigade units without his knowledge or approval in no way reflects the facts. As outlined at paras. 1421-1467, **PANDUREVIĆ** knew about the murder operation on 15 July and was in a position to threaten the Drina Corps, in his Interim Combat Report of 15 July, that he would let the remaining prisoners go if someone else did not take on the responsibilities of security and burying the bodies of the prisoners.<sup>3963</sup> This Report proves that **PANDUREVIĆ** had effective control over the soldiers who were guarding the remaining prisoners because, had he not had control over those soldiers, **PANDUREVIĆ** could not have threatened the Corps that he would let the prisoners go. **PANDUREVIĆ**'s argument that he did not have effective control over the elements of the Zvornik Brigade engaged in the murder operation has no merit.

**BEARA followed the formal chain of command to procure resources for the murder operation**

1582. During this period, **BEARA** followed the formal chain of command to procure resources for the murder operation. In an intercepted conversation between **BEARA** and Gen. Krstić at 10:00 hours on 15 July, **BEARA** complained to Krstić that this was the third day that he had been asking for resources.<sup>3964</sup>

1583. First, **BEARA** stated: "But I need 30 men just like it was ordered ... But I don't have any here. I need them today and I'll give them back tonight," which was an acknowledgment from **BEARA** that he needed Krstić's authority to take resources for the murder operation.

1584. Second, Krstić directed **BEARA** to "Check with Blagojević, take his Red Berets," which was a specific direction that **BEARA** first needed authorisation from the Bratunac Brigade commander before taking his resources. **BEARA** would have followed the same process of seeking authorisation from the Zvornik Brigade Command before engaging Zvornik Brigade resources in the murder operation [REDACTED].

1585. Third, **BEARA** asked Krstić to "Check it out and have them go to Drago's," which was a further acknowledgment from **BEARA** that Krstić had to authorise the engagement of additional resources in the murder operation.

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his assistances, and the organs for combat arms." At T.30730, **PANDUREVIĆ** agreed that this accorded with his understanding of a Brigade Commander's legal responsibility.

<sup>3963</sup> Exh. P00329. See paras. 1421-1467.

<sup>3964</sup> Exh. P01179a, intercept dated 15 July 1995 at 10:00 hours.

1586. Fourth, **BEARA** told Krstić in apparent exasperation that “I don’t know what to do. I mean it, Krle. There are still 3,500 parcels that I have to distribute and I have no solution.” Krstić’s response, “I’ll see what I can do,” was an acknowledgment that his (Krstić’s) authority was required to secure the resources **BEARA** had requested.

1587. This conversation leaves no doubt that **BEARA** procured resources for the murder operation through the formal chain of command. There is no merit to **PANDUREVIĆ**’s hypothetical claim that **BEARA** went to villages in the Zvornik area and ordered or directed Zvornik Brigade soldiers to participate in the murder operation without the authority of their commander.

**Zvornik Brigade soldiers were engaged in the murder operation by their superior officers from the Zvornik Brigade, not Col. BEARA.**

1588. **PANDUREVIĆ** further argued that a VRS soldier is duty bound to execute the orders of the most senior officer present,<sup>3965</sup> which again was intended to imply that Col. **BEARA** used his rank to order the engagement of Zvornik Brigade resources in the murder operation outside of the formal chain of command.

1589. This argument is based on a selective reading of Art. 17 of the Interim Provisions on the Service in the Army of the Serb Republic, which states that “Members of the army shall carry out the orders of the most senior officer present *when the superior officer is absent*.”<sup>3966</sup> There is no evidence that **BEARA** was in the field ordering Zvornik Brigade soldiers to participate in the murder operation in the absence of their superior officers. Instead, the evidence shows that Zvornik Brigade soldiers and MPs were engaged in the murder operation on the authority of their superior officers from the Zvornik Brigade.

1590. [REDACTED];<sup>3967</sup> **NIKOLIĆ** and Lt. Jasikovac were present at the Orahovac School on 14 July and oversaw the work of the MPs;<sup>3968</sup> [REDACTED];<sup>3969</sup> the order for 1<sup>st</sup> Battalion soldiers to guard prisoners at the Kula School on 14 July came from the Zvornik Brigade Command;<sup>3970</sup> 2<sup>nd</sup> Battalion Commander Srećko Aćimović spent several hours at the Ročević School overseeing the work of 2<sup>nd</sup> Battalion members at the School;<sup>3971</sup> Lt. Jasikovac oversaw the deployment of MPs at the Ročević School;<sup>3972</sup>

<sup>3965</sup> **PANDUREVIĆ**, T.30736:21-23, T.30737:9-13.

<sup>3966</sup> Exh. P00417, Interim Provisions on the Service in the VRS, art.17 (emphasis added).

<sup>3967</sup> See paras. 2615-2646.

<sup>3968</sup> See paras. 667-767.

<sup>3969</sup> See paras. 723-725.

<sup>3970</sup> See paras. 871-874.

<sup>3971</sup> See paras. 810-864.

<sup>3972</sup> See paras. 825-2775.



Engineering Company resources were deployed throughout the murder operation on the orders of Major Dragan Jokić;<sup>3973</sup> and the Zvornik Brigade Duty Operations Officer communicated with the 1<sup>st</sup>, 2<sup>nd</sup> and 6<sup>th</sup> Battalions about the murder operation during this period. There is no merit to the suggestion that **BEARA** went directly to Zvornik Brigade units and engaged them in the murder operation in the absence of their superior officers.

1591. [REDACTED].<sup>3974</sup>

1592. [REDACTED].<sup>3975</sup>

1593. Moreover, as testified by Richard Butler, the higher up the chain of command the hypothetical situation went, the less likely officers were to obey orders from an officer outside of their chain of command.<sup>3976</sup> Thus, again for arguments sake, even if **BEARA** had arrived at the Zvornik Brigade Command and attempted to issue orders on 14, 15 or 16 July outside of the normal chain of command, the Zvornik Brigade officers would not have obeyed **BEARA**'s orders without first seeking authorisation from their commanding officers, **PANDUREVIĆ** or Obrenović.

### Conclusion

1594. Elements of the Zvornik Brigade under **PANDUREVIĆ**'s command participated in the murder operation with his knowledge and authority. **BEARA** did not issue orders to Zvornik Brigade soldiers or the Zvornik Brigade Command outside of the normal chain of command. To the contrary, **BEARA** worked *within* the normal chain of command (*i.e.*, through Gen. Krstić and Krstić's subordinate Brigade Commanders) when asking for resources with which to carry out the murder operation.

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<sup>3973</sup> See *e.g.*, paras. 692 and 856.

<sup>3974</sup> [REDACTED].

<sup>3975</sup> [REDACTED].

<sup>3976</sup> BUTLER, T.20828-20829: "I'm not going to deny that I can't foresee a circumstance where an individual like Colonel **POPOVIĆ** or Colonel **BEARA** is going to walk over to a group of soldiers and say, "Here's what I need you to do." I mean, they're going to -- they're going to say, "Yes, sir" and move out, draw fire. Where you start to stretch the boundaries of that is as you start working your way up the chain of command to officers who have the knowledge of both the powers and limitations of these individuals as well as the knowledge of what their orders are supposed to be, because these are the types of people who are going to start recognising the inherent conflicts here and are going to be the ones that have to deal with these conflicts."

(cxii) On 16 July, Vinko PANDUREVIĆ opened a corridor at Baljkovica to prevent further Serb combat casualties and to facilitate the final removal of the Muslim population from Srebrenica.

On 16 July, there was intense combat at Baljkovica and the Bosnian Serbs suffered significant casualties.

1595. [REDACTED].<sup>3977</sup> On the morning of 16 July, the fighting escalated [REDACTED].<sup>3978</sup> **BOROVČANIN**, who was in command of MUP units in the Zvornik area on 16 July, [REDACTED] described the heavy combat in the Baljkovica area on that day:

The Muslim attack was very fierce and was backed by artillery from Nežuk. In the morning, the enemy captured three 57 mm self-propelled guns from members of the Army of Republika Srpska, which protected the left flank of the MUP forces. Because of this, the situation changed dramatically. From a distance of 400 to 500 m, these self-propelled guns directly pounded our hardware, vehicles, ambulances and the communications centre. The artillery of the Zvornik Brigade remained silent – it was on the move. There was a danger that our forces would be completely cut off and surrounded.<sup>3979</sup>

1596. Lazar Ristić, Deputy Commander of the 4<sup>th</sup> Battalion, described how the intense Muslim attack forced the 4<sup>th</sup> Battalion to withdraw from their HQ at around noon.<sup>3980</sup> The severity of the battle at Baljkovica is further confirmed by the Zvornik Brigade Interim Combat Report of 16 July in which **PANDUREVIĆ** outlined the intensive shelling assault by the ABiH 2<sup>nd</sup> Corps; the takeover of the 4<sup>th</sup> Battalion Command; and the capture of the three self-propelled guns.<sup>3981</sup>

1597. The Zvornik Brigade and other Serb units suffered significant casualties during this sustained Muslim attack. Col. Sladojević, who investigated **PANDUREVIĆ**'s actions in opening the corridor, testified that 49 Serbs were killed and about 120 wounded.<sup>3982</sup> [REDACTED].<sup>3983</sup> **BOROVČANIN** reported that: "One member of the 1<sup>st</sup> Company of the Zvornik Special Police Unit was killed and five members of the Special Police Brigade were wounded. The Army of Republika Srpska had about 40 killed and

<sup>3977</sup> [REDACTED].

<sup>3978</sup> [REDACTED]. See also RISTIĆ, T.10155:9-12.

<sup>3979</sup> Exh. P00092, Combat Report created by Ljubiša **BOROVČANIN**, regarding duration of time between 10 July and 20 of July 1995.

<sup>3980</sup> RISTIĆ, T.10156-10157: "they started a more intense attack, both using artillery and infantry forces. They had mobile mortars, they came closer to the command, to the headquarters, so we were forced to leave the headquarters. Our plan was to join the lines, the front end of our defence. As we were pulling out and going along Baljkovacka Riječka, we approached the trenches of the 1<sup>st</sup> Platoon of our 1<sup>st</sup> Company. It was then on the radio we heard Commander **PANDUREVIĆ** informing us that he had agreed with Šemso Muminović to have a cease-fire, to stop shooting. He said that they would open a passage for the people to pass through without any hinderance, and that's how it happened."

<sup>3981</sup> Exh. P00330, Zvornik Brigade Interim Combat report 06-218.

<sup>3982</sup> SLADOJEVIĆ, T.14374.

<sup>3983</sup> [REDACTED].

more than 80 wounded.”<sup>3984</sup> A Zvornik Brigade list of deceased fighters from 1992-1995 also lists 29 fighters killed in the Baljkovica, Parlog and Memići areas on 15-16 July while a further five fighters were killed at Snagovo and Crni Vrh on those dates.<sup>3985</sup>

**At 14:00 hours on 16 July, PANDUREVIĆ opened a corridor to prevent further Serb casualties.**

1598. [REDACTED].<sup>3986 3987</sup>

1599. The reason why **PANDUREVIĆ** felt compelled to lie to his superiors was because he knew that they would not allow a corridor to be opened;<sup>3988</sup> but it was obvious to **PANDUREVIĆ** that more Zvornik Brigade casualties would be suffered if they continued to fight the Muslim column and the 2<sup>nd</sup> Corps. In the circumstances, opening the corridor was the only reasonable military option available to **PANDUREVIĆ**.

**The military necessity behind PANDUREVIĆ's decision to open the corridor was acknowledged by subsequent Drina Corps and Main Staff investigations.**

1600. The validity of **PANDUREVIĆ**'s military decision to open the corridor to prevent further losses for the Bosnian Serb forces was confirmed by two contemporaneous investigations by the VRS. The first investigation was by Vujadin **POPOVIĆ** on the afternoon of 16 July,<sup>3989</sup> after which **POPOVIĆ** reported to the Drina Corps Command that the situation was just as **PANDUREVIĆ** had described it in his Interim Combat Report.<sup>3990</sup> **POPOVIĆ** told the DK Duty Operations Officer that “up there, there were horrible problems” and that the reason why **PANDUREVIĆ** had experienced problems was because reinforcements had not arrived on time.

1601. As described at paras. 1472-1479, **PANDUREVIĆ** untruthfully claimed that he did not meet with **POPOVIĆ** on the afternoon of 16 July;<sup>3991</sup> primarily because this would impute knowledge of the murder operation to **PANDUREVIĆ**, but also because **POPOVIĆ**'s endorsement of the information in the 16 July Interim Combat Report undermines **PANDUREVIĆ**'s claim that he exaggerated the severity of the combat in

<sup>3984</sup> Exh. P00092.

<sup>3985</sup> Exh. P02469, Zvornik Brigade List of Dead Fighters 1992 to 1995.

<sup>3986</sup> [REDACTED].

<sup>3987</sup> [REDACTED].

<sup>3988</sup> **PANDUREVIĆ**, T.32031. **PANDUREVIĆ** conceded that Gen. Mladić certainly would not have agreed to open the corridor and also conceded that: “I told you that I have my reservations about the possibility of Krstić approving the opening of the corridor.”

<sup>3989</sup> See paras. 1472-1479.

<sup>3990</sup> Exh. P01201a, intercept dated 16 July at 21:16 hours. “P: Well, you got his interim report. R: All of it. P: It's all just like he wrote it ... I was there on the spot and saw for myself he had received some numbers ... well, that's not even important ... I'll come there tomorrow so tell the General ... I've finished the job.”

<sup>3991</sup> **PANDUREVIĆ**, T.31050, 32247-32249.

order to conceal his humanitarian motives for opening the corridor. Given that **POPOVIĆ** was actually present in Baljkovica in the immediate aftermath of the battle, his description of the “horrible” combat around Baljkovica would have been accurate.

1602. The second VRS investigation occurred on 17 July, when three Colonels from the Main Staff, including Col. Sladojević and Col. Trkulja, went to Zvornik and questioned Obrenović and **PANDUREVIĆ** about the circumstances in which the corridor was opened. [REDACTED].<sup>3992</sup> After speaking with **PANDUREVIĆ** and Obrenović, Sladojević concluded that after the first wave of Muslims had gone through, there had been enormous casualties and the corridor had then been opened.<sup>3993</sup> Significantly, Sladojević testified that he and Trkulja concluded that no measures should be taken against the Zvornik Brigade and that **PANDUREVIĆ** made the correct military decision to open the corridor:

A. Well, let me say, while we were on the way to Baljkovica, we had a wrong opinion. But when we arrived in Baljkovica, and when I explained to him in professional terms, we agreed on our common opinion. And we said that the situation should be conveyed as it was, and we were of the opinion that no measures should have been taken against the brigade.

Q. Can you just explain why you think that **PANDUREVIĆ**'s actions were correct and that nothing, no measures, should be taken against him?

A. Well, **PANDUREVIĆ** had taken the right steps. In the first part, he engaged in fighting; and then when he estimated, as the commander, that he would suffer losses, the most realistic and logical thing was for him to open the corridor up and to let the army go through, which is what he did, and it is a good thing that he did that.<sup>3994</sup>

**PANDUREVIĆ's self-serving claim that he opened the corridor for humanitarian reasons was not true.**

1603. During his defence case, **PANDUREVIĆ** tried to turn a military decision he made to save the lives of his soldiers into a humanitarian decision, at least in part, to save Muslim lives. **PANDUREVIĆ** claimed that his actions towards the Muslim column were humanitarian on two grounds: first, for opening the corridor in the first place; and second, because after he opened the corridor, he did not betray the agreement and open fire:

The way I acted at the time was something that was driving me by humanitarian reasons. I wanted to protect lives both of my soldiers and the enemy soldiers. After the corridor had been opened and during the passage of the column, I could have accomplished the mission that I was sent to do from Zvornik. I didn't do that and this is where I see my humanitarian action.<sup>3995</sup>

1604. **PANDUREVIĆ**'s testimony is not credible. First, as shown above, **PANDUREVIĆ** opened the corridor to avoid further Serb casualties, not because of any

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<sup>3992</sup> [REDACTED].

<sup>3993</sup> SLADOJEVIĆ, T.14374-14375.

<sup>3994</sup> SLADOJEVIĆ, T.14380.

<sup>3995</sup> **PANDUREVIĆ**, T.31951:24 – 31952:6.

humanitarian motive to spare the lives of the Muslims in the column. Had **PANDUREVIĆ** harboured *any* humanitarian feelings whatsoever towards Muslims during those days, he would have released the Muslim prisoners detained by Zvornik Brigade soldiers in schools in the Zvornik area as he threatened to do in his 15 July Interim Combat Report.<sup>3996</sup> Alternatively, he could have sent those prisoners to the Batković Camp, or had lists made of their names, or called the ICRC or UNPROFOR or a television station or taken any number of other options available to him at the time to save those prisoners' lives. Instead, he consciously *chose* not to do so and instead assisted in their murders. **PANDUREVIĆ** made a military decision to open the corridor at Baljkovica. This decision in no way affected **PANDUREVIĆ**'s intent that the Muslim prisoners in the schools be murdered.

1605. Second, it would have been a major strategic error for **PANDUREVIĆ** to open fire on the Muslim column as it passed through to Nežuk because Serb soldiers in nearby trenches would have been equally vulnerable to Serb artillery fire.<sup>3997</sup> Some of the Muslims in the column were also armed<sup>3998</sup> and could have instantly engaged the Serb soldiers in battle at close quarters, which was the very situation that **PANDUREVIĆ** was trying to avoid. In addition, the 2<sup>nd</sup> Corps could have retaliated by shelling Zvornik<sup>3999</sup> [REDACTED].<sup>4000</sup> **PANDUREVIĆ** himself admitted that: "Through that open corridor, they could have pumped in the forces of the 2<sup>nd</sup> Corps and I could have been faced with total ruin."<sup>4001</sup> Thus, the fact that **PANDUREVIĆ** did not renege on an agreement made with the ABiH 2<sup>nd</sup> Corps, entered into in order to save the lives of Serb soldiers, in no way negates **PANDUREVIĆ**'s intent that the Muslim prisoners in the schools be murdered.

1606. Third, **PANDUREVIĆ**'s testimony on this point should be read in conjunction with his claim that he opened a corridor at Kamenica in 1993 for similar "humanitarian" reasons.<sup>4002</sup> The similarity between the 1993 Kamenica corridor and the 1995 Baljkovica corridor is highlighted by **PANDUREVIĆ**'s statement in his 16 July Interim Combat Report that "I consider that the *Krivaja-95* operation is not complete as long as a single

<sup>3996</sup> See Exh. P00329.

<sup>3997</sup> At T.10157-10159, Lazar Ristić confirmed that aside from the 2<sup>nd</sup> and 3<sup>rd</sup> platoons of the 1<sup>st</sup> Company of the 4<sup>th</sup> Battalion, which left their trenches for the column to pass through, all other Zvornik Brigade units maintained their positions on the ground on either side of the corridor.

<sup>3998</sup> RISTIĆ, T.10159.

<sup>3999</sup> The 2<sup>nd</sup> Corps clearly had the ability to shell the town of Zvornik itself. See e.g., Exh. P0377 at 0293-5759; entry on 15 July, "tank projectile fell in the town."

<sup>4000</sup> [REDACTED].

<sup>4001</sup> **PANDUREVIĆ**, T.31061:25 – 31062:3.

<sup>4002</sup> See paras. 1285-1288.

enemy soldier or civilian remains behind the front line.”<sup>4003</sup> This express acknowledgement from **PANDUREVIĆ** shows that he knew the ultimate goal of the *Krivaja-95* operation was to remove the Muslims from the Srebrenica area. **PANDUREVIĆ** resorted to this statement in a bid to reassure his superior officers that if he could not kill the Muslims in the column, then at least he could achieve the ultimate goal of the *Krivaja-95* operation by removing them from the area.

### **Conclusion**

1607. The Zvornik Brigade suffered significant losses during the battle at Baljkovica on 16 July. In the circumstances, **PANDUREVIĆ** had no other militarily reasonable choice than to open the corridor to prevent further casualties for his troops. **PANDUREVIĆ**’s decision was endorsed on 16 July by the Drina Corps Assistant Commander for Security, Vujadin **POPOVIĆ**, and on 17 July by Col. Sladojević and Col. Trkulja from the Main Staff. This military decision he was forced to make due to the high casualty rate suffered by the Serb troops in no way negates **PANDUREVIĆ**’s intent to murder the thousands of other Muslim men who had been detained, transported, executed and buried by, *inter alia*, Zvornik Brigade soldiers under his command.

### **(cxiii) Facilities and equipment used for the murder operation were controlled by the Zvornik Brigade.**

#### **Engineering equipment**

1608. **PANDUREVIĆ** claimed that some of the engineering equipment used during the murder operation was from public companies and was used at the request of the security organs.<sup>4004</sup> However, contrary to **PANDUREVIĆ**’s claim, it is clear that the engineering equipment used at all four major burial sites in the Zvornik area was under the control of the Zvornik Brigade.

1609. On 14 July, the Zvornik Brigade’s Rovokopač backhoe excavator was sent to Orahovac from the Zvornik Brigade Engineering Company compound on the orders of

<sup>4003</sup> Exh. P00330.

<sup>4004</sup> **PANDUREVIĆ**, T. T.31110– 31111, when he explained the apparent level of his knowledge on 18 July: “I also received information that the machinery BG-H700 from the Zvornik Brigade as well as two other pieces of machinery from public companies had been used at the request of the security organs to bury the dead bodies, the bodies of those who had been executed by shooting.”

Major Dragan Jokić, the Chief of Engineering.<sup>4005</sup> The Zvornik Brigade vehicle log for a Rovokopač Torpedo also shows that it worked for the VRS at Orahovac on 14 July.<sup>4006</sup>

1610. On 15 July, the Zvornik Brigade Engineering Company Daily Order Log Book records that a BGH-700 and an ULT 220 were tasked with working at Orahovac while an ULT and an excavator were tasked with working at Petkovci.<sup>4007</sup> These entries show that these machines operated at Orahovac and Petkovci on 15 July with the knowledge and authority of the Zvornik Brigade Engineering Company. The presence of the ULT 220 at Orahovac on 15 July is further confirmed by a Zvornik Brigade vehicle log which records that an ULT 220 performed work for the VRS at Orahovac that day.<sup>4008</sup> The driver, Veljko Kovačević, was not listed on the Engineering Company roster in July 1995; however, Damjan Lazarević confirmed that once the machine was requisitioned, Kovčević “*would be made part of the company or the brigade.*”<sup>4009</sup>

1611. On 16 July, a Rovokopač Torpedo excavator, driven by Zvornik Brigade member Miloš Mitrović, was sent to Kozluk on the orders of Dragan Jokić where he worked under the direction of Damjan Lazarević.<sup>4010</sup> An ULT 220 operated by Rade Bošković also worked at Kozluk that day under the direction of Damjan Lazarević. Miloš Mitrović testified that the ULT 220 belonged to the Josanica Quarry, but “when necessary it was commandeered for the needs of the Zvornik Brigade.”<sup>4011</sup> Rade Bošković is not listed on the Zvornik Brigade Engineering Company Roster for July 1995; however, Damjan Lazarević testified that the presence of the machine meant that Bošković “must have been a member Šof the Zvornik BrigadeĆ at such times.”<sup>4012</sup>

1612. On 17 July, the Engineering Company Daily Order Log Book records that a BGH-700 and an ULT 220 were tasked with working at Branjevo Farm.<sup>4013</sup> Again, this entry shows that these machines operated at Branjevo Farm on 17 July with the knowledge and authority of the Zvornik Brigade. The testimony of Zvornik Brigade excavator Cvijetin Ristanović, who operated the excavator at Branjevo Farm on the orders of Damjan

<sup>4005</sup> See paras. 692-698.

<sup>4006</sup> Exh. P00301, Zvornik Brigade Vehicle Log for Rovakopac Torpedo from Birac Holding. See also paras. 755-763.

<sup>4007</sup> Exh. P00297 at ERN 0084-6762. See also paras. 755-763.

<sup>4008</sup> Exh. P00302, Zvornik Brigade Vehicle Log for ULT 220 from Birac-Holding.

<sup>4009</sup> D.LAZAREVIĆ, T.14514 (emphasis added).

<sup>4010</sup> See para. 854-861.

<sup>4011</sup> M.MITROVIĆ, Exh. P02259, at T.5607:23-24.

<sup>4012</sup> D.LAZAREVIĆ, T.14522 (emphasis added). Counsel for PANDUREVIĆ asked: “He was not a member of the Zvornik Brigade, was he?” Lazarević answered: “Occasionally, when the machine was there, he was there with it so *he must have been a member at such times*” (emphasis added).

<sup>4013</sup> Exh. P00297 at ERN 0084-6762.

Lazarević, confirms this.<sup>4014</sup> The Zvornik Brigade vehicle log for an ULT-220 mobilised from “Birac-Holding,” which was active for eight and one-half hours “digging trenches at Branjevo” for the VRS,<sup>4015</sup> also confirms this.

1613. On 18 and 19 July, the Engineering Company Daily Orders Log Book records that a bulldozer was transported to Kozluk and “work on mending the trench” carried out.<sup>4016</sup> On 19 July, the Log Book records that this “trench mending” at Kozluk continued.<sup>4017</sup> These entries clearly show that this bulldozer operated at Kozluk with the knowledge and authority of the Zvornik Brigade Engineering Company. The presence of the bulldozer at Kozluk is corroborated by the vehicle log for a bulldozer TG-75,<sup>4018</sup> assigned to Zvornik Brigade excavator operator Mićo Mirković,<sup>4019</sup> which records that the bulldozer performed 1.5 hours of “special purposes work in Kozluk” on 18 July and one hour of “special purposes work in Kozluk” on 19 July.

1614. The burials at all four major burial sites in the Zvornik area were carried out with the knowledge and authority of the Zvornik Brigade Engineering Company and the Zvornik Brigade Commander, Vinko **PANDUREVIĆ**.

### Schools

1615. During his Defence case, **PANDUREVIĆ** claimed that the schools in which Muslim prisoners were held were in the area of responsibility for combat operations for the Zvornik Brigade, but not within its zone of defence. Moreover, **PANDUREVIĆ** argued that these schools had not been officially requisitioned by the Zvornik Brigade during this period, the obvious implication being that **PANDUREVIĆ** was not responsible for the prisoners detained in those schools.

1616. This argument does not fit the facts. First, Zvornik Brigade MPs, officers and soldiers participated in the detention, transport, murder and burial of prisoners detained at the Orahovac School;<sup>4020</sup> 1<sup>st</sup> Battalion soldiers guarded prisoners at the Kula School at Pilica after receiving a telegram from the Zvornik Brigade Command;<sup>4021</sup> and Zvornik Brigade MPs and soldiers secured, transported, executed and buried prisoners who had

<sup>4014</sup> C.RISTANOVIĆ, Exh. P02256 at T.5389-5395.

<sup>4015</sup> Exh. P00302, Zvornik Brigade Vehicle Log for Birać-Holding ULT 220.

<sup>4016</sup> Exh. P00297, Zvornik Brigade Engineering Company Daily Orders Log Book at ERN: 0084-6765.

<sup>4017</sup> Exh. P00297 at ERN: 0084-6766.

<sup>4018</sup> Exh. P00295, Zvornik Brigade July 1995 Transportation Records at ERN: 0087-6037-0087-6038.

<sup>4019</sup> Exh. P002851, Zvornik Brigade Engineering Company attendance roster for the month of July 1995.

<sup>4020</sup> See paras. 667-767.

<sup>4021</sup> See paras. 868-1000.



been detained at the Ročević School.<sup>4022</sup> **PANDUREVIĆ** wrote to the Drina Corps on 15 July, in his Interim Combat Report of that day, complaining that the Zvornik Brigade was struggling with the “additional burden” of security of the prisoners.<sup>4023</sup> Thus, regardless of the fact that the formal procedure may not have been followed, elements of the Zvornik Brigade secured prisoners in Schools in the Brigade’s area of responsibility, thereby facilitating the murder of those prisoners.

1617. On 16 July, soldiers from Bratunac subordinated to the Zvornik Brigade were billeted in the Orahovac School.<sup>4024</sup> There is no evidence in this case that the School was officially requisitioned for this purpose. In practice, the Zvornik Brigade *did* on occasion use facilities such as schools without going through the formal requisitioning process.

**(Q) INDIVIDUAL CRIMINAL RESPONSIBILITY OF PANDUREVIĆ UNDER ARTICLE 7(3) OF THE STATUTE.**

**(cxiv) Superior-Subordinate Relationship.**

1618. **PANDUREVIĆ** was appointed as the Zvornik Brigade Commander on 18 December 1992.<sup>4025</sup> For the reasons outlined below, **PANDUREVIĆ** remained as the Zvornik Brigade Commander throughout the month of July 1995,<sup>4026</sup> including the period from 4 July through midday on 15 July when he led units from the Zvornik Brigade in the attack on the Srebrenica and Žepa enclaves.

1619. First, in contrast to the period in August/September 1995 when **PANDUREVIĆ** went to the Krajina,<sup>4027</sup> there was no formal relinquishment of command to Dragan Obrenović for the period 4-15 July. This is evidenced by the fact that **PANDUREVIĆ**’s name continued to appear on most of the Daily Combat Reports for this period as the Brigade Commander,<sup>4028</sup> aside from the Daily Combat Report of 14 July which Dragan

<sup>4022</sup> See paras. 810-864.

<sup>4023</sup> Exh. P00329.

<sup>4024</sup> [REDACTED].

<sup>4025</sup> **PANDUREVIĆ**, T.30682-30684.

<sup>4026</sup> Exh. P00372.

<sup>4027</sup> BUTLER, T.20009.

<sup>4028</sup> See e.g., Exh. P00320, Zvornik Brigade Daily Combat Report No. 06-213, type-signed by Vinko **PANDUREVIĆ**, dated 10 July 1995; Exh. P00321, Zvornik Brigade Daily Combat Report, type-signed by **PANDUREVIĆ**, dated 11 July 1995; Exh. P00322, Zvornik Infantry Brigade Daily Combat Report No. 06/215, type-signed by Vinko **PANDUREVIĆ**, dated 12 July 1995; Exh. 7DP00325, Zvornik Brigade Daily Combat Report, type-signed by Vinko **PANDUREVIĆ**, dated 13 July 1995.

Obrenović signed as the Chief of Staff.<sup>4029</sup> This is in direct contrast to August/September when Obrenović signed the Daily Combat Reports as Standing in for the Commander.<sup>4030</sup>

1620. Second, Mirko Trivić, the Commander of the 2<sup>nd</sup> Romanija Brigade, was in the same situation as **PANDUREVIĆ** during the Srebrenica campaign and Trivić confirmed that he (Trivić) remained in command of the 2<sup>nd</sup> Romanija Brigade through out this period.<sup>4031</sup> Trivić confirmed that during this period, his Chief of Staff carried out activities in accordance with Trivić's decision on the engagement of units and that the Chief of Staff only needed to contact him (Trivić) or the superior command when something changed in relation to Trivić's original decision, in which case he would need to seek approval to change that decision.<sup>4032</sup> Trivić also confirmed that his Chief of Staff would first try to contact Trivić before contacting the Corps Commander.<sup>4033</sup>

1621. [REDACTED].<sup>4034 4035 4036</sup>

1622. Third, Richard Butler also testified that **PANDUREVIĆ** remained in command of the Zvornik Brigade throughout this period.<sup>4037</sup> Butler also confirmed that "while Major Obrenović, as the chief of staff, is controlling day to day operations and is responsible for the conduct of these day-to-day operation, Colonel **PANDUREVIĆ**, as the brigade commander, *still remains overall responsible as the brigade commander.*"<sup>4038</sup>

<sup>4029</sup> Exh. P00326, Zvornik Brigade Daily Combat Report 06-216, type-signed by Dragan Obrenović, dated 14 July 1995.

<sup>4030</sup> See e.g., Exh. P00365, Zvornik Brigade Daily Combat Report 06-287, signed by Maj. Dragan Obrenović (standing in for the Commander), dated 14 September 1995.

<sup>4031</sup> TRIVIĆ, T.12033-12034.

<sup>4032</sup> TRIVIĆ, T.12034.

<sup>4033</sup> TRIVIĆ, T.12034.

<sup>4034</sup> [REDACTED]

<sup>4035</sup> [REDACTED].

<sup>4036</sup> [REDACTED].

<sup>4037</sup> BUTLER, T.20008:11-18. "Well, to clarify, Colonel **PANDUREVIĆ** was never not in command of the Zvornik Brigade. Even when he was down dealing with issues related to Srebrenica and Žepa, there was no formal relinquishment of command. The fact is that in the absence of Colonel **PANDUREVIĆ**, you know, the chief of staff, Major Obrenović, had the authority and in fact dealt with the day-to-day operations of the brigade. But there's not a question of at some point in time, either before or after, there was a formal relinquishment of command." At T.20956-20957, Butler also confirmed that he agreed with Mirko Trivić's statement that his Chief of Staff controlled the operations of his brigade while he was absent but that he (Trivić) remained in command. See also T.20774-20775, where Butler stated that, "Colonel Andrić, as the brigade commander of the Šekovići Brigade, found himself in the identical circumstances at the identical time of Colonel **PANDUREVIĆ** at Srebrenica, and so did Colonel Trivić, and when the question was put to them, did they consider that they were not in command of their organisations or did they somehow relinquish command of their organisations, both of those people, as the peers of Colonel **PANDUREVIĆ**, made it clear that they didn't view that they were relinquishing command of their organisation to participate in operations at Srebrenica. So I believe that in the both theoretical sense as well as the practical aspect of Mr. **PANDUREVIĆ**'s counterparts, I'm on solid ground here."

<sup>4038</sup> BUTLER, T.20009:14-17 (emphasis added).

1623. [REDACTED].<sup>4039</sup> <sup>4040</sup> Accordingly, it is clear that **PANDUREVIĆ** remained in command of the Zvornik Brigade during the period 4-15 July.

1624. On 3 August 1995, **PANDUREVIĆ** was appointed as the commander of the 2<sup>nd</sup> Drina Light Infantry Brigade<sup>4041</sup> [REDACTED].<sup>4042</sup> **PANDUREVIĆ** resumed his duties as the Commander of the Zvornik Brigade on 25 September 1995.<sup>4043</sup>

1625. Aside from the period from 3 August and 24 September 1995, at all other times relevant to the Indictment, Vinko **PANDUREVIĆ** had superior/subordinate relationship with all members of the Zvornik Brigade, including Assistant Commander for Security, Drago **NIKOLIĆ**,<sup>4044</sup> and the ability to prevent and punish the crimes of his subordinates.

(cxv) **Knew or had reason to know about commission of crimes.**

1626. By the afternoon of 15 July, **PANDUREVIĆ** knew that elements of the Zvornik Brigade were involved in the murder operation. This is clear from his 15 July Interim Combat Report when **PANDUREVIĆ** referred to the “additional burden” for “*us*,” meaning the Zvornik Brigade, caused by the security of the prisoners and the burial of their bodies.<sup>4045</sup> It is further confirmed in the next paragraph where **PANDUREVIĆ** states that “*this command*,” meaning the Zvornik Brigade Command, cannot take care of “these problems” anymore, meaning the security and burial of the prisoners.<sup>4046</sup>

1627. While the evidence supports a finding that **PANDUREVIĆ** knew that elements of the Zvornik Brigade were involved in the murder operation prior to 16 July (as he himself was), even **PANDUREVIĆ** himself conceded that by the evening of 16 July, he had a “suspicion” that members of the Zvornik Brigade were involved in the murder operation.<sup>4047</sup> Over the next few days, even according to his own testimony, **PANDUREVIĆ** received information that prisoners had been detained in schools at

<sup>4039</sup> [REDACTED].

<sup>4040</sup> [REDACTED].

<sup>4041</sup> Exh. 7D00615, Drina Corps order no. 634/94-69, signed for Gen. Radislav Krstić, dated 3 August 1995.

<sup>4042</sup> [REDACTED].

<sup>4043</sup> See paras. 1524-1538.

<sup>4044</sup> Exh. P00407, para.16 at ERN 0092-0108; [REDACTED].

<sup>4045</sup> Exh. P00329: “An additional burden for *us* is the large number of prisoners distributed throughout schools in the brigade area, as well as obligations of security and asanacija. *This command* cannot take care of these problems any longer, as it has neither the material nor other resources. If no one takes on this responsibility I will be forced to let them go.”

<sup>4046</sup> Exh. P00329.

<sup>4047</sup> **PANDUREVIĆ**, T.31543:1-12 (emphasis added). “The information that I had was such as to the whole operation having been conducted from the highest level, *that there was a suspicion that some individuals in the Zvornik Brigade might have been involved*, at least according to Obrenovic’s information and what he told me.”

Orahovac, Petkovci, Ročević and Pilica and then murdered;<sup>4048</sup> that Drago **NIKOLIĆ** had taken custody of the prisoners who were detained at Orahovac and then murdered;<sup>4049</sup> and that machines owned or requisitioned by the Zvornik Brigade had been engaged in burying the murdered prisoners.<sup>4050</sup>

1628. Nevertheless, despite having this knowledge which put him on inquiry notice about the involvement of his subordinates in these crimes, **PANDUREVIĆ** himself confirmed that he did not take any steps to investigate this information further.

1629. First, **PANDUREVIĆ** attended a meeting with his battalion commanders and senior Zvornik Brigade officers on 23 July at which, by his own admission, he deliberately did not make inquiries about the executions.<sup>4051</sup> During his testimony, **PANDUREVIĆ** confirmed that the briefing was attended by *all* of the battalion commanders;<sup>4052</sup> Major Obrenović; Major Galić; the Assistant Commanders; and “most probably the chiefs of various services.”<sup>4053</sup> Nonetheless, despite the attendance at this briefing of the commanders of the Battalions in whose specific areas of responsibility these crimes had occurred, **PANDUREVIĆ** testified that he deliberately did not raise the subject of the executions at the briefing, claiming that this was done for various reasons including the possibility that evidence may be concealed.<sup>4054</sup> Second, **PANDUREVIĆ** confirmed that he did not investigate information that the Engineering Company had participated in the burial of murdered prisoners.<sup>4055</sup> Third, **PANDUREVIĆ** confirmed that he did not investigate specific information that the 6<sup>th</sup> Battalion had participated in the burial of murdered prisoners.<sup>4056</sup>

1630. **PANDUREVIĆ** was clearly on notice that crimes of enormous magnitude had occurred in his area of responsibility, with the involvement of elements of the Zvornik Brigade, and it was his legal duty to make further inquiries about these crimes. **PANDUREVIĆ**’s claims that he was concerned about the possible concealment of evidence, that it was not his place to investigate actions of his subordinates which took place in an “isolated context” and that he could not be expected to “sound the alarm at

<sup>4048</sup> **PANDUREVIĆ**, T.31084 (claimed that he found out this information on the morning of 17 July).

<sup>4049</sup> **PANDUREVIĆ**, T.31109:21 – 31111:1.

<sup>4050</sup> **PANDUREVIĆ**, T.31112:17-23.

<sup>4051</sup> Exh. P00377 at ERN: 0293-5795; **PANDUREVIĆ**, T.31149-31150.

<sup>4052</sup> **PANDUREVIĆ**, T.31149-31150 (*see in particular* T.31150:14-23).

<sup>4053</sup> **PANDUREVIĆ**, T.31149-31150 (*see in particular* T.31150:14-23).

<sup>4054</sup> **PANDUREVIĆ**, T.31155:1-14.

<sup>4055</sup> **PANDUREVIĆ**, T.31552:22 – 31553:9.

<sup>4056</sup> **PANDUREVIĆ**, T.31537-31538.

full blast and launch an investigation” are implausible and provide no reasonable justification for his failure to investigate these crimes.

**(cxvi) Failed to prevent or punish.**

1631. As outlined at paras. 1252-1258, the final requirement under Article 7(3) is that the superior failed to take “necessary and reasonable measures” to satisfy his obligation to prevent offences or punish the perpetrators.<sup>4057</sup> The evidence in this case has clearly proven that **PANDUREVIĆ** failed to prevent or punish crimes committed by subordinates under his command before, during or after the fall of Srebrenica and Žepa.

1632. **PANDUREVIĆ** himself confirmed that, throughout the entire war, he never investigated or punished Zvornik Brigade members for their participation in crimes committed against Muslim civilians and property:

Q. So in 1993, with the building hatred of your enemy that you have clearly described and an enemy that you think is bent on expelling you and your people and making life impossible, you have to control yourself and your soldiers from responding in like kind; correct?

A. Yes, to the extent possible under the circumstances because their families had suffered, been killed, or expelled. They weren't waging war in some other country, they were doing it in their own village.

Q. Can you give me one example of you punishing or disciplining a Serb soldier for abusing or destroying Muslim property or persons?

A. To the best of my knowledge, there was destruction of property during combat, which is collateral damage in fighting, *and as for information that an individual had done something improper, I had no such information, and during the war, I did not punish any soldiers for that...*

Q. Your answer appeared to only answer the part about abuse of structures. My question is: Did you ever punish or discipline any VRS soldier for abusing any Muslim person?

A. *I'm saying I had no information to warrant something like that and I did not punish anyone.*<sup>4058</sup>

1633. In addition to **PANDUREVIĆ**'s own admission, there is no evidence in this case to indicate that **PANDUREVIĆ** investigated or punished his subordinates for their involvement in crimes committed against Muslims at any time relevant to the Indictment.<sup>4059</sup>

<sup>4057</sup> Čelebići TJ, para. 394; Krnojelac TJ, para. 95.

<sup>4058</sup> **PANDUREVIĆ**, T.32066:2-23 (emphasis added).

<sup>4059</sup> See e.g., RISTIĆ, T.10204; JEREMIĆ, T.10439-10440; [REDACTED]; STANISIĆ, T.11619.

**(VII) INDIVIDUAL CRIMINAL RESPONSIBILITY OF GEN. RADIVOJE MILETIĆ UNDER ART. 7(1) OF THE STATUTE**

**(R) INTRODUCTION**

1634. General Radivoje **MILETIĆ** arrived at the Main Staff as a Colonel in July 1992. He was first assigned to be chief of the artillery rocket units and was an exemplary officer who helped establish the 65<sup>th</sup> Protection Regiment's Rocket Battalion.<sup>4060</sup> He was soon singled out as a very good operations officer and served first as Deputy Chief of Operations, then as Chief of Operations in July 1993.<sup>4061</sup> **MILETIĆ** became Chief of the Operations and Training Administration in September 1994, was promoted to Major General on 28 June 1995, and remained Chief of Operations and Training for the rest of the war.<sup>4062</sup>

**(cxvii) Role and responsibilities of Radivoje MILETIĆ**

**Chief of the Operations and Training Department and Deputy Chief of Staff**

1635. As Chief of the Operations and Training Department and Deputy Chief of Staff, Gen. **MILETIĆ** was directly subordinated to the Chief of Staff, Lt. Gen. Manojlo Milovanović.<sup>4063</sup> **MILETIĆ**'s main duties and responsibilities were to follow the developments across the war theatre; to translate the intentions of Gen. Mladić into operative documents and orders; to monitor the execution of orders from above and react to requests from lower units; and to provide insight, analysis, recommendations and proposals to Gen. Mladić or Gen. Milovanović.<sup>4064</sup>

1636. As an operations officer, and in particular as the Chief of Operations and Training, **MILETIĆ** was duty-bound to review reports coming in from subordinate commanders throughout the VRS; in doing so, he became familiar with the situation on the front lines, in the territories and the planned actions for the next day.<sup>4065</sup> **MILETIĆ** was therefore:

the hub of all incoming information from various theatres of war. He brings to the commander's notice any problems that may have occurred, and practically, I don't know how to put it but that's the main - - operator of the information switchboard. He distributed information across various sectors, depending on what is relevant to whom, receives proposals and suggestions from subordinate commanders, wraps them up and gives them a certain shape and transmits them to the commander.<sup>4066</sup>

<sup>4060</sup> SAVČIĆ, T.15260-15261.

<sup>4061</sup> MILOVANOVIĆ, T.12158; SAVČIĆ, T.15261.

<sup>4062</sup> MILOVANOVIĆ, T.12158-12159; Exh. P03178, Main Staff Formation, p.4 (English).

<sup>4063</sup> MILOVANOVIĆ, T.12303.

<sup>4064</sup> MILOVANOVIĆ, T.12181.

<sup>4065</sup> MILOVANOVIĆ, T.12314.

<sup>4066</sup> MILOVANOVIĆ, T.12160-12161.

1637. Consequently, during the morning meetings of Mladić's inner circle, it was **MILETIĆ** who "was the one who explained the situation, who provided an insight into the situation based upon the reports."<sup>4067</sup> **MILETIĆ** obtained this insight by closely following developments across the entire war theatre via reports and other information flowing in from subordinate units and the field.<sup>4068</sup> When **MILETIĆ** received this incoming information from across the war theatre, he analysed that information and suggested solutions to Gen. Mladić for any problems.<sup>4069</sup>

1638. Whatever Mladić decided, **MILETIĆ** translated into documents, orders, notices and briefs, depending on what the commander wanted; if Mladić conceived a military operation in any part of the theatre of war, he would notify **MILETIĆ** and give him guidelines reflecting his wishes, and **MILETIĆ** then translated that into documents.<sup>4070</sup>

1639. **MILETIĆ** was also responsible for monitoring the course of the execution of Mladić's orders and informing Mladić whether an order was going according to plan or not.<sup>4071</sup> Because he followed the developments across the war theatre, **MILETIĆ** was uniquely situated to know if something was not going according to plan; to inform Gen. Mladić; and to suggest a solution to him.<sup>4072</sup>

1640. This was particularly the case when Mladić and Milovanović were in the field and **MILETIĆ** remained at the Main Staff. **MILETIĆ** always played an advisory role for Mladić by virtue of the fact that he was Mladić's key operations officer; however, that advisory role became greater when Milovanović was away because **MILETIĆ** was best-informed about developments throughout the war theatre. Therefore, as shown below, as Standing in for the Chief of Staff, **MILETIĆ** was a critical facilitator through whom Mladić's intent, orders and directives were organised and processed for execution by the Main Staff and subordinate units.

### **Standing In for the Chief of Staff**

1641. For most of 1995, including July 1995, General Milovanović was deployed to various forward command posts throughout the war theatre, from Zvornik in March to

<sup>4067</sup> MILOVANOVIĆ, T.12187-12189.

<sup>4068</sup> OBRADOVIĆ, T.28242-28243 ("the Main Staff and the staff of the Main Staff should be notified about the developments, because we are following the developments in the whole theatre, and we have to be told").

<sup>4069</sup> MILOVANOVIĆ, T.12160-12161.

<sup>4070</sup> MILOVANOVIĆ, T.12159-12160; OBRADOVIĆ, T.28279.

<sup>4071</sup> MILOVANOVIĆ, T.12161.

<sup>4072</sup> MILOVANOVIĆ, T.12161.

Drvar in August and September.<sup>4073</sup> During these extended absences, Milovanović could not directly participate in the work of the Staff sector, so General **MILETIĆ** naturally substituted for him and took over some of the daily tasks and duties of the Chief of Staff, in addition to performing his own duties as Chief of Operations and Training.<sup>4074</sup> These additional responsibilities as Standing in for the Chief of Staff also included briefing the commander, which was an important responsibility.<sup>4075</sup> As Standing in for the Chief of Staff, **MILETIĆ** also assumed responsibility for organising the work of the staff at the Main Staff command post.<sup>4076</sup> In fact, when Milovanović was away, **MILETIĆ** worked from Milovanović's office.<sup>4077</sup>

1642. Thus, when then-Col. Bogdan Sladojević arrived at the Main Staff in Crna Rijeka on 13 July 1995 to begin his VRS service, he was received that morning in the Operations room by **MILETIĆ**, who told him that he was Chief of the Operations and Training Administration and that he was also performing the duties of the Chief of Staff in the Chief of Staff's absence.<sup>4078</sup>

1643. Indeed, throughout 1995 and including July 1995, **MILETIĆ** routinely signed documents as "*Zastupa Načelnika Štaba, General-Major, Radivoje MILETIĆ*," translated as "Standing in for the Chief of Staff, Major General Radivoje **MILETIĆ**." While no set of instructions for the organisation of the Main Staff has been found (there are personnel charts,<sup>4079</sup> but no instructions), the evidence is clear that **MILETIĆ** functioned as Gen. Milovanović's Deputy Chief of Staff when Milovanović was absent from the Main Staff.<sup>4080</sup>

<sup>4073</sup> MILOVANOVIĆ, T. 12160, 12181; TRKULJA, T.15080.

<sup>4074</sup> MILOVANOVIĆ, T.12159, 12308; OBRADOVIĆ, T.28251; TRKULJA, T.15075, 15080-15081; SLADOJEVIĆ, T.14396.

<sup>4075</sup> MILOVANOVIĆ, T.12172-12174.

<sup>4076</sup> OBRADOVIĆ, T.28251, 28455; MASAL, T.29074 (When Milovanović was absent, **MILETIĆ**'s task was "to organise the work with the remainder of the Main Staff that was in Crna Rijeka" and also "to convey orders that he received from the commander to the other units of the army of Republika Srpska; for example, to the Herzegovina, Drina and Sarajevo Romanija Corps.").

<sup>4077</sup> MILOVANOVIĆ, T.12209; Exh. P02828, Diagram of Main Staff Headquarters, Room 5.

<sup>4078</sup> SLADOJEVIĆ, T.14359-14360, 14363.

<sup>4079</sup> See, e.g., Exh. P03178, Main Staff Formation, p.4 (ERN 0505-7626-ET) (English); Exh. 5D00431, Main Staff Formation.

<sup>4080</sup> MILOVANOVIĆ, T. 12306:1 (referring to **MILETIĆ** as "deputy Chief of Staff"); BUTLER, T.20541-20548 (In the corps, the position of Chief of Operations and Training was held concurrently by regulation with the position of Deputy Chief of Staff.); Exh. P00413, JNA 4<sup>th</sup> Corps, *Instructions to the 4<sup>th</sup> Corps Command on Carrying Out Priority Assignments in Peacetime and Wartime*, Sec.IV, para.2. (ERN: 0038-7487-0038-7541, in particular, 0038-7502); SMITH, T.17591 ("The business of operations is the functional purpose of the army, and in one sense, all the other branches are there to support the conduct of operations. And for that reason, the chief of operations is -- and the operational branch, is the first amongst equals in those branches in that headquarters. And so if you're looking for the most senior of those chiefs of departments or branches, then he tends to be the one who does the operations branch, who heads the operations branch, as opposed to the one who heads the logistics branch or one of the others. And it is



1644. General Milovanović testified that when Standing in for the Chief of Staff, **MILETIĆ** had influence in the sense that when Milovanović was in Western Bosnia:

*when I asked for three brigades, he answered that the Main Staff could not send me those brigades and he explained why. Also, if I approached the Main Staff in order to request additional materiel, ammunition, fuel and so forth, he would convey my messages to the commander of the Main Staff - - or the assistant commander for logistics or if I had problems with the state of morale, he would convey those as well. In other words, he was my intermediary in my communication with the other members of the Main Staff, and very often even with the Supreme Command.*<sup>4081</sup>

1645. Hence, **MILETIĆ** gained and passed on critical knowledge not only from analysing reports flowing into the Main Staff, but also from his contacts with Milovanović, Mladić, his Assistant Commanders, subordinate units and the higher command.

1646. **MILETIĆ**'s singular grasp of the situation across the battlefields enabled him to provide immediate and accurate advice to Gen. Mladić:

*Of course, he could participate in discussions, because he was standing in for me and he could convey proposals to the commander, just like me, because he was familiar with the corps reports, he was familiar with the situation based on my conversations with him, and he could explain the situation in Western Bosnia as well as I could have myself.*<sup>4082</sup>

1647. **MILETIĆ** would also suggest to Mladić how to use units, which he could do "because he was the best-informed on the situation in various theatres of war in Republika Srpska," when Milovanović was absent.<sup>4083</sup>

1648. However, this does not mean that **MILETIĆ** assumed all of Milovanović's authorities when he was standing in for him. Specifically, the Chief of Staff is simultaneously Deputy Commander, and as such possessed the right to issue combat-related orders, which no other Main Staff officer enjoyed, with certain exceptions.<sup>4084</sup> Thus, while **MILETIĆ** acquired a heightened ability to issue some types of orders as Standing in for the Chief of Staff through his derived authority from Milovanović, he certainly did not have the full range of command authority reserved to Milovanović in Milovanović's role as Chief of Staff/Deputy Commander.<sup>4085</sup>

1649. Thus, when **MILETIĆ** substituted for Milovanović:

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usual that he is the one who stands in for the chief of staff if there is one. The business of the Chief of Staff is to command the headquarters as a whole and to coordinate its activities into a whole.").

<sup>4081</sup> MILOVANOVIĆ, T. 12317-12318.

<sup>4082</sup> MILOVANOVIĆ, T. 12319.

<sup>4083</sup> MILOVANOVIĆ, T. 12311.

<sup>4084</sup> MILOVANOVIĆ, T.12307 ; SKRBIĆ, T.15501-15502. In certain circumstances, Main Staff officers had such order-issuing authority delegated to them by Mladić or Milovanović. MILOVANOVIĆ, T.12304-12305.

<sup>4085</sup> MILOVANOVIĆ, T.12305, 12308.

he had to coordinate the work of assistant commanders, but not in an order-issuing sense, but rather in an advisory role. I don't know which word to use. Perhaps the best word is a non-binding sense, as deputy Chief of Staff it was his duty to tell General **GVERO**, for instance, General Đukić in logistical units has a problem that your sector should deal with, for instance, crime, theft of materiel, or he would tell Đukić, as chief of logistics, General **GVERO** has a problem with supplies in his sector, he has no paper, no pens, no speakers, no radio devices, no television sets, whatever he needed for security purposes. So he was the one who coordinated but not in the sense of issuing orders. That was something that General Mladić could do or I in Mladić's absence but he could tell **GVERO**, 'Go to that logistical unit and check why there are so many violations and infractions, it's beginning to affect morale.' Or he could tell Đukić, 'Find those supplies and materiel.' So he could not exactly speak in a commanding tone. He could tell others, this or that sector needs such and such supplies or assistance. He would certainly do it without consulting me, because in order to consult me he would have had to establish contact with me across 600 or 700 kilometres, and there was no need for the enemy to be allowed to listen in on our conversations about Đukić needing pencils or some unit having a lot of offences, disciplinary infractions. If General Mladić was at the Main Staff, then my role would be the same as the role I have described for **MILETIĆ** a moment ago. I was also an assistant commander except that I was the first among equals in a way. However, if Mladić was not around, then I did have a command role. I could order **MILETIĆ** or Đukić to give **GVERO** what he needed, such things. **MILETIĆ** was never in a position to issue orders to assistant commanders.<sup>4086</sup>

1650. General Milovanović made clear that if neither he nor Gen. Mladić were present at the Main Staff, no one there was in a position to issue orders:

In that case, General **MILETIĆ** would have had to call me regardless of the distance, but if the case in question called for it, if it was an emergency, he would have called me or if Mladić were closer, he would have had to call Mladić so that one of us could issue appropriate orders. However, in practice, in the practice of the Main Staff, such situations never arose because, after all, the Main Staff was a harmonious whole. We had a good mutual understanding. *And I can't imagine a situation in which General **GVERO** would refuse the advice of General **MILETIĆ**, and I can't imagine any of the assistant commanders having any quarrel with what **MILETIĆ** proposed. We just never experienced such incidents.*<sup>4087</sup>

Thus, **MILETIĆ** earned influence among the Main Staff command and his proposals were respected and accepted.

1651. Although several witnesses questioned whether the term "Standing in for the Chief of Staff" was technically appropriate for **MILETIĆ** to have chosen,<sup>4088</sup> or testified that the Main Staff Chief of Operations and Training would not automatically stand in for the Chief of Staff,<sup>4089</sup> there was no suggestion from any witness that they did not

<sup>4086</sup> MILOVANOVIĆ, T.12305-12307.

<sup>4087</sup> MILOVANOVIĆ, T.12307-12308.

<sup>4088</sup> MILOVANOVIĆ, T.12182; SLADOJEVIĆ, T.14391-14393, 14396; TRKULJA, T.15077-15079; SKRBIĆ, T.15510; LAZIĆ, T.21799, MILJANOVIĆ, T.28887-28888.

<sup>4089</sup> LAZIĆ, T.21753-21754 ("At the strategic level, the chief of administration would not automatically stand in for the Chief of Staff," whereas in the corps, the Chief of Operations and Training was simultaneously Deputy Chief of Staff whose duty was to stand in for the Chief of Staff); SKRBIĆ, T.15595-15597 ("When Milovanović was not at the Main Staff at Crna Rijeka, he chose **MILETIĆ** to stand in for him; Milovanović had the right to pick any senior officer from his sector to fill in for him while he was temporarily absent from that part of the command post, and out of respect for **MILETIĆ**, he did not use this option, though he had the power to do so."). However, even **MILETIĆ** seemed to acknowledge that he was Deputy Chief of Staff, stating during a Personnel Administration interview in February 2000 that he was "Standing in also for the Deputy Chief of the VRS Main Staff." Exh. P04160, Main Staff Personnel Administration Minutes of Official Interview with Radivoje **MILETIĆ**, 21 February 2000.

know that **MILETIĆ** was substituting for Milovanović in carrying out daily tasks of the Chief of Staff or that they misunderstood what **MILETIĆ** was communicating by using the term “Standing in for the Chief of Staff”: he was approving documents not in his role as Chief of Operations and Training, but on behalf of the Chief of Staff. General Milovanović put it simply when he stated,

**MILETIĆ** wanted to make sure that everybody knew that this was his document so he came up with something. He could not put VD, acting for. This is a legal category which had to be covered by an order. He could have put replacing the Chief of Staff or something. He came up with standing in for the Chief of Staff . . . The important thing is that the signatory of this document is General **MILETIĆ** . . .<sup>4090</sup>

1652. Thus, as Standing in for the Chief of Staff, Gen. **MILETIĆ** was a principal advisor to Gen. Mladić in the absence of the Chief of Staff, Gen. Milovanović.<sup>4091</sup>

1653. As Deputy Chief of Staff and Standing in for the Chief of Staff, **MILETIĆ** was the principal advisor to Mladić. He was also the primary facilitator through which the Commander’s intent, orders and directives were organised and processed for execution by the Staff and subordinate units. Responsibilities of the Chief of Staff, which the Deputy Chief would take over upon the Chief of Staff’s absence, include “organizing the work in the Command, directly commanding the Headquarters Command (Main staff and branch bodies), units of the headquarters, and . . . coordinat[ing] the activities of the command bodies in the spirit of the Commander’s decisions and orders.”<sup>4092</sup> As such, the Chief of Staff is the principal means by which the Commander exercises effective command and control of both the Main Staff and subordinate formations. By fulfilling his duties, **MILETIĆ** was required to take on all rights and duties previously mentioned.

#### **Daily Main Staff Reports to the RS President**

1654. When Milovanović was absent, **MILETIĆ** also took over providing the daily Main Staff Reports to the RS President as Standing in for the Chief of Staff.<sup>4093</sup> The Main Staff Daily Reports to the RS Presidency were compiled at the end of each day, after daily combat reports from the six corps commands came in to the Main Staff and the most important points were extracted and compiled, along with information pertaining to

<sup>4090</sup> MILOVANOVIC, T.12301.

<sup>4091</sup> Exh. P00410, Federal Secretariat for National Defense, *Regulations on the Responsibilities of the Land Army Corps Command in Peacetime*, 1990, Sec.II, Art.11 (ERN: 0114-7056-0114-7095 (BCS); 0090-9994-0091-0027 (Eng)).

<sup>4092</sup> Exh. P00410, Federal Secretariat for National Defense, *Regulations on the Responsibilities of the Land Army Corps Command in Peacetime*, 1990, Sec.II, Art.11 (ERN: 0114-7056-0114-7095, in particular, 0114-7065 (BCS); 0090-9994-0091-0027 (Eng)).

<sup>4093</sup> MILOVANOVIC, T.12174.

the individual Main Staff branches, into the Main Staff report.<sup>4094</sup> As the officer responsible for the Main Staff Daily Reports, **MILETIĆ** reviewed, edited and signed them as “Standing in for the Chief of Staff.”<sup>4095</sup> **MILETIĆ** would typically review and sign the reports in the Operations Room, though sometimes he would be woken up if the reports were drafted late because the corps reports arrived late.<sup>4096</sup>

1655. The information contained in the Main Staff Daily Reports was important for the Supreme Command to receive, as they would be the basis of further decisions and actions by President Karadžić throughout the war theatre; consequently they were a vital means of communicating critical information between the highest political and military authorities, as shown further below.<sup>4097</sup>

**(cxviii) Overview of the case against Radivoje MILETIĆ**

1656. Radivoje **MILETIĆ** is individually criminally responsible under Article 7(1) of the Statute for the crimes with which he is charged in the Indictment as a member of the Joint Criminal Enterprise to forcibly remove the Muslim populations of Srebrenica and Žepa.<sup>4098</sup> As described below, **MILETIĆ** made significant contributions to the execution of the common purpose of the JCE and shared the intent with the other members of the JCE to commit the crimes which fell within the common purpose of the JCE.

1657. **MILETIĆ** was an experienced Main Staff officer who gained familiarity with the strategic significance of the eastern enclaves through his work on the Main Staff, and on numerous occasions was responsible for drafting key strategic and operative documents in which the VRS set out its plans for implementing the Bosnian Serb war goals in the Podrinje region, which included removing the Muslim population from it.

1658. Concretely, he drafted Directives 7 and 7/1; played a critical role in executing Directive 7’s plan to restrict resupplies to the enclaves and he monitored the *Krivaja-95* and *Stupčanica-95* operations.

1659. **MILETIĆ** was an essential figure in the Joint Criminal Enterprise and operation to remove the Bosnian Muslim population from Srebrenica and Žepa. He was “a figure who united and coordinated the work of the Main Staff, was always present,”<sup>4099</sup> and who also combined the technical knowhow of an experienced draftsman with the longstanding

<sup>4094</sup> TRKULJA, T.15091, 15095; SLADOJEVIĆ, T.14364-14365.

<sup>4095</sup> TRKULJA, T.15076, 15091.

<sup>4096</sup> TRKULJA, T.15096; SLADOJEVIĆ, T.14365.

<sup>4097</sup> MILOVANOVIĆ, T.12176-12177; SKRBIĆ, T.15510.

<sup>4098</sup> See para. 75 of the Indictment.

<sup>4099</sup> MILOVANOVIĆ, T. 12305.

experience from working on the Main Staff throughout its strategic campaigns to liberate the Podrinje region.

1660. Indeed, General Milovanović, VRS Chief of Staff and **MILETIĆ**'s immediate superior, testified that:

**MILETIĆ**'s trench was to design documents, to make plans, to coordinate the work of subordinated units, with a view to accomplishing the uniform task of all VRS units, and that is to defend Repulika Srpska. **MILETIĆ** did this as the officer -- an officer of the staff. The value of every operations officer is great, is crucial, but operations officers are considered to be the soul of an army. In this case, he was the soul of the Main Staff of the VRS. He knows everyone, he is able to advise everyone, to give them the appropriate information.<sup>4100</sup>

1661. Other duties **MILETIĆ** held included formulating combat documents, planning and organizing movements of the command, and studying information received before notifying both the Commander and Chief of Staff of important information and essential proposals.<sup>4101</sup>

**(S) MILETIĆ KNEW OF, CONTRIBUTED TO, AND SHARED THE INTENT TO PARTICIPATE IN THE JOINT CRIMINAL ENTERPRISE TO FORCIBLY REMOVE THE MUSLIM POPULATION FROM SREBRENICA AND ŽEPA.**

1662. As noted above, Gen. **MILETIĆ** joined the Main Staff in July 1992 and became a member of its Operations organ soon thereafter. He was in the operations organ of the Main Staff when Directive 4 was drafted, clearly pursuant to the "full" or "complete" method of group staff work. Therefore, he must have been knowledgeable of both the six Strategic Objectives and Directive 4. Moreover, he was in the Operations organ during the Cerska campaign of 1992 to 1993 implementing Directive 4 in the Podrinje and would have also been involved in the drafting of the 1992 Analysis of Combat Readiness and Activities of the VRS, assisting his superior, then-Chief of Operations and Training Dragan Ilić.<sup>4102</sup> The 1992 Analysis of Combat Readiness specifically discussed how the Strategic Objectives were being met in the Podrinje via the successes of the Cerska campaign. Shortly thereafter, he personally took an important role in the ground warfare in May of 1993 in coordinating Operation *Spring-93* to liberate Žepa and Goražde.

1663. **MILETIĆ** was an essential figure in the Joint Criminal Enterprise and operation to remove the Bosnian Muslim population from Srebrenica and Žepa. **MILETIĆ** drafted Directive 7, which was issued by RS President Radovan Karadžić on 8 March 1995.

<sup>4100</sup> MILOVANOVIĆ, T. 12309.

<sup>4101</sup> Exh. P00413, JNA 4<sup>th</sup> Corps., *Instructions to the 4<sup>th</sup> Corps Command on Carrying Out Priority Assignments in Peacetime and Wartime*, Sec.IV, pp. 17-18 (ERN: 0038-7487-0038-7541; in particular, 0038-7502).

<sup>4102</sup> BUTLER, T.19694.

(cxix) **MILETIĆ drafted and participated in Operation *Spring-93***

1664. In May 1993, following the declaration of Srebrenica as a “safe area,” the Main Staff commenced Operation *Spring-93*, a combat operation to “liberate” Žepa and Goražde.<sup>4103</sup> Then-Colonel **MILETIĆ** drafted the Combat Order for *Spring-93*, in which the task of the VRS was:

to crush and destroy Muslim armed formations in the broader area of Žepa and Goražde and to enable the Muslim civilian population to move out (transfer) to other territories (central part of the former BiH) or to recognize the rule of Republika Srpska and in that manner create conditions for the return of the Serbian population to the left and right bank of the Drina river.”<sup>4104</sup>

1665. **MILETIĆ** further specified that “Upon the liberation of the wider region of Žepa, the civilian population shall be provided with the organised exit to the premises of the so called Central Bosnia, along the direction: village Žepa – Studen Gora – village Mekote – Kladanj, or the stay in Žepa should they recognize the RS authorities.”<sup>4105</sup> Similar provisions for the “organised exit” of Goražde’s civilian population were also included in the combat order.<sup>4106</sup>

1666. The *Spring-93* Combat Order specifically assigned **MILETIĆ** with merging, planning, linking and command and control of the forces engaged in the attack on Žepa, which lasted approximately one month of fighting in April 1993.<sup>4107</sup> From the command post in Rogatica, **MILETIĆ** “unified and coordinated the activities around Žepa;” according to Gen. Dragiša Masal, Main Staff Chief of Artillery,

I can say on the basis of my experience, of things that I did when I was in a similar role, and that’s coordination and organisation of the cooperation and concerted action between units of different corps, and perhaps providing some suggestions in the course of the operation itself to subordinate commanders, all this on the basis of the order from the Main Staff Commander.”<sup>4108</sup>

Operation *Spring-93* stopped only because Žepa was proclaimed a “safe area.”<sup>4109</sup>

1667. **MILETIĆ**’s *Spring-93* Combat Order reveals his deep knowledge of both the larger political and diplomatic context in which the operation was to be carried out, as well as the situation on the ground; among other things, he makes reference to the Muslims’ recent military defeats in Kamenica, Cerska and Konjević Polje; the introduction of UN forces to Srebrenica; and the anticipated efforts by the Muslims to

<sup>4103</sup> Exh. P02742, Main Staff Strictly confidential no.: 02/2-402, Combat order for the Liberation of Žepa and Goražde, 1 May 1993, drafted by Col. Radivoje **MILETIĆ** and signed by Maj. Gen. Manoljo Milovanović.

<sup>4104</sup> Exh. P02742, p.6, para.2 (English).

<sup>4105</sup> Exh. P02742, p.11 (English).

<sup>4106</sup> Exh. P02742, p.12 (English).

<sup>4107</sup> Exh. P02742, p.8 (English); MASAL, T.29140-29143.

<sup>4108</sup> MASAL, T.29143-29146.

<sup>4109</sup> MASAL, T.29140-29143.

declare Žepa a safe area.<sup>4110</sup> Thus, **MILETIĆ**'s Combat Order can only be reasonably read as a further attempt to implement the strategic goal of removing the Muslim population from the eastern enclaves. **MILETIĆ** would clearly carry this knowledge forward with him when drafting Directive 7 approximately two years later.

**(cxx) MILETIĆ drafted Directive 6.**

1668. Approximately six months after drafting the *Spring-93* combat plan, **MILETIĆ** drafted Directive 6, one of the objectives of which was to: "create objective conditions for the achievement of *strategic war goals* of the army of Republika Srpska, including: a) the liberation of Sarajevo; b) defining the borders of Republika Srpska on the Neretva river and gaining access to the sea; c) defining the borders of Republika Srpska in the Una river basin; and d) expanding the borders of Republika Srpska in the northeastern part and establishing further ties with Serbia. Clearly, items a) through d) of Directive 6 echo the Strategic Objectives."<sup>4111</sup>

**(cxxi) MILETIĆ drafted Directive 7.**

1669. By virtue of his position as Chief of Operations and Training, experience as a draftsman and demonstrated familiarity with the larger political, diplomatic and military context of the Podrinje region, **MILETIĆ** was well-suited to draft Directive 7. By March 1995, **MILETIĆ** had been in the Main Staff operations organ for over two and a half years and was familiar with the combat situation throughout the territory and with the strategic goals of the war, having also recently participated in the two-day combat readiness analysis briefing on 29 and 30 January 1995, the agenda for which he had proposed to Gen. Mladić and which Mladić had accepted.<sup>4112</sup> At this high-level combat readiness analysis briefing, President Karadžić addressed the attendees about "defining future political and military goals and strategies of conducting the war and peace strategies."<sup>4113</sup>

<sup>4110</sup> BUTLER, T.19697-19700; Exh. P02742, pp.1-2 (English).

<sup>4111</sup> Exh. P03919, Directive for Further Operations No. 6, 11 November 1993, drafted by Col. Radivoje **MILETIĆ**, signed by Dr. Radovan Karadžić, pp.3-4 (English) (emphasis added); Exh. P02755, RS Decision 386 02-130/92 from Official Journal, Decision on Strategic Objectives for the Serbian People in Bosnia and Herzegovina, 26 November 1993.

<sup>4112</sup> Exh. 5D00967, Schedule, Briefing on Combat Readiness in 1994, 29 and 30 January 1995, signed by Col. Radivoje **MILETIĆ**, accepted by Col. Gen. Ratko Mladić.

<sup>4113</sup> Exh. 5D00967, p.3 (English); SIMIĆ, T.28498-28502, 28659-28660 (Directive 7 followed from the combat readiness analysis briefing in January); OBRADOVIĆ, T.28319-28320 ("the tasks and the conclusions that were passed towards the end of January, after the analysis of the combat readiness of the army of Republika Srpska, which involved the participation of the Main Staff, which means the commander, his assistants, corps commanders, the Supreme Commander and his organs. This analysis gave rise to certain conclusions which were the basis for the drafting of the directive that we are talking about.").

1670. In connection with the combat readiness analysis, Gen. Mladić ordered the corps to submit directly to Gen. **MILETIĆ** their prepared combat readiness analysis reports.<sup>4114</sup> Thus, **MILETIĆ** would have no doubt been familiar with the assessments made by the various corps of the conduct of the past year's combat activities and their proposals for the year to come, including no doubt the Drina Corps' proposal to the Main Staff and Supreme Command that "Solutions will be found for the elimination of the enclaves."<sup>4115</sup> By this time, there was the belief that the end of the war was coming.<sup>4116</sup>

1671. Consistent with the methodology described above in paras. 136-143, the method used by **MILETIĆ** and his Operations branch for drafting Directive 7 (and 7/1) was the "full" or "complete" method of group work in the command.<sup>4117</sup>

1672. General Milovanović described how **MILETIĆ** consulted with the various sectors and administrations in drafting Directive 7:

The drafting of all written documents to be issued by the Main Staff, relative to any combat activities, is in the - - within the purview of the operate - - operations administration. There is no dedicated team that is appointed to do that, unless there is a specific need to appoint a dedicated team. All the other sectors and administrations of the Main Staff were duty-bound in this specific case, in the case of directive number 7, to provide **MILETIĆ** with their respective positions and opinions. Since this directive was drafted for the Supreme Command, and at the request of the Supreme Command, **MILETIĆ** could, but did not have to, consult with the assistants of the commander. The situation was different when a document to be issued by the Main Staff was being drafted. Then it was his duty to consult the commander's assistants.<sup>4118</sup>

1673. This meant that the Operations and Training and arms organs put together the "Unit Assignments" section of Directive 7 based upon proposals from the arms organs, with **MILETIĆ** participating in this process.<sup>4119</sup> This was something which required professional expertise and had to be performed by the professionals in **MILETIĆ**'s operations organ.<sup>4120</sup>

1674. Under the heading "The Tasks of the Republika Srpska Army," Directive 7 listed as its ultimate objective the creations of "optimum conditions for the state and political

<sup>4114</sup> Exh. 5D01206, Main Staff Strictly confidential number: 02/2-181 23, "Order on the preparation, organisation and carrying out briefing on the combat readiness of the VRS in 1995," type-signed by Col. Gen. Ratko Mladić, 23 January 1995, p.6 (English).

<sup>4115</sup> Exh. 5D01394, Drina Corps Command, Combat Readiness Analysis for 1994, 28 January 1995 ("The corps command is to find solutions for the full sealing-off of the enclaves of Srebrenica and Žepa, and the commands of the brigades shall plan the improvement of their tactical positions and realise them if there should be an interruption of the cease-fire. At the level of the Main Staff and the Supreme Command, take care of the following: 1) Solutions will be found for the elimination of enclaves. We see two ways of going about this, either by militarily defeating enemy forces in the enclaves or by political and diplomatic means." ).

<sup>4116</sup> OBRADOVIĆ, T.28344.

<sup>4117</sup> BUTLER, T.19690-19692; LAZIĆ, T.21763.

<sup>4118</sup> MILOVANOVIĆ, T.12275.

<sup>4119</sup> OBRADOVIĆ, T.28346.

<sup>4120</sup> N. SIMIĆ, T.28512.



leadership to negotiate a peace agreement and accomplish the strategic objectives of the war.”<sup>4121</sup>

1675. As noted above in para. 1636, before **MILETIĆ** signed his name to any document, he was duty-bound to review it and familiarise himself with its contents; unquestionably, **MILETIĆ** would have been thoroughly familiar with every aspect and element of a document as important as Directive 7 before it went out under his name as the drafter.

1676. **MILETIĆ**'s familiarity with the final version of Directive 7 was further demonstrated by his work drafting Directive 7/1, in which he specifically referred the reader back to Directive 7.<sup>4122</sup> Thus, when **MILETIĆ** assembled and drafted the section in Directive 7/1 stating, “Other details of the intentions and possibilities of the enemy forces are in Directive number 7, and the daily intelligence reports of the VRS Main Staff,” **MILETIĆ** must have clearly read and known what was in the signed version of Directive 7 when he was drafting Directive 7/1.<sup>4123</sup> Indeed, **MILETIĆ** kept a copy of Directive 7 in his strong box in the Main Staff, and both Directive 7 and 7/1 were available in the Operations and Training Administration for review.<sup>4124</sup>

1677. The Main Staff sent Directive 7 to the Drina Corps, which in turn drafted its own order pursuant to Directive 7 to send to its brigades.<sup>4125</sup> Colonel Milenko Lazić, who by that time had moved from his position of Deputy Chief of Operations at the Main Staff to become Chief of Operations and Training at the Drina Corps,<sup>4126</sup> testified that he was involved in drafting the Drina Corps order which flowed from Directive 7. Col. Lazić testified that Gen. Živanović drew information from Directive 7 to formulate the Drina Corps order, and that through the Drina Corps order, Živanović communicated Directive 7's long-term objectives and goals to the brigades.<sup>4127</sup> Specifically, the Drina Corps order repeated, word for word, the language of Directive 7: “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.”<sup>4128</sup>

<sup>4121</sup> Exh. P00005, p.8, para.3 (English).

<sup>4122</sup> Exh. 5D00361, Main Staff DT No. 02/2-15, Directive for Further Operations, No. 7/1, *Sadejstvo* 95, Drafted by Col. Radivoje **MILETIĆ**, signed by Col. Gen. Ratko MLADIĆ, 31 March 1995.

<sup>4123</sup> OBRADOVIĆ, T.28352.

<sup>4124</sup> OBRADOVIĆ, T.28331, 28343.

<sup>4125</sup> Exh. P00203, Drina Corps Command, Strictly confidential no: 03/277-2, “Order for Defence and Active Combat Operations, Operative No.7,” 20 March 1995, signed by Maj. Gen. Milenko Živanović.

<sup>4126</sup> LAZIĆ, T.21753.

<sup>4127</sup> LAZIĆ, T.21822.

<sup>4128</sup> Exh. P00203, p.6 (English) (emphasis added); LAZIĆ, T.21853-21853.

1678. **PANDUREVIĆ** acknowledged during his testimony that he contemporaneously received and read the Drina Corps Order,<sup>4129</sup> and had no choice but to concede that this part of Directive 7 was unlawful.<sup>4130</sup> Even without this critical admission by an Accused, the evidence is beyond any doubt that **MILETIĆ** knew about, understood and agreed with the criminal objective contained in Directive 7 when it went out under his name and was promulgated to the corps and subordinate commands. Further evidence of this understanding is found in **MILETIĆ**'s meticulous and relentless leadership role in implementing Directive 7's policy of restricting resupply convoys to the enclaves.

**(cxxii) MILETIĆ significantly contributed to the restriction of re-supply convoys.**

1679. As noted above at paras. 215-250, from March 1995 through July 1995 the VRS deliberately restricted humanitarian and aid supplies to the Bosnian Muslim inhabitants of the two enclaves as an essential component of the effort to remove them.<sup>4131</sup> At the same time, the VRS restricted resupply to DutchBat and prevented rotation of fresh DutchBat personnel.<sup>4132</sup> General **MILETIĆ** played a key role in organizing and implementing these efforts to create an unbearable situation with no hope of further survival or life in the enclaves through executing the VRS policy of restricting resupply convoys. Some examples of his direct involvement in the convoy approvals/denials process include:

a 6 March 1995 notification in which he notifies the corps about which convoys it had denied and providing instructions;<sup>4133</sup>

a 10 March 1995 notification in which he instructs the subordinate units to "Discuss the information on unapproved convoys with check points, do not tell third persons and do not give any explanation to UNPROFOR representatives (pretend you did not get them). If a convoy shows up at a crossing point, return it to the place of departure;"<sup>4134</sup>

<sup>4129</sup> **PANDUREVIĆ**, T.30822-30823.

<sup>4130</sup> **PANDUREVIĆ**, T.32137:7-24.

<sup>4131</sup> Exh. P00005, RS Armed Forces Supreme Command Ref. no. 2/2-11, Directive for Further Operations No. 7, 8 March 1995.

<sup>4132</sup> VAN DUIJN, T.2260-2263; FRANKEN, T.2445-2450; KOSTER, T.3033-3035; RUTTEN, NICOLAI, T.18452-18459. *See also* Exh. P02956, UNPROFOR Sector Sarajevo Weekly Situation Report of Civil Affairs Officer David Harland, 3 June 1995 (ERN: 0327-9228-0327-9232).

<sup>4133</sup> Exh. P02522, Main Staff Number: 06/18-104, notification of convoy approvals/denials to Sarejevo-Romanija Corps and Drina Corps, type-signed by Col. Radivoje **MILETIĆ**, Standing in for the Chief of Staff, 6 March 1995; BUTLER, T.19716-19717.

<sup>4134</sup> Exh. P02531, Main Staff Number 06/18-112, notification of convoy approvals/denials to Drina Corps, type-signed by Col. Radivoje **MILETIĆ**, Standing in for the Chief of Staff, 10 March 1995, p.6 (English); BUTLER, T.17819-17822.

a 2 June 1995 notification in which he denies school supplies and the Swedish Shelter Project, and regulates the number of cigarettes the convoy personnel are permitted to have;<sup>4135</sup>

a 12 June 1995 notification in which he restricts MSF personnel rotation;<sup>4136</sup>

an 18 June 1995 notification regarding Žepa convoys, in which he specifies: “I demand a detailed check of all vehicles including the inspection of cargo. Pay special attention to the fuel in the fuel tanks and the fuel being brought into the enclaves. Check the documents and the identity of all persons on board. Make a list of their names and their ID cards in order to ensure that the persons who enter the enclaves must leave the enclaves upon completion of the task. We informed the UNPROFOR command about this demand;”<sup>4137</sup>

a 1 July 1995 notification permitting convoy to pass only if aid for Serbs was delivered;<sup>4138</sup>

3 and 5 July 1995 notifications permitting leave convoys out but not permitting them to reenter.<sup>4139</sup>

1680. If there were any doubt that Gen. **MILETIĆ**’s instructions carried the force of orders towards the subordinate units enforcing Directive 7’s policy at the checkpoints, Col. Mirko Trivić, Commander of the 2d Romanija Motorised Brigade, removed it when he testified that:

<sup>4135</sup> Exh. P02714, Main Staff notification of convoy approvals/denials to Drina Corps, type-signed by Col. Radivoje **MILETIĆ**, Standing in for the Chief of Staff, 2 June 1995, p.2 (English); BUTLER, T.19725-19726.

<sup>4136</sup> Exh. P02717, Main Staff notification of convoy approvals/denials to Drina Corps, type-signed by Col. Radivoje **MILETIĆ**, Standing in for the Chief of Staff, 12 June 1995; BUTLER, T.19727-19728.

<sup>4137</sup> Exh. P02497, Main Staff notification of convoy approvals/denials to Drina Corps for convoy to Žepa, signed by Col. Radivoje **MILETIĆ**, Standing in for the Chief of Staff, 18 June 1995.

<sup>4138</sup> Exh. P02554, Main Staff Number: 06/18-260, notification of convoy approvals/denials to Sarajevo-Romanija Corp and Drina Corps Commands, type-signed by Maj. Gen. Radivoje **MILETIĆ**, Standing in for the Chief of Staff, 1 July 1995, pp.2-3, paras.5-6 (English); BUTLER, T.19729-19730. This demand for reciprocity was frequently used as the basis for denying or approving convoys. Exh. P02689, Main Staff Number /0?//20-140, notification of convoy approvals/denials, type-signed by Lt. Gen. Manojlo Milovanović, 7 April 1995 (denying beef, salt, oil and clapboards for Srebrenica on 8, 9, 10, 11,12 and 13 April 1995 and approving heating oil only if Serbs got theirs). BUTLER, T.19721.

<sup>4139</sup> Exh. P02556, Main Staff Number: 06/18-262, notification of convoy approvals/denials to Drina Corps, type-signed by Maj. Gen. Radivoje **MILETIĆ**, Standing in for the Chief of Staff, 3 July 1995 (permitting UNPROFOR convoy to leave Srebrenica enclave, but denying return of convoy into the enclave), p.1 (English); BUTLER, T.19731 (noting that the *Krivaja-95* orders had been issued by this time); Exh. P02558, Main Staff Number: 06/18-264, notification of convoy approvals/denials to Drina Corps, type-signed by Gen. Maj. Radivoje **MILETIĆ**, Standing in for the Chief of Staff, 5 July 1995 (“We wish to underline that the convoy to Srebrenica must be exhaustively checked at Žuti Most to prevent photo and video material from being taken out. If you find any such material, confiscate it and inform the VRS Main Staff”), p.2 (English); BUTLER, T.19732-19733 (**MILETIĆ** was certainly aware that *Krivaja-95* forces were in position to begin attack, so **MILETIĆ** does not want to compromise security or secrecy of operation by having photographs taken of troop positions.).

I think it's inconceivable that they wouldn't comply. They were informed what they were supposed to do, and I presume that they reported back about what they did to the Main Staff, and that would be the information or report recorded as mission completed by Colonel Radivoje **MILETIĆ**.<sup>4140</sup>

1681. This directional language also reflects **MILETIĆ**'s authority as Standing in for the Chief of Staff.<sup>4141</sup>

1682. An example of this reporting back can be seen in a report from Rogatica Brigade Commander Rajko Kušić to the Main Staff, in which he advised that he had taken half of the fuel brought in an UNPROFOR resupply convoy to Žepa for the needs of his brigade.<sup>4142</sup>

1683. In his central role in the convoy approval process, **MILETIĆ** also made sure that the Brigades with the most frequent and sensitive checkpoint activity received very specific instructions. Consequently, the Main Staff maintained direct contact with Capt. Momir Nikolić at the Bratunac Brigade.<sup>4143</sup> In fact, the Main Staff initiated the checkpoint and controls implemented by the Bratunac Brigade:

During 1995, international organisations and their representatives have passed through and stayed temporarily in the brigade's area of responsibility. Their stay and activities in the area of responsibility were monitored, and every significant event was promptly reported to superior organs of the Drina Corps and the VRS Main Staff. In the brigade's area of responsibility a checkpoint was established for the control of all international organisations entering and leaving the enclave of Srebrenica. This checkpoint functions in accordance with the orders of the VRS Main Staff and instructions and orders of the Brigade Commander. During the last six months, the checkpoint worked very successfully and without any mistakes that could have had negative consequences.<sup>4144</sup>

1684. This longstanding coordination between the Main Staff and the Bratunac Brigade proved effective, for example following the takeover of the Srebrenica enclave when a UNHCR convoy needed approval from the Main Staff to pass to monitor the medical evacuation from Bratunac, **MILETIĆ** specified:

Note: Related to this journey, security organs of the 1<sup>st</sup> Bratunac lpb must constantly monitor their movement and activities. They must not allow them to go anywhere on their own and must

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<sup>4140</sup> TRIVIĆ, T.12043-12044.

<sup>4141</sup> BUTLER, T.19728.

<sup>4142</sup> Exh. P02496, 1st Podrinje Light Infantry Brigade Command, Strictly Confidential No. 02-640/95, Report to Main Staff, type-signed by Maj. Rajko Kušić, 23 June 1995.

<sup>4143</sup> Exh. P02551, Main Staff Number 06/18-256, notification of convoy approvals/denials to Drina Corps, for rotation of UNMOs out of Srebrenica enclave, type-signed by Col. Radivoje **MILETIĆ**, Standing in for the Chief of Staff, 29 June 1995 (**MILETIĆ** notes that "On 29 June we sent a separate letter to the Drina Corps Command and to the Bratunac Brigade - Capt. Nikolić in which we set out the manner of inspection and requests in this connection once they leave the enclave").

<sup>4144</sup> Exh. P00230 (same as 4D00316), Bratunac Brigade Analysis of Combat Readiness for the first half of 1995, 4 July 1995, p.19 (English).

restrict their movement, but be very polite. In other words, the security organs must direct their movement.<sup>4145</sup>

1685. As noted above in paras. 1317-1319, the Zvornik Brigade also enforced the ever-tightening restrictions from the Main Staff and reported back.

**(cxxiii) MILETIĆ significantly contributed to the *Krivaja-95* operation.**

1686. **MILETIĆ's** decisions and actions were critical to the effort to defeat Bosnian Muslim forces militarily and to remove the Muslim population from Srebrenia and Žepa. **MILETIĆ** monitored the state of the enclaves before, as well as after, their defeat, reporting this information to his superiors, including President Karadžić, and to his subordinates regarding the status of the Muslim men, as well as the progress of the removal of the population, from both enclaves. At the same time, **MILETIĆ** was duty-bound to monitor the activities of VRS and MUP units and communicated this information to his superiors, subordinate commands and President Karadžić.

1687. **MILETIĆ's** monitoring of the Drina Corps activities from March through November 1995 and the information he learned and passed to General Mladić and President Karadžić were crucial components and contributions to the JCE to remove the Muslim population from Srebrenica and Žepa because his knowledge, as transferred to General Mladić, President Karadžić and others, allowed Mladić and Karadžić and other members of the JCE to make informed decisions in carrying out the operation and policy to remove the Muslims from the enclaves. In this way **MILETIĆ** played an essential role in each high level decision made in furtherance of the JCE, including the following decisions: in Directive 7, creating conditions for the removal of the Muslim population, restricting aid to the enclaves, the decision to attack the enclaves, to expand the attack to include Srebrenica town and the civilians, to forcibly transport the Muslim population of Srebrenica, to attack Žepa, to remove the Muslim population from Žepa, and others.

**MILETIĆ knew about *Krivaja-95* before it started, followed it and reported on it**

1688. Colonel Milenko Lazić testified that he presumed that Krstić informed the Main Staff of President Karadžić's order to the Drina Corps to begin planning immediate combat actions against Srebrenica, as Krstić had a direct line from his office to the Main Staff.<sup>4146</sup> Lazić noted in this regard that "It is the obligation of the commander of the

<sup>4145</sup> Exh. P02570, Main Staff Number: 06/20-269, notification of convoy approvals/denials to Drina Corps for UNHCR convoy to travel to Bratunac to monitor medical evacuation on 19 July, type-signed by Maj. Gen. Radivoje **MILETIĆ**, Standing in for the Chief of Staff, 18 July 1995, p.2, para.3 (English); BUTLER, T.19733-19735.

<sup>4146</sup> LAZIĆ, T.21746.

corps to inform the Main Staff about the fact that he had received a combat assignment.”<sup>4147</sup> Significantly, Lazić confirmed that his prior statement to the **BEARA** Defence team that immediately after Karadžić left the Drina Corps Command and Krstić summoned the corps command to assemble, the Main Staff was informed by telegram that a combat order had been received.<sup>4148</sup>

1689. In any event, a copy of the *Krivaja-95* Attack Order was sent to Main Staff.<sup>4149</sup> Having received a copy of the *Krivaja-95* Attack Order, over the next days, as the Drina Corps forces prepared themselves for the start of the *Krivaja-95* operation, **MILETIĆ** kept Karadžić informed, thus reflecting **MILETIĆ**’s knowledge that planning for *Krivaja-95* was underway.<sup>4150</sup>

1690. Once *Krivaja-95* commenced and continuing through the *Stupčanica-95* operation, **MILETIĆ** and his operations officers naturally continued to be responsible at the Main Staff for reviewing the daily and interim reports coming to the Main Staff from the Drina Corps, as well as reports coming in from other sources, such as **MILETIĆ**’s personal conversations with the command of the 65<sup>th</sup> Motorised Protection Regiment, whose elements were engaged in the Žepa area.<sup>4151</sup> As discussed previously, this information was crucial to the successful coordination between the highest political and military levels and the decision-making that would be undertaken regarding the attacks on the enclaves.

1691. Also during the *Krivaja-95* operation, **MILETIĆ**’s Operations organ drafted two important documents. The first was General Tolimir’s urgent report sent personally to Generals **GVERO** and Krstić at the Drina Corps IKM in Pribičevac, reporting that the

<sup>4147</sup> LAZIĆ, T.21746.

<sup>4148</sup> LAZIĆ, T.21865.

<sup>4149</sup> Exh. P00107; p.10 (English).

<sup>4150</sup> Exh. P02889, Main Staff Strictly confidential number 03/3-183, Daily Report to the President of Republika Srpska, type-signed by Maj. Gen. Radivoje **MILETIĆ**, Standing in for the Chief of Staff, 2 July 1995, p.3, para.6 (English) (In the Drina Corps, “Unengaged forces are being prepared for forthcoming active combat operations.”), and Exh. P0002890, Main Staff Strictly confidential number 03/3-184, Daily Report to the President, type-signed by Maj. Gen. Radivoje **MILETIĆ**, Standing in for the Chief of Staff, 3 July 1995, pp.3-4, para.6 (English) (In the Drina Corps, “Forces that are not engaged are carrying out preparations for forthcoming active combat operations.”); BUTLER, T. 19770-19771, 19779-19780; Exh. P03164, Main Staff Strictly Confidential no. 03/3-185, Daily Report to the President of Republika Srpska, type-signed by Maj. Gen. Radivoje **MILETIĆ**, Standing in for the Chief of Staff, 4 July 1995, p.4, para.6(b) (“The Corps units are at the ordered state of combat readiness, firmly holding the achieved defence positions. They have been regrouping forces with the objective of totally enclosing the Srebrenica enclave.”).

<sup>4151</sup> Exh. 5D01205, 65<sup>th</sup> Motorised Protection Regiment Command, Strictly confidential no. 7/354, Writing regular combat reports, Order, type-signed Maj. Milomir Savčić, 23 December 1993 Savčić (based on an oral order from Milovanović, reporting would be done orally by telephone at 0800 and 1900 hours by the Regiment’s Chief of Staff to **MILETIĆ**). This order was still in effect in 1995. OBRADOVIĆ, T.28271-28273; Exh. P02895, Main Staff Daily Report to the President of Republika Srpska (reporting on combat operations and operations towards Žepa).

President of Republika Srpska was satisfied with combat operations around Srebrenica and had agreed with the continuation of operations to take over the enclave.<sup>4152</sup> **MILETIĆ**'s Operations organ drafted this communication.<sup>4153</sup>

1692. The second was Mladić's 10 July Order stating that "As a result of the newly arisen situation around the Srebrenica enclave and the VRS success in that part of the front, separation of the enclaves and narrowing the area around Srebrenica, and in order to close the Žepa enclave and improve the tactical position of our forces around the enclave," the Drina Corps was to plan and launch an offensive on Žepa on 12 July.<sup>4154</sup> While events subsequently changed the start date of the offensive operations against Žepa, this order demonstrates the type of larger-picture thinking vested in the Main Staff.<sup>4155</sup> Both this order and Tolimir's report required the expertise of **MILETIĆ** and his operations offices to draft, necessitating his knowledge of the information contained in them.

**The Main Staff supported Krivaja-95 and the removal of the civilians logistically.**

1693. In addition to **MILETIĆ**'S role to be fully informed and pass his information and proposals to Mladić, Karadžić and others, **MILETIĆ** was also closely involved in implementing the logistical operations on the ground around Srebrenica and Žepa in furtherance of the objective to control UNPROFOR, defeat the BiH forces, control and expel the Muslim populations.

1694. Securing the vehicles and fuel necessary to transport the thousands of civilians gathered in Potočari out of the enclave was a monumental task in which the Main Staff directly participated. General Petar Skrbić, Main Staff Assistant Commander for Organisation, Mobilisation and Personnel Affairs, received an order from Mladić to mobilise buses; orders from the Main Staff went out on 12 July to the Drina Corps and

<sup>4152</sup> Exh. P00033 (same as Exh. P00849), Main Staff Strictly confidential no. 12/46-501/95, Conduct of combat operations around Srebrenica, personally to Generals **GVERO** and Krstić, type-signed by Maj. Gen. Zdravko Tolimir, 9 July 1995.

<sup>4153</sup> SKRBİĆ, T.15524-15525.

<sup>4154</sup> Exh. P00181, VRS Main Staff Order No.03/4-1807, "Taking the defence line and improving the tactical position," ordering offensive combat activities against Žepa on 12 July, 10 July 1995, type-signed by Lt. Gen. Ratko Mladić, 10 July 1995 (ERN: 0425-7963-0425-7965).

<sup>4155</sup> BUTLER, T.19797-19780.

the Ministry of Defence for buses.<sup>4156</sup> This was followed by numerous orders within the Drina Corps and Ministry of Defence securing and directing the vehicles to Bratunac.<sup>4157</sup>

1695. In particular, the Drina Corps issued an order addressed to its subordinate units directing that “all buses and mini-buses belonging to the VRS be secured for use by the Drina Corps;” specifying that the buses arrive at the Bratunac stadium by 16:30 hours; giving specific instructions about locations for fuel disbursement; and stating that it had sent a message to the RS Ministry of Defence requesting that buses from state and private companies be mobilised and placed under the brigade commands in whose area of responsibility the buses were being sought.<sup>4158</sup>

1696. As these large amounts of fuel were beyond the capacities of the Drina Corps, the Main Staff was contacted to secure fuel for the transportations. For example, Gen. Živanović sent a written request to the Main Staff seeking further guidance and requesting 5,000 litres of D2 fuel and 2,000 litres of petrol “pursuant to the Main Staff order” for buses for “for evacuation from the Srebrenica enclave.”<sup>4159</sup>

1697. At about the same time, **MILETIĆ** himself was contacted about locating fuel. In a conversation intercepted at 12:20 hours on 12 July, when the first participant asked, “What are we going to do about fuel?,” the second participant replied that he did not know; that “I told **MILETIĆ**,” and that **MILETIĆ** “doesn’t know either.”<sup>4160</sup> What this intercept shows is that on 12 July 1995, just prior to the time when the removal of the civilians from Potočari began, **MILETIĆ** was consulted about fuel for that operation; whether or not he may have known exactly how or from where that fuel was going to be procured is irrelevant to the point that **MILETIĆ**, as Chief of Operations and Training, was naturally consulted about it.

1698. Records from the Bratunac Brigade establish that the Main Staff was in fact successful in obtaining fuel for the transportation of the Muslims out of Srebrenica. First, Bratunac Brigade Materiel Lists for fuel show large amounts coming in on 12 July.<sup>4161</sup>

<sup>4156</sup> SKRBIĆ, T.15471-15484; Exh. P02899, 12 July 1995 Main Staff order to MOD for 50 buses to Bratunac stadium, type-signed by Maj. Gen. Petar Skrbić.

<sup>4157</sup> See, e.g., Exh. P00012 (RS Ministry of Defence order in response to the Main Staff); Exh. P00013 (Zvornik Ministry of Defence); and Exhs. P00014, P00015, P00016, P00017, P00871, P02900, P02901; P02902.

<sup>4158</sup> Exh. P00110, Drina Corps Command, Confidential No. 22/226, signed by Maj. Gen. Milenko Živanović, 12 July 1995, showing time stamp, received by the Zvornik Brigade at 08:30 hours on 12 July.

<sup>4159</sup> Exh. P00156, Drina Corps Command, Confidential no. 21/6-686 to Main Staff, signed by Maj. Gen. Milenko Živanović, 12 July 1995.

<sup>4160</sup> Exh. P01111a, 12 July 1995 intercept between X and Y, 12:20 hours.

<sup>4161</sup> Exh. P03827, Materiel List for 5,000 litres of D2 diesel fuel, 12 July 1995; Exh. P03828, Materiel List for 2,000 litres of D2 fuel, 12 July 1995; Exh. P03829, Materiel List for 6,000 litres of D2 diesel fuel, 12 July 1995.



Bratunac Brigade Rear Service Chief Dragoslav Trišić reviewed these specific materiel lists and testified that this large amount of fuel could have only been used for the buses that transported the Muslims out of Potočari.<sup>4162</sup> Second, Colonel Trišić then explained another Bratunac Brigade document which listed the Brigade's fuel consumption for the month of July and showed 18,300 litres of diesel being received from the Drina Corps and the Main Staff during July. Trišić contrasted the July consumption report with the June consumption report, which did not show the Drina Corps receiving any fuel from the Main Staff in June, and explained that the reason that large volume of fuel came from the Main Staff in July was to transport the civilian population out of Potočari.<sup>4163</sup>

1699. Bratunac Brigade Materiel Lists also show that the Main Staff supplied ammunition used during the *Krivaja-95* attack. For example a Materiel List dated 7 July 1995 shows ammunition coming into the Bratunac Brigade. A handwritten notation at the bottom of the Materiel List states that the "Listed material came directly from 35POB."<sup>4164</sup> The abbreviation "35 POB" stands for the 35<sup>th</sup> Logistics Base, a Main Staff asset located in Bijeljina, commanded by Col. Jovo Kundacina and directly subordinated to the Main Staff Assistant Commander for Logistics, General Đukić.<sup>4165</sup> Main Staff operations/logistics officer Ratko Miljanović testified that "Without approval or authorisation from officers of the 35<sup>th</sup> Logistics Base, nothing could leave the unit, or indeed, enter the unit."<sup>4166</sup>

**MILETIĆ monitored the Muslim column and directed forces to destroy it.**

1700. **MILETIĆ's** active, operational contribution to the JCE to remove the Muslim populations from Žepa and Srebrenica was not limited to logistic support. **MILETIĆ** also played a significant role in following the progress of the Muslim column and assisting in the orders, decisions and actions to find, destroy and capture as many Muslim men and boys as possible, from their departure from the enclave on 11 July through their trek to Nežuk on 16 July and thereafter---all of which was in furtherance of the JCE to remove those Muslims from Eastern Bosnia. **MILETIĆ** acting from the HQ Operations

<sup>4162</sup> TRIŠIĆ, T.27151-27152.

<sup>4163</sup> Exh. 4D00613, Bratunac Brigade Consumption of Fuel in July 1995; p.1 at para.2(a) (English) ("From the Drina Corps Command and the Main Staff: D-2/diesel/: 18,300 litres."); TRIŠIĆ, T.27153-27154. This fuel which was used for the transportations was of course separate from the UN fuel used to reimburse the VRS for its fuel use, and which was placed in the Vihor Company tank on 14 July. Exh. 5D01385, Bratunac Brigade Receipt for 30,000 litres of fuel, 13 July 1995; Exh. 5D01386, Vihor Company Receipt for 23,300 litres of fuel, 14 July 1995. TRIŠIĆ, T.27077, 27113, 27115.

<sup>4164</sup> Exh. P03820, Materiel List for delivery of ammunition to the Bratunac Brigade, 7 July 1995.

<sup>4165</sup> TRIŠIĆ, T.27148; N. SIMIĆ, T.28648-28649; MILJANOVIĆ, T.28921, 28924.

<sup>4166</sup> MILJANOVIĆ, T.28921, 28924.

room was a key hub of information, orders and actions—co-ordinating Main Staff, Corps and brigade elements in the killing, capture and removal of men from the Muslim column.

1701. While the transportations of the civilians from Potočari was going on, **MILETIĆ** and his operations officers were also following the very serious development of the column of Muslim men attempting a breakout on foot from the enclave. Accordingly, the information which **MILETIĆ** was able to pass on to Pres. Karadžić in the 12 July Main Staff Daily Combat Report was as varied as it was significant:

The enemy has been attempting to withdraw from the Srebrenica enclave with women and children in the direction of Ravno Buljine and Konjević Polje, but ran into a minefield. The units engaged in carrying out the *Krivaja-95* task are carrying out all combat tasks according to plan. In the course of the day, they liberated the village of Potočari and they are continuing to advance in order to liberate all the places in the Srebrenica enclave. On /?important/ axes, parts of our units and of MUP units have laid ambushes in order to destroy Muslim extremists who have not surrendered and who are attempting to break out of the enclave in the direction of Tuzla. In the Drina Corps zone of responsibility, the population is being taken from the Srebrenica enclave to Kladanj in an organized manner. It is estimated that on this day, there are about 10,000 Muslims to be transported. In all the Corps' zone of responsibility, the situation in the territory is stable and under control. In the course of the day, army recruits were being seen off in the majority of inhabited places. All the planned and authorised convoys passed through Republika Srpska territory in safety.<sup>4167</sup>

1702. The information contained in the 12 July Main Staff Daily Report to the RS Presidency was well-known to the officers at the Main Staff headquarters.<sup>4168</sup> For example, reports had been pouring into the Main Staff that followed the movement of the group that ran into the minefield, mentioned above.<sup>4169</sup>

1703. While **MILETIĆ**'s Operations organ continued to monitor the progress and direction of the column, it drafted another critical order, to block its passage. The order specified that:

Based on the instructions received, and following the defeat in the Srebrenica enclave, the men from the enclave fit for military service were tasked with crossing over to Tuzla and Kladanj in groups and carrying weapons. Among them are inveterate criminals and villains who will stop at nothing just to avoid being captured and reach Muslim-controlled territory. On the night between 12 and 13 July 1995, a number of troops managed to pull out. They were spotted crossing the Bratunac – Konjević Polje – Milići – Vlasenica road, heading for Crni Vrh and Cerska.<sup>4170</sup>

<sup>4167</sup> Exh. P02748, Main Staff Strictly confidential number 03/3-183, Daily Report to the President of Republika Srpska, type-signed by Maj. Gen. Radivoje **MILETIĆ**, Standing in for the Chief of Staff, 12 July 1995, pp.3-4 (English).

<sup>4168</sup> TRKULJA, T.15097-15098.

<sup>4169</sup> Exh. P00147, Drina Corps Command, Strictly Confidential no. 17/895, Very Urgent Report, For Immediate Delivery, to the Main Staff, signed by Maj. Pavle Golić, 12 July 1995; Exh. P00148, Drina Corps Command, Strictly Confidential no. 17/896, Very Urgent, to the Main Staff, Statement by prisoner of war Izudin Bektić, signed by Maj. Gen. Zdravko Tolimir, 12 July 1995; Exh. P00149, Drina Corps Command, Strictly Confidential no. 17/897, Very Urgent, to the Main Staff, Statement by prisoner of war Izudin Bektić, signed by Maj. Gen. Zdravko Tolimir, 12 July 1995.

<sup>4170</sup> Exh. P00045 (same as Exh. P01059), Main Staff Strictly confidential No. 03/4-1629, Order to prevent the passage of Muslim groups towards Tuzla and Kladanj, type-signed by Lt. Gen. Milan **GVERO**, 11 July 1995.

1704. The order further specified, *inter alia*, that in order to protect the Serbian population living on the route along which the Muslim groups were moving, and to prevent their crossing over to Muslim-controlled territory, “Detain the captured and disarmed Muslims in appropriate facilities that can be secured by fewer troops. Immediately report to the superior command,” and “Send interim reports with specific details of the situation in the areas of responsibility of all units so that the Corps Command and the VRS Main Staff can act in a timely manner.”<sup>4171</sup> Colonel Trkulja testified that **MILETIĆ** would have drafted this order himself.<sup>4172</sup>

1705. **MILETIĆ** remained in the centre of Main Staff decision-making as the Serb forces along the Bratunac-Konjević Polje road began capturing large numbers of prisoners on 13 July. At 14:00 hours, that day, Gen. Tolimir sent a proposal (under the signature block of the commander of the 65<sup>th</sup> Motorized Protection Regiment, Lt. Col. Milomir Savčić) to Generals Mladić and **GVERO**, and to the Command of the Military Police Battalion of the 65<sup>th</sup> Protection Regiment, in which he noted:

There are over 1000 members of the former 28<sup>th</sup> Division of the so-called BiH Army captured in the area of Dušanovo (Kasaba). Prisoners are under the control of the Military Police Battalion of the 65<sup>th</sup> Zmp.<sup>4173</sup>

1706. Tolimir proposed prohibiting access to and filming of the prisoners; prohibiting traffic for all UN vehicles along the Zvornik-Vlasenica road; and placing the prisoners indoors or out of sight from the ground or air. Finally, Tolimir proposed that “Once the Commander of the Military Police Battalion receives this order he shall contact General **MILETIĆ** and receive from him additional orders and verify if the proposal has been approved by the Commander of the VRS Main Staff.”

1707. Strong evidence supports the conclusion that **MILETIĆ** received Tolimir’s proposal and passed it on to Gen Mladić. First, Danko Gojković, a communications officer who was based in the Rogatica Brigade at the time, testified that he typed the proposal and sent it through.<sup>4174</sup> Second, conversations intercepted at the time also indicate that the proposal accurately reflects the events and units and individuals on the

<sup>4171</sup> Exh. P00045, pp.1-2, paras.3 and 6 (English).

<sup>4172</sup> TRKULJA, T.15183, 15215.

<sup>4173</sup> Exh. P000192, Forward Command Post of the 65<sup>th</sup> Motorized Protection Regiment, Borike at 14:00 hours, “Procedure for treatment of prisoners of war,” 13 July 1995, type-signed Lt. Col. Milomir Savčić, with notation “Sent: 15:10 hours,” 13 July 1995 (ERN: 0425-8580-0425-8580 (BCS); 0425-8580-0425-8580-EDT).

<sup>4174</sup> GOJKOVIĆ, T.10727-10731; Exh. P02776, OTP Interview of Danko Gojković, admitted pursuant to Rule 92ter, 16 May 2006, pp.24-26 (English).

ground.<sup>4175</sup> Third and finally, General Mladić issued an order later that night which explicitly accepted some of the elements of Tolimir's proposal.<sup>4176</sup>

1708. The significance of this document is twofold. First, it is significant in that in a matter of just a few sentences, it encapsulates precisely how the Main Staff operated in practice: Tolimir, located forward pursuant to the VRS preferred practice, uses the resources of a subordinate unit to send a proposal through the Main Staff, where he knows that **MILETIĆ** will be present and well-positioned to receive and pass on the proposal to Mladić and who will be able to pass on any additional orders to subordinate units once Mladić has approved of Tolimir's proposal. Tolimir also makes sure the proposal is forward to **GVERO** at the Main Staff, as some of his proposals touch on **GVERO**'s competencies.

1709. Second, it is significant in that it is chilling evidence that by this time on 13 July, Tolimir knew that the prisoners were going to be killed and was proposing to others who were by that time also aware of the plan to murder the Muslim prisoners (Mladić, **GVERO** and **MILETIĆ** among them) that they needed to be as contained and out of view as possible in order to do so. This significance was not lost on Milomir Savčić, who testified that after his OTP interview in 2005, he contacted Zoran Malinić and asked him if he had received any telegrams from Savčić, to which Malinić replied that he no telegram bearing Savčić's name ever arrived at his position.<sup>4177</sup> However, Savčić acknowledged that he did not discuss any details or contents of the document with Malinić during this conversation.<sup>4178</sup> Savčić further acknowledged that the document should have been transmitted by somebody from the Rogatica Brigade, which is in fact what Gojković testified happened.<sup>4179</sup> Finally, Savčić confirmed providing during his 2005 OTP interview the incredible theory that with respect to the reference in Tolimir's proposal to protecting the prisoners from observation from the air, this was out of concern that NATO might accidentally bomb them.<sup>4180</sup> At trial, Savčić added that upon "subsequent reflection" since his 2005 interview, he had come up with three new (and even more incredible) explanations for the reference to protecting the prisoners from

<sup>4175</sup> Exh. P02362a, Intercepted conversation, 13 July 1995, 14:05 hours; Exh. P02361a, Intercepted conversation, 13 July 1995, 14:00 hours; Exh. P00035 (also Exh. P00035b, Exh. P00035c and Exh. P00035d), Main Staff Strictly confidential no. 3/4-1638, "Preventing leakage of military secrets in the area of combat operations – order," 13 July 1995, type-signed by Col. Gen. Ratko Mladić (accepting proposals contained in Exh. P00192). BUTLER, T.19881-19892, 20620.

<sup>4176</sup> Exh. P02897, Main Staff Strictly conf. no. 03/4-1638, Order, "Preventing leakage of military secrets in the area of combat operations," type-signed by Col. Gen. Ratko Mladić, 13 July 1995.

<sup>4177</sup> SAVČIĆ, T.15263-15264.

<sup>4178</sup> SAVČIĆ, T.15264.

<sup>4179</sup> SAVČIĆ, T.15266; GOJKOVIĆ, T.10727-10731.

<sup>4180</sup> SAVČIĆ, T.15267.

observation from the air: 1) that there might be retribution for past atrocities; 2) that it is difficult to guard so many prisoners in such a large outside area at night; and 3) that the Geneva Conventions bar exposure of POWs to the general public.<sup>4181</sup>

1710. That Savčić went through such absurd lengths to distance himself and explain away Tolimir's proposal only underscores his consciousness of its plain meaning: Tolimir knew that the prisoners were going to be killed and was proposing measures to other members of the joint criminal enterprise to murder the men and boys from Srebrenica as to how to facilitate that objective.

1711. On 13 July 1995, **MILETIĆ** sent the Main Staff's Daily Combat Report to Pres. Karadžić, which informed Karadžić that:

The enemy from the former enclave of Srebrenica is in a state of total disarray, and the troops are surrendering in large numbers to the VRS. A 200 to 300-strong group of soldiers managed to break through to the general sector of Mt. Udrč, from where they are trying to break through to the territory under Muslim control. There is an organized and planned transfer of the population from Srebrenica to the territory under Muslim control. Combat groups from other Corps units are in the final stages of preparations aimed at settling the issue of the Žepa enclave.<sup>4182</sup>

1712. Once again, **MILETIĆ** confirms his knowledge of the central issues confronting the Main Staff by the end of the day on 13 July: the ever-increasing number of prisoners which will require resources to deal with; the intensifying threat to Zvornik posed by the Muslim column; the transportation of the civilian population from Potočari; and the additional new focus of Žepa.

1713. By the following day, the conflicting demands of the murder operation and defence of Zvornik had reached a breaking point. [REDACTED].<sup>4183</sup> [REDACTED].<sup>4184</sup> Later that night, Col. **BEARA** spoke to Zvornik Brigade Chief of Engineering Dragan Jokić, who was duty operations officer at the time and had called over to the Bratunac Brigade, where **BEARA** was, to tell **BEARA** that "number 155," that is, "the higher house" wanted to speak with **BEARA** urgently. At this time the column of Bosnian Muslim men had broken through Brigade defenses. In this intercept, Jokić tells **BEARA** that "Number 155 called you and asked you to call him urgently" and that "There are big problems. Well with the people, I mean, with the parcel (parcel being a code word for people)."<sup>4185</sup>

<sup>4181</sup> SAVČIĆ, T.15272-15274.

<sup>4182</sup> Exh. P00047, Main Staff Strictly confidential no. 03/3-194, Daily Report to the President of Republika Srpska, type-signed by Maj. Gen. Radivoje **MILETIĆ**, 13 July 1995, p.3, paras.6(a) and (c) (English).

<sup>4183</sup> [REDACTED].

<sup>4184</sup> [REDACTED].

<sup>4185</sup> Exh. P01164a, Intercept between Dragan Jokić and **BEARA**, 14 July 1995 at 21:02 hours. See also Exh. P00377, Duty Operations Officer Notebook, p.133 (English and BCS) (entry on 14 July 1995, in the evening, towards the end of the entries for the 14 July shift, "**BEARA** to call 155.").

Jokić repeats several times to **BEARA** that he needs to call “Number 155,” which he also refers to as “the higher house.”

1714. Approximately an hour and a half later Jokić was intercepted telling **MILETIĆ** that “the blues” had promised some reinforcements who had never come, to which **MILETIĆ** tells Jolić, “Well, see /about it/ with that Vasić, fuck him . . . everything available should be gathered . . . you must raise them all, Jokić, sound the alert down there in the town. Everyone who carries a rifle should go up. Well, do as I ordered. Everyone absolutely everyone should be raised.” Jokić responds to **MILETIĆ**, “Obrenović is really engaged to the hilt . . . we are all engaged to the hilt, believe me . . . this package really did for us . . .”<sup>4186</sup> **MILETIĆ** then ordered Jokić to get in touch with Vasić to “cut it off.”<sup>4187</sup>

1715. Approximately fifteen minutes later, Zoran Malinić, commander of the Military Police Battalion of the 65<sup>th</sup> Motorized Protection Regiment, was intercepted telling Milomir Nastić, commander of the Milići Brigade, that he had spoken to General **MILETIĆ** and to “take it into your own hands and keep at it,” and not to not let anything happen or anybody get away.<sup>4188</sup>

1716. These three conversations relate to the manpower strains placed upon the Zvornik Brigade by the urgent need for the brigade to deal with the column of Muslim men while simultaneously having to transport, detain and execute the thousands of Muslim men and boys distributed in schools throughout the Zvornik area. They also demonstrate how **MILETIĆ** had to deal with both aspects of the problem; with Jokić and the one hand and **BEARA** on the other, while also contacting other units outside of the Zvornik Brigade, such as the 65<sup>th</sup> Protection Regiment and the Milići Brigade, to become engaged as well. **MILETIĆ**’s swift and forceful response to [REDACTED] Jokić (ordering him to “do as I ordered;” to contact Dragomir Vasić about MUP reinforcements (“the blues”); and to mobilise available forces), provide clear insight into the unmistakable authority which **MILETIĆ** exercised in his position.<sup>4189</sup>

1717. **MILETIĆ**’s Main Staff Daily Report to the RS President for 14 July specifically referred to the “major concentration of enemy forces” attempting to link up with the groups pulling out of Srebrenica. In it he also noted that Nastić’s Milići Brigade is

<sup>4186</sup> Exh. P01166d, Intercept between “Vilotić” and Jokić, 14 July 1995 at 22:27 hours. Both [REDACTED] and Richard Butler have testified that “Vilotić” refers to **MILETIĆ**.

<sup>4187</sup> *Id.*

<sup>4188</sup> Exh. P01168a, Intercept between Malinić and Nastić, 14 July 1995 at 22:41 hours.

<sup>4189</sup> BUTLER, T.19968-19976.

engaged in scouring the terrain and “receiving a large number of Muslim fugitives who are surrendering to them.” Thus, for at least two days, **MILETIĆ** had been aware of Serb forces taking large numbers of prisoners.<sup>4190</sup>

1718. By 15 July **MILETIĆ** was scrambling to send reinforcements to Zvornik and was involved in deploying a unit of soldiers from the First Krajina Corps to reinforce the Zvornik Brigade.<sup>4191</sup> In doing so, **MILETIĆ** issued detailed orders which contained the marching orders. This is the kind of work **MILETIĆ** would be expected to do in Milovanović’s absence, implementing Mladić’s decision through operational documents and contacts with subordinate units.<sup>4192</sup> Thus, when **MILETIĆ** exercised these functions, he was acting under the derived authority of Gen. Mladić and using commensurate directional language and telling the subordinate units what they “shall” do, which were treated as orders by the subordinate commands.<sup>4193</sup>

1719. It is also indicative the unique authority reposed in the Main Staff as the strategic level of command; only the Main Staff had the competencies to reach into other corps to be resubordinated to the Drina Corps to assist with its problem in Zvornik.<sup>4194</sup> **MILETIĆ** subsequently ordered that this unit be withdrawn from the Zvornik area and sent to the Trnovo front, issuing an order detailing the tasks for the units involved and further ordering that the Krajina Corps unit notify the Main Staff when it took up its position.<sup>4195</sup>

1720. **MILETIĆ** was similarly involved in the deployment of 50 MUP soldiers to Zvornik on or around the same date.<sup>4196</sup>

<sup>4190</sup> Main Staff Strictly confidential no. 03/3-195, Daily Report to the President of Republika Srpska, type-signed by Maj. Gen. Radivoje **MILETIĆ**, Standing in for the Chief of Staff, 14 July 1995, p.3 (English).

<sup>4191</sup> Exh. P02754, Main Staff Strictly confidential no. 03/4-1654, Report on the dispatch of an infantry company to assist the 1<sup>st</sup> Zvornik Infantry Brigade, type-signed by Maj. Gen. Radivoje **MILETIĆ**, Standing in for the Chief of Staff, 15 July 1995, p.1, paras.1-3 (English); and Exh. P02838, 1<sup>st</sup> Krajina Corps Order No. 264-1/95, 16 July 1995. Witness testimony and documents establish that soldiers from the 16<sup>th</sup> Krajina Motorized Brigade, who were sent to the Zvornik Brigade on 16 July, later captured approximately ten Bosnian Muslims males fleeing from the Srebrenica enclave, transported them to a place near Nežuk, approximately 15 km northwest of Zvornik, and executed them with automatic rifles. *See* Section 1003-1019, *supra*, Nežuk Execution. [REDACTED]. *Popović* Trial, 6 November 2006, evidence of witness PW-139, T.3680:20-21. [REDACTED].

<sup>4192</sup> MILOVANOVIĆ, T.12373-12374; OBRADOVIĆ, T.28377-28380.

<sup>4193</sup> BUTLER, T.20616-20617, 20625-20628.

<sup>4194</sup> BUTLER, T.19998-20000.

<sup>4195</sup> Exh. P03923, Main Staff Strictly confidential no. 03/4-1724, Dispatch of a motorised company from the 16th Krajina Motorised Brigade to the area of Trnovo, Order, signed by Maj. Gen. Radivoje **MILETIĆ**, Standing in for the Chief of Staff, 21 July 1995, pp.1-2, paras.2-4 (English); OBRADOVIĆ, T.28385-28388.

<sup>4196</sup> *See* handwritten comment on Exh. P02518, VRS Main Staff strictly confidential no. 03/4-1654, 15 July 1995 (ERN: 0425-7983-0425-7983) (“As promised by Major General **MILETIĆ**, 50 MUP men should come from Bijeljina during the night of 15-16 July 1995”) (same document as Exh. P02754, except with handwritten comment); OBRADOVIĆ, T.28380.

1721. With clear knowledge that thousands of Muslim prisoners have been captured between Srebrenica and Zvornik, **MILETIĆ** again reported on “enemy groups” surrendering to VRS forces to Karadžić, passing on information concerning the intensifying contacts between the column and Serb forces, including the incident where an ambulance was attacked by Muslim forces near Planinica.<sup>4197</sup>

1722. In the morning of 16 July, the intersecting burdens of the Muslim column on the one hand and the murder operation on the other again demanded **MILETIĆ**’s attention. The Zvornik Brigade Duty Operations Officer Notebook records the entry, “**BEARA** to call Panorama 155 at 0930 hrs.” Given the activities in which **BEARA** was involved that day, the most reasonable explanation for **MILETIĆ**, or someone directly subordinate to him, to be contacting **BEARA** is in connection with the murder operation.<sup>4198</sup>

1723. A conversation intercepted early that evening provides some further insight into how the murder operation continued to demand **MILETIĆ**’s attention. The Drina Corps Chief of Technical Services, Bašević, is heard telling the other party that he is out of fuel and that he said that to **MILETIĆ** today when they were on the phone together about the Zvornik request. When the other party told Bašević that “Zvornik is solved,” Bašević mentions that he knows and that he sent 600 litres of fuel to Zvornik today. In the context of **MILETIĆ**’s prior attempt to contact **BEARA** that morning and the 600 litres of fuel which was delivered to **BEARA**’s subordinate **POPOVIĆ** that day, the most reasonable inference is that Bašević was talking to **MILETIĆ** about the fuel which was required in connection with the executions in the Pilica area that day.<sup>4199</sup>

1724. In the evening of 16 July, **MILETIĆ** called Chief of Armoured Services, Nedeljko Trkulja, to the Operations Room and personally ordered him to travel with then-Col. Bogdan Sladojević to the Zvornik Brigade to tour the front line there.<sup>4200</sup> The Main Staff had received information that a column of Muslims had been allowed to pass through the Zvornik Brigade’s area of defence and Trkulja and Sladojević were tasked by **MILETIĆ** to determine if someone should be held accountable for the decision to let the

<sup>4197</sup> Exh. P00049, Main Staff Strictly confidential no. 03/3-196, Daily Report to the President of Republika Srpska, type-signed by Maj. Gen. Radivoje **MILETIĆ**, 15 July 1995, p.3, para.6(a) (English).

<sup>4198</sup> Exh. P00377, Duty Operations Officer Notebook, p.145 (English and BCS) (ERN 0293-5763).

<sup>4199</sup> Exh. P01199c, Intercept between Bašević and Y, 16 July 1995 at 19:12 hours (“Well the petrol’s run out completely Miki, I said to **MILETIĆ** today when I was on the phone with him, like, to do with this request that, that Zvornik sent, and Žekovići. Y: Zvornik is solved. Bašević: I said I have no petrol, I have no oil. Y: Listen, Zvornik is solved. Bašević: Well, I know, I saw . . . You know, but the problem is what’s going on . . . going on across Šekovići this way . . . you can’t this time, it’s on hold there and I have to immediately now, I sent 600 litres of petrol there today.”); BUTLER, T.20010-20011.

<sup>4200</sup> SLADOJEVIĆ, T.14366-14367; TRKULJA, T.15105-15107.



Muslims pass through.<sup>4201</sup> Two or three reports had been sent to the Drina Corps from the Zvornik Brigade, and then from the Drina Corps to the Main Staff, indicating that there had been many casualties.<sup>4202</sup> **MILETIĆ** arranged for Trkulja and Sladojević to have a car waiting for them in the morning of 17 July, and they drove to the area of Baljkovica where they conducted their investigation and spoke with **PANDUREVIĆ** and Obrenović.<sup>4203</sup> When they returned to Crna Rijeka upon completing their assignment, Trkulja reported verbally to **MILETIĆ** about **PANDUREVIĆ**'s order to open the corridor.<sup>4204</sup>

1725. In addition to overseeing the Main Staff review of **PANDUREVIĆ** on 17 July, **MILETIĆ** must have been fully informed and involved in Colonel Trkulja's trip to the Drina Corps command and Zvornik on 16 July, where Trkulja, on orders from the Main Staff, passed on instructions to the Zvornik Brigade command to kill the remaining Muslim prisoners held in the Zvornik area. (cite to Sladojević testimony saying Trkulja told him he was in Zvornik on the 16<sup>th</sup> and the intercept where Trjula calls Zvornik from Zlatar and orders triage, and section confirming that intercept in Duty off. Notebook ERN 0293 5764)

**(cxxiv) MILETIĆ Significantly Contributed to the *Stupčanica-95* Operation**

1726. The evidence also illustrates that **MILETIĆ** was instrumental in the effort to eliminate the Žepa enclave; remove its civilian population; and drive out the Bosnian Muslim men of Žepa.

1727. Tolimir advised **MILETIĆ** on 14 July that "In order to monitor combat activities around Žepa and have complete review of the Drina Corps Command radio network with brigade commands," it would be necessary to incorporate the Main Staff into the Drina Corps Command's communication system with appropriate equipment for crypto-protection.<sup>4205</sup> Tolimir sent this document personally to **MILETIĆ** because **MILETIĆ** was replacing Milovanović in organising the work at the command post, because the organs for arms of service were directly subordinate to General Milovanović as was the administration for operations and training; and as senior officer in the staff after

<sup>4201</sup> SLADOJEVIĆ, T.14367, 14373; [REDACTED]; Exh. P00927, Main Staff Strictly conf. no. 03/4-1670, Order, Integration of operations to crush lagging Muslim forces, type-signed by Col. Gen. Ratko Mladić, 17 July 1995.

<sup>4202</sup> SLADOJEVIĆ, T.14374.

<sup>4203</sup> TRKULJA, T.15106, 15108-15110; SLADOJEVIĆ, T.14370-14372.

<sup>4204</sup> TRKULJA, T.15114-15117, 15129; SLADOJEVIĆ, T.14379.

<sup>4205</sup> Exh. P00183, 1<sup>st</sup> Podrinje Light Infantry Brigade Command, Strictly confidential number: 04-520-56/95, "Protection of secret military information," personally to General **MILETIĆ**, type-signed by Maj. Gen. Zdravko Tolimir, 14 July 1995.

Milovanović, **MILETIĆ** conveyed tasks and was responsible for discipline and order in that part of the staff where those organs for arms of service were, which included communications officers.<sup>4206</sup> Coordinating and securing communications between the Main Staff and the Drina Corps were important to Tolimir, or he would not have written to **MILETIĆ** personally.<sup>4207</sup> In any event, because communications falls under operations work, it would be expected that Tolimir would direct this inquiry to the operations organ.<sup>4208</sup>

1728. During the *Stupčanica-95* operation, the Main Staff Daily Reports to the Presidency were drafted by **MILETIĆ**, Obradović and possibly Krsto Đerić.<sup>4209</sup> **MILETIĆ** and the Operations and Training Administration received daily and interim reports from the Žepa front, in addition to the morning and evening telephone call from the 65<sup>th</sup> Protection Regiment, which was engaged there; these reports would later include information about the transportation of the civilian population out of Žepa.<sup>4210</sup>

1729. On 17 July Mladić ordered General Krstić in an intercepted conversation to “get in touch with **MILETIĆ** on the secure line” and to go “full steam ahead” with the Žepa operation because, Mladić said, “I didn’t accept the Turks’ conditions.”<sup>4211</sup> In this conversation, Mladić told Krstić to contact **MILETIĆ**, who had additional information concerning combat activities to pass to Krstić from Mladić and which Mladić wanted protected from interception by the Muslim forces.<sup>4212</sup> As Chief of Operations and Training in the Main Staff, **MILETIĆ** of all of the Main Staff officers, would have been the person to have the important details to pass on to Krstić.<sup>4213</sup>

1730. When on 19 July, Mladić thought that he had finalised a surrender agreement for Žepa with Hamdija Torlak and Benjamin Kulovac, he sent a letter to Gen. Smith stating that Žepa had surrendered and that transportations would begin at 14:00 hours on 20 July.<sup>4214</sup> In connection with this, the Main Staff was notified and preparation for securing

<sup>4206</sup> OBRADOVIĆ, T.28373-28376.

<sup>4207</sup> OBRADOVIĆ, T.28376.

<sup>4208</sup> BUTLER, T.19913.

<sup>4209</sup> OBRADOVIĆ, T.28270.

<sup>4210</sup> OBRADOVIĆ, T.28290, 28366-28367.

<sup>4211</sup> Exh. P01231a, intercept between Mladić and Krstić, 17 July 1995 at 19:50 hours; BUTLER, T.20628-20631. See also Exh. P03058, UNPROFOR Code Cable from Lt. Col. Baxter to UNPF HQ, “Negotiations with Bosnian Serbs on Terms and Conditions for Movement of Civilians from Žepa Enclave,” 17 July 1995, 23:00 hours (noting that Mladić angrily rejected the Žepa Muslims’ conditions).

<sup>4212</sup> OBRADOVIĆ, T.28434-28436.

<sup>4213</sup> BUTLER, T.19919-19921.

<sup>4214</sup> Exh. P02944, UN Code Cable, Janvier to Annan, 20 July 1995, attaching letter from Mladić to Smith.

the necessary vehicles began.<sup>4215</sup> During this time, Operations and Training Administration officers such as Ratko Miljanović were aware of the negotiations which were underway concerning Žepa, why the buses were commissioned and what the purpose of their use was going to be.<sup>4216</sup>

1731. As the Main Staff did in Srebrenica, it also began taking measures to control the looting and seizure of war booty from the fallen enclave.<sup>4217</sup> In fact, General Krstić sent a request personally to General **MILETIĆ** for **MILETIĆ** to engage the 65<sup>th</sup> Protection Regiment's Military Police Battalion to assist with the removal of war booty from Žepa.<sup>4218</sup>

1732. When the surrender failed to materialise on 20 July, General Tolimir sent a proposal personally to General **MILETIĆ** the next day, proposing bombing the columns of refugees and using chemical weapons or aerosol grenades and bombs in Žepa.<sup>4219</sup> This proposal reached the Operations and Training Administration, to the attention of **MILETIĆ**.<sup>4220</sup> As was the case with Tolimir's proposal sent to Mladić, **GVERO** and **MILETIĆ** on 13 July to place the Nova Kasaba prisoners who were marked for death out of sight, Tolimir knows his audience, so to speak, after three years of conducting warfare together with **MILETIĆ** and the tight inner circle Main Staff officers.

1733. When a second agreement was signed by Torlak in the late afternoon on 24 July at Bokšanica, the Main Staff was fully engaged in the process of preparing for the removal of the Muslim population from Žepa. An intercepted conversation at 19:54 hours that day captured Tolimir says that "**MILETIĆ** told me that I would have to go down there to regulate this thing tomorrow," a clear reference to Tolimir's ground-level control of the transportation process in Žepa beginning on 25 July.<sup>4221</sup>

<sup>4215</sup> Exh. P01271d, Intercept dated 19 July 1995 at 21:16 hours (Kerkez is told that Krstić is looking for 50-70 vehicles; Kerkez says that Miljanović told him that the agreement was to start loading at 14:00 hours).

<sup>4216</sup> MILJANOVIĆ, T.28984-28985.

<sup>4217</sup> Exh. 5D01113, Main Staff Logistics Sector Order on Transport of People and the Pull-out of War Booty from Žepa, 19 July 1995, received at 01:50 hours on 20 July 1995 ("If need be, a military police unit shall be secured through **MILETIĆ** to assist the war booty removal."). See also Exh. P03957, Main Staff Logistics Sector Order, 14 July 1995 (dismantling UNPROFOR equipment for needs of VRS) and Exh. P03958, 26 July 1995, Main Staff Logistics Sector Order, "Expropriation of Material Supplies" from Potočari base. MILJANOVIĆ, T. T.28975-28976, 28982-28984, 29890.

<sup>4218</sup> Exh. P03015, Drina Corps Command, Forward Command Post Godenje, personally to Gen. **MILETIĆ**, Request for the engagement of the VRS Main Staff's military police battalion to prevent looting of war booty from Žepa, 20 July 1995, time-stamped at 10:30 hours. BUTLER, T.19936-19937.

<sup>4219</sup> Exh. P02517 (same as Exh. P02794), Main Staff Strictly confidential number 04-520-61/95, personally to General **MILETIĆ**, "Situation in Žepa, type-signed by Maj. Gen. Zdravko Tolimir, 21 July 1995.

<sup>4220</sup> OBRADOVIĆ, T.28391.

<sup>4221</sup> Exh. P01327a, Intercept between Mladić and Tolimir, 24 July 1995 at 19:54 hours.

1734. By the morning of 25 July **MILETIĆ** had received the text of the agreement signed by Torlak the day before.<sup>4222</sup> General Tolimir sent another proposal personally to “General **GVERO** or General **MILETIĆ**,” noting that they had received the text of the agreement and citing the risk if UNPROFOR sent a general rather than a colonel to Žepa that there might be a repeat of Gen. Morillon’s stand at Srebrenica in 1993.<sup>4223</sup>

1735. At the same time, **MILETIĆ** was also keeping an eye on the larger issue of the unresolved status of the military-aged men from Žepa. In the evening of 25 July, he was briefed by Col. Lugonia, a member of the RS State Commission on War Prisoners, about the status of the Sarajevo airport negotiations concerning the military-aged men of Žepa.<sup>4224</sup> **MILETIĆ** then also spoke directly with Mr. Bulajić, one of the Serb representatives involved in the Žepa negotiations at the Sarajevo airport. Bulajić told **MILETIĆ** that the Muslim side wanted guarantees that the Muslim prisoners would not be killed, and **MILETIĆ** explained to him that the VRS would abide by the 24 July agreement. **MILETIĆ** again demonstrates the wider frame of reference in which he must operate as he monitors the Žepa operation. **MILETIĆ** informed Pres. Karadžić that “Operations have ceased for the moment as an agreement was signed on the surrender of the Muslims.”<sup>4225</sup> The next day, when the transportations of the civilian population were fully underway, **MILETIĆ** reported that up to the Presidency as well, noting that “Units engaged in Žepa are securing the evacuation of the Muslim population.”<sup>4226</sup>

1736. When the able-bodied males of Žepa decided to flee across the Drina rather than surrender, **MILETIĆ** received the reports immediately and passed them on to Pres.

<sup>4222</sup> Exh. P01328a, Intercept between X and Ljubo, 25 July 1995 at 07:09 hours (Golić “should be somewhere with Krstić. Check with Pop, he knows where he is and he’s somewhere with Krle. If not, then check with **MILETIĆ**, and **MILETIĆ** will call him on that line you have . . . I sent the text of the agreement last night, take a look, it’s over there at Milić’s, and subsequently a telegram this morning . . . **MILETIĆ** or **GVERO** with regard to UNPROFOR and the ICRC, so have Miloš go there to fetch it and have them inform you about the telegram.”).

<sup>4223</sup> Exh. P00191, 1<sup>st</sup> Podrinje Light Infantry Brigade Command, Strictly confidential number 04-520-63:95, personally to General **GVERO** or **MILETIĆ**, “Agreement on Žepa,” type-signed by Maj. Gen. Zdravko Tolimir, 25 July 1995, with notation received at 05:30 hours. MILOVANOVIĆ, T.12376-12377.

<sup>4224</sup> Exh. P00190, Main Staff Strictly confidential number 12/45-936, Very Urgent (deliver immediately), personally to Gen. Tolimir at the 1<sup>st</sup> Podrinje Light Infantry Brigade Command, type-signed Jovica Karanović, For the Chief, 25 July 1995, time-stamp received at 20:45 hours.

<sup>4225</sup> Exh. P03021, Main Staff Strictly confidential number 03/3/206, Daily Report to the President of Republika Srpska, type-signed by Maj. Gen. Radivoje **MILETIĆ**, Standing in for the Chief of Staff, 25 July 1995, p.3, para.6(b) (English).

<sup>4226</sup> Exh. P03022, Main Staff Strictly confidential number 03/3-207, Daily Report to the President of Republika Srpska, type-signed by Maj. Gen. Radivoje **MILETIĆ**, Standing in for the Chief of Staff, 26 July 1995, p.4, para.6(b) (English).

Karadžić.<sup>4227</sup> **MILETIĆ** continued to receive reports as the men from Žepa were apprehended in Serbia.<sup>4228</sup>

**(cxxv) With MILETIĆ's Knowledge, the Main Staff Coordinated the Reburial Operation**

1737. In September 1995, with the crisis in the Krajina on the one hand and NATO airstrikes on the other fully occupying Gen. Mladić's most senior officers away from the Command Post, Gen. **MILETIĆ**'s authority increased correspondingly. For example, on 19 September he represented the VRS at a high-level meeting with General Smith. UNPROFOR notes of the meeting indicate that "Following further discussions between the Holbrook team and President Milosevic another meeting was held between Gens Smith and Bachelet and Gens Milosevic and **MILETIĆ**. (**MILETIĆ** is Mladić's DCOS and today was the first time we had seen him in the flesh.)." The meeting was summarised as "A productive and satisfactory meeting. Gen. **MILETIĆ** an intelligent interlocutor; a "man to do business with." Some measured signs of impatience from the Serbs about progress towards a cease fire. They are clearly exercised by events in W Bosnia and are also anxious to avoid a resumption of NATO bombing."

1738. Gen. Smith testified that he understood that **MILETIĆ** was more than the Chief of Operations and Training at this meeting and that he was now acting as the Chief of Staff. Just five days before this meeting, General Mladić issued an order to the Main Staff Logistics Sector and the Drina Corps directing the disbursal of 5 tonnes of D-2 fuel to the Zvornik Brigade's Standard Barracks, personally to Captain Milorad "Trpić." It is inconceivable that even in his position as Chief of Operations and Training, **MILETIĆ**, or someone under his direct supervision, would not have known about such an unusual order; viz., five tonnes of fuel being directed by the Commander of the Main Staff personally to an Assistant Security Chief of a brigade.

1739. Moreover, less than a month later, with the reburial operation in full swing, Momir Nikolić reported to the Bratunac Brigade that "we are performing tasks at the

<sup>4227</sup> Exh. P03024, Main Staff Strictly confidential number 03/3-212, Daily Report to the President of Republika Srpska, type-signed by Maj. Gen. Radivoje **MILETIĆ**, Standing in for the Chief of Staff, 31 July 1995, p.4, para.6(a) (English) ("At 19:30 hours we received information that the enemy were building rafts in the Crni Potok sector and escaping to the right Drina bank.").

<sup>4228</sup> Exh. P03036, 1<sup>st</sup> Podrinje Light Infantry Brigade, Strictly confidential no. 04-520-66/95, to General **MILETIĆ** personally, "Movement of crushed enemy groups in the Žepa enclave," type-signed by Capt. Zoran Čarkić, 1 August 1995 ("the largest group of *balija* was registered (around 1,000 men) in the general area of Crni Potok. They seem to be attempting to cross over to the right bank."); Exh. 1378a; Exh. P01395c, Intercept between Krstić and **POPOVIĆ**, 2 August 1995 at 13:00 hours (**BEARA** came back from there and "said he reported to **MILETIĆ**").

direction of the Main Staff (*acanacija*).” Such a massive operation could only have been coordinated at the Main Staff level, and given **MILETIĆ**’s ordinary duties, much less his increased responsibility, the only reasonable conclusion is that he simply would have had to have known about and monitored the reburial operation.<sup>4229</sup>

**(T) CONCLUSION OF THE JOINT CRIMINAL ENTERPRISE.**

1740. Radivoje **MILETIĆ** is individually criminally responsible under Article 7(1) of the Statute for the crimes with which he is charged in the Indictment as a member of the Joint Criminal Enterprise to forcibly remove the Muslim populations of Srebrenica and Žepa.<sup>4230</sup> As described above, **MILETIĆ** made significant contributions to the execution of the common purpose of the JCE and shared the intent with the other members of the JCE to commit the crimes which fell within the common purpose of the JCE.

**(U) OTHER FORMS OF LIABILITY UNDER ARTICLE 7(1) OF THE STATUTE.**

1741. In addition to his criminal liability for the crimes charged in the Indictment as a member of the Joint Criminal Enterprise, Radivoje **MILETIĆ** is criminally responsible for ordering, planning, instigating and otherwise aiding and abetting the commission of the crimes charged in the Indictment. **MILETIĆ**’s criminal responsibility for ordering and planning the crimes charged is briefly outlined below.

1742. **MILETIĆ** ordered the commission of the crimes for which he is charged in the Indictment. Of particular importance in this respect is that a person knowingly relaying illegal orders from superiors to subordinates is also individually responsible for the crime ordered.<sup>4231</sup> Thus, when **MILETIĆ** issued or passed on orders to VRS units to restrict humanitarian aid and re-supply convoys, **MILETIĆ** is individually responsible for the crimes committed by the individuals who implemented those orders. Similarly, when **MILETIĆ** issued or passed on orders to VRS and other attached units engaged in the attack on the Srebrenica and Žepa enclaves, with the intent to remove the Muslim population of those areas, **MILETIĆ** is individually responsible for the crimes committed by the individuals who implemented those orders.

<sup>4229</sup> SMITH, T.17620-17621, 17584-17590; Exh. P02952, Notes of Meeting between UNPROFOR and BSA at Restaurant Kula, 19 September 1995; Exh. P02908, Update regarding VRS compliance with Framework Agreement, 20 September 1995; Exh. P00041, Mladić Order to Main Staff Logistics Sector and Drina Corps re: 5 tonnes of D-2 to Standard Barracks at Zvornik Brigade, to Captain Milorad Trpić; Exh. P00042, 14 September 1995 Main Staff Logistics Centre, Technical Division order, referencing order number from Exh. P00041; Exh. P00836, Bratunac Brigade Reports and Meetings Journal, entry for 16 October 1995, p.11 (English).

<sup>4230</sup> See para. 75 of the Indictment.

<sup>4231</sup> *Milutinović* TJ (Vol. 1), para. 87; *Kupreškić* TJ, para. 862; *Kupreškić* AJ, para. 451.

1743. **MILETIĆ** also assisted in planning (which may include organising)<sup>4232</sup> the removal of the Muslim population from the Srebrenica and Žepa enclaves. By drafting Directive 7, which had the criminal goal of creating conditions for the elimination of Srebrenica and Žepa enclaves, **MILETIĆ** played a key role in planning the strategy which was implemented by the RS and VRS leadership and eventually led to the take over the enclaves and the removal of the Muslim population.

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<sup>4232</sup> *Akayesu* TJ, para. 473.

**(VIII) INDIVIDUAL CRIMINAL RESPONSIBILITY OF GEN. MILAN GVERO  
UNDER ART. 7(1) OF THE STATUTE**

**(V) INTRODUCTION**

1744. Lt. Gen. Milan **GVERO** was one of the founding members of the VRS, the most most senior officer in the Main Staff and very well respected.<sup>4233</sup> As one of Gen. Mladić's closest assistant commanders, **GVERO** was entrusted, along with Chief of Staff Manojlo Milovanović and Chief of Intelligence and Security Zdravko Tolimir, to represent the VRS at the highest levels of the RS political system and international organizations, from addressing the RS Assembly, to briefing Pres. Karadžić, to representing the VRS at meetings with UNPROFOR, NGOs and the enemy.<sup>4234</sup> From his position in the Main Staff since its inception, **GVERO** was fully informed of and actively participating in, the RS and VRS policy to remove the Muslim civilian population from Eastern Bosnia, as set forth in the six Strategic Objectives and Directive 4 and 7.

**(cxxvi) Role and responsibilities of Milan GVERO**

1745. From the inception of the VRS until the end of the war, **GVERO** was the Main Staff Assistant Commander for Moral Guidance, Legal and Religious Affairs and as such, reported directly to General Mladić. **GVERO** was responsible for assessing and maintaining combat morale throughout the VRS. This involved informing soldiers, *inter alia*, about the characteristics of the military and political situation; monitoring the combat situation for loss of combat morale, lack of discipline and panic; controlling the work of the Main Staff Centre for Information and Political Propaganda Activities; organizing press conferences and supervised visit by journalists to combat operations zone; banning domestic and foreign journalists access to zone of operations and troop movement routes; and preparation and distribution of communiqués, denials and

<sup>4233</sup> N. SIMIĆ, T.28600, 28691; TRKULJA, T.15098.

<sup>4234</sup> See, e.g., Exh. 5D01322, Excerpt from Diary of Radovan Karadžić, entry for 1 June 1995, p59 (English) (showing meeting from 18:05 to 00:45 hours with Karadžić, Krajišnik, Koljević, Kozić, Buha, Kalinić, Ninković, Mladić, Tolimir and **GVERO**); Exh. 5D01419, General Staff of the ABiH Intelligence Administration, Strictly confidential number: 09/28-1, Report from the meeting on the implementation of the agreement on ceasefire, type-signed by Brig. Gen. Mustafa Hajrulahović-Talijan, 1 January 1995 (**GVERO** and Tolimir represented the VRS at a meeting with UNPROFOR Commander Gen. Michael Rose to work out implementing an agreement on complete cessation of hostilities and operation of the joint commissions which would monitor the agreement); Exh. 5D01418, Central Joint Commission, Decisions taken in the meeting on 5 February 1995 (**GVERO** led a VRS delegation at a meeting of the Joint Central Commission monitoring the cessation of hostilities agreement, and was a signatory on behalf of the VRS); Exh. 5D01417, Main Staff Strictly conf. no: 12/46-81/95, to the President of Republika Srpska, Meeting of the Joint Central Commission, type-signed by Gen. Maj. Zdravko Tolimir (VRS sent a detailed report about the 5 February 1995 meeting to Pres. Karadžić the next day).



protests.<sup>4235</sup> Throughout the war, **GVERO**'s duties thus necessarily entailed dealing with journalists and international organizations, including UNPROFOR, UNHRC, ICRC and MSF.<sup>4236</sup> Indeed, **GVERO** "was an expert in his job and there was no one else who could replace him there."<sup>4237</sup>

1746. As the chief propagandist of the VRS, it was **GVERO**'s job to ensure that the war goals were framed in such a way that the average fighting man understood and agree with them.<sup>4238</sup> Part of that task involved analysing the international political context in which the Bosnian Serb political and military leaders were making their decisions, and explaining them to the average soldier, while at the same time attending to the more local factors which positively and negatively affected morale, such as soldiers' pay and treatment of families of killed soldiers.<sup>4239</sup>

1747. It was General **GVERO**'s responsibility to inform the officers and troops of the the important goal of the RS and VRSI of separating the Muslim population from the Serbian population and the reasons behind this goal.

1748. A concrete example of how communicating important goals translated into combat support may be found in the combat order issued by the East Bosnia Corps Command in connection with Operation *Spreča-95*. With a cessation of hostilities agreement in place, the ABiH launched an attack on features and facilities in the East Bosnia Corps area of responsibility.<sup>4240</sup> In response, the East Bosnia Corps initiated *Spreča-95*. General Simić ordered very detailed measures undertaken under the heading "Moral and psychological preparations:"

Immediately before the commencement of the operations inform all members of participating commands and units about the objective, importance and tasks of the operation, with particular focus on the following:

- a. international situation in which the operation is being carried out (activities of the Contact Group members, particularly Russia, on the accepting of the new Russian proposal for the resolution of the crisis in the former BH);
- b. the situation on the Republika Srpska front, particularly stressing the fact that the Muslim side has broken the signed four-month truce – cessation of hostilities and launched a large-scale offensive in the former BH;

<sup>4235</sup> Exh. P04208, Plan of Moral and Psychological Support for the Operation (*Sadejstvo-95*), type-signed, Lt. Gen. Milan **GVERO**, approved by Col. Gen. Ratko Mladić.

<sup>4236</sup> SKRBIC, T.15568-15570-15571; N. SIMIĆ, T.28604, 28606.

<sup>4237</sup> N.SIMIĆ, T.28607.

<sup>4238</sup> Exh. P03180, *Srpska Vojska* article, "Silk Cord for Alija," by Maj. Gen. Milan **GVERO**, 15 July 1993, p.1 (English).

<sup>4239</sup> See, e.g., Exh. P03179, Main Staff Strictly confidential no. 17/4-12, Report on the state of morale in the Army of Republika Srpska, signed by Maj. Gen. Milan **GVERO**, 8 February 1993 (**GVERO** provides a full view of activity across all fronts, as well as explaining international developments, diplomacy, perceptions of the Serbs in international media and opinion; as well as internal morale problems).

<sup>4240</sup> N. SIMIĆ, T.28696.

- c. the importance of this area for Republika Srpska at political, economic and military levels, particularly the Majevica, Semberija and Posavina areas, and the importance for Republika Srpska of the military and commercial features that have been objectively under threat;
- d. the forces and resources involved in the operation, and the command and control system, which should inspire confidence that all the prerequisites for a successful action have been created; and
- e. stimulative and other measures undertaken to motivate and boost the combat morale. All levels of command and control shall have their respective places and roles in all preparations. Particular focus shall be on the moral and psychological preparations of the command staff.<sup>4241</sup>

1749. General Simić explained that he would receive the information concerning the international situation from reports from Gen. **GVERO**'s organ at the Main Staff. He included this information in the combat order "so that the soldiers could understand the circumstances within which we were acting."<sup>4242</sup>

1750. Another component of **GVERO**'s role as chief propagandist of the VRS was to remain attuned to how the VRS was perceived in the international media, looking for opportunities to present the VRS positively, as well as watching out for sources of negative portrayal.<sup>4243</sup> **GVERO** was able to accomplish this through controlling the Main Staff Information Centre, and ensuring that its Chief, Col. Milovan Milutinović, was present at key events, such as the Hotel Fontana meetings and meetings in Žepa which could later be used for propaganda purposes.<sup>4244</sup>

1751. As a member of Mladić's inner command, **GVERO** was also trusted to be dispatched to the field to raise morale<sup>4245</sup> or to deal with more general combat-related problems. For example, in May 1995, **GVERO** was placed in charge of a team whose mission was to:

Inspect Forward Command Post-4 of the 1<sup>st</sup> Krajina Corps and the Command Post of Tactical Group-5, assess the situation in the units engaged pursuant to plan *Plamen-95*, and provide the necessary support to extend the operation;

Based on the inspection and observations in the subordinated commands and the /result of/ the inspection, bearing in mind the available resources, propose mg /expansion unknown/ measures to be taken urgently for the purposes of securing the equipment that seriously affects the course of combat operations,

<sup>4241</sup> N. SIMIĆ, T.28696-28698; Exh. 5D00594, East Bosnia Corps Command, Strictly confidential no. 01/1369-2/247, Attack Order, *Spreča-95*, signed by Gen. Maj. Novic Simić, pp.5-6, para.7.6 (English).

<sup>4242</sup> N. SIMIĆ, T.28698.

<sup>4243</sup> Exh. 6D00129, Main Staff Confidential no. 16/10-28, "Prevention of reprisal and treatment of journalists and representatives of international organizations," type-signed by Maj. Gen. Milan **GVERO**, 20 June 1992 ("the media are very important (the so-called media war).").

<sup>4244</sup> TRKULJA, T.15140-15141 (**GVERO** in charge of the Main Staff Information Centre.).

<sup>4245</sup> SKRBIĆ, T.15580-15581, 15594; Exh. P01374[REDACTED] (Intercept, 29 July 1995, **GVERO** in the field with Mladić).

Establish the situation and propose measures to break up Ustasha forces at the Orašje bridgehead as soon as possible.<sup>4246</sup>

1752. On such occasions, Mladić was clearly relying on **GVERO**'s years of experience as a professional military officer and in particular, as a general officer.<sup>4247</sup>

1753. On other occasions, **GVERO** was dispatched to a battlefield to serve as a Main Staff command representative, as he was in Pribičevac on 9 July 1995 and at Bokšanica on 26 and 27 July 1995, when crucial tactical and strategic decisions were being considered by General Mladić and President Karadžić. **GVERO**'s in depth knowledge and experience was essential for providing insights and advice to his commanders in these highly charged and critical situations.

1754. Finally, as the most senior general in the Main Staff, when Generals Mladić or Milovanović were absent and **GVERO** remained at the Main Staff Command Post, Mladić's Assistant Commanders would report to **GVERO**<sup>4248</sup> and **GVERO** would be authorized by Mladić to issue important operational orders, as he did on July 13 in furtherance of the VRS operations to capture, forcibly transfer or murder Muslim men and boys fleeing from the Srebrenica enclave.

**(cxxvii) Overview of the case against Milan GVERO**

1755. Milan **GVERO** individually criminally responsible under Article 7(1) of the Statute for the crimes with which he is charged in the Indictment as a member of the Joint Criminal Enterprise to forcibly remove the Muslim populations of Srebrenica and Žepa.<sup>4249</sup> As described below, **GVERO** made significant contributions to the execution of the common purpose of the JCE and shared the intent with the other members of the JCE to commit the crimes which fell within the common purpose of the JCE.

1756. **GVERO** was familiar with the six Strategic Objectives of the RS and the goals of Directives 4 and 7. He personally and significantly contributed to the disabling of the local UN forces and making life intolerable for the Muslims of Srebrenia by assisting in denying supplies to the enclaves in the months leading up to the take-over of the enclave. During the *Krivaja-95* attack on the enclave, **GVERO** threatened and lied to UNPROFOR officers in order to prevent further air support and enable the completion of

<sup>4246</sup> Exh. 5D00714, Main Staff Strictly confidential no. 03/4-888, Order, Inspection of commands and units, providing help in the realisation of tasks pursuant to plans *Spreča-95* and *Plamen-95*, type-signed by Col. Gen. Ratko Mladić, 12 May 1995.

<sup>4247</sup> MILOVANOVIĆ, T. T. 12250-12251.

<sup>4248</sup> MILOVANOVIĆ, T. 12305.

<sup>4249</sup> See para. 75 of the Indictment.

the take-over of the enclave. Following the takeover, **GVERO** was involved in issuing orders to capture, detain and hide Muslim men trying to escape from Srebrenica; lied to international humanitarian organisations to prevent discovery of the detention and execution sites; he oversaw the transport of wounded Muslims out of Bratunac; and he actively participated in forcing the Muslim population out of the Žepa enclave.

**(W) GVERO KNEW OF, CONTRIBUTED TO, AND SHARED THE INTENT WITH THE OTHER JCE MEMBERS TO PARTICIPATE IN THE JCE TO FORCIBLY REMOVE THE MUSLIM POPULATION FROM SREBRENICA AND ŽEPA.**

**(cxxviii) GVERO's Familiarity with the Strategic Objectives and War Goals**

1757. On 2 September 1992, a meeting took place in Bijeljina attended by, *inter alia*, President Karadžić, Momčilo Krajišnik, the Minister of Defence, the Minister of the Interior, the Prime Minister, General Mladić, General **GVERO** and then-Colonel Novica Simić, Commander of the East Bosnia Corps.<sup>4250</sup> General Simić testified that the “strategic objectives of the war were put forth”<sup>4251</sup> by Krajišnik<sup>4252</sup> at that meeting, describing them in unmistakable terms as the same Strategic Objectives which were outlined by President Karadžić at the 16<sup>th</sup> Assembly Session. Gen. Simić wrote in his war diary that day the first objective described Krajišnik was “separation from the Muslims.”<sup>4253</sup> **GVERO** also addressed this meeting.<sup>4254</sup>

1758. On 20 November 1992, the day after Directive 4 was issued, General Mladić issued an order to the Drina Corps to “prepare, organise and hold a military and political seminar at the level of the Drina Corps on 23 November 1992, starting at 1000 hours, in Zvornik.”<sup>4255</sup> The seminar was to be chaired by President Karadžić and attended by members of the RS government, representatives of the VRS Main Staff, the core Drina Corps Command, the Drina Corps brigade commanders and the presidents of municipalities in the Drina Corps’ zone of responsibility.<sup>4256</sup>

<sup>4250</sup> N. SIMIĆ, T.28649-28654; Exh. P03927, War Diary of Gen. Novica Simić, January 1992 to January 1993, p.35 (BCS).

<sup>4251</sup> N. SIMIĆ, T.28651 (emphasis added).

<sup>4252</sup> N. SIMIĆ, T.28652 and T.28654.

<sup>4253</sup> N. SIMIĆ, T.28651-28654; Exh. P03927, 1992 War Diary of Gen. Novica Simić, p.35 (English).

<sup>4254</sup> N. SIMIĆ, T.28652.

<sup>4255</sup> Exh. P04221, VRS Main Staff Order No. 02/5-213 to prepare and organise military and political seminar on 23 November 1992 in Zvornik, type-signed Lt. Gen. Ratko Mladić, 20 November 1992. *See also* Exh. P04222, VRS Main Staff schedule of presentations to the Drina Corps, signed by Lt. Gen. Ratko Mladić and Maj. Gen. Manojlo Milovanović, 23 November 1992, at ERN 0425-6082.

<sup>4256</sup> Exh. P04221.

1759. On 23 November 1992, the military/political seminar was held in Zvornik and attended by, *inter alia*, President Karadžić;<sup>4257</sup> Gen. Milovanović;<sup>4258</sup> Gen. **GVERO**;<sup>4259</sup> Colonel Živanović;<sup>4260</sup> Col. Radislav Krstić, then-Commander of the 2<sup>nd</sup> Romanija Motorised Brigade;<sup>4261</sup> Capt. Rajko Kušić, Commander of the 1<sup>st</sup> Podrinje Light Infantry Brigade (Rogatica Brigade);<sup>4262</sup> Lt. Col. Svetozar Andrić, Commander of the 1<sup>st</sup> Birač Light Infantry Brigade;<sup>4263</sup> and Capt. 1<sup>st</sup> Class **PANDUREVIĆ**, then-Commander of the 5<sup>th</sup> Podrinje Light Infantry Brigade (Goražde Brigade).<sup>4264</sup>

1760. At the seminar, Col. Živanović spoke about “assignments” in the Žepa, Goražde, Cerska and Srebrenica areas,<sup>4265</sup> the very same areas from which the Drina Corps had been tasked with removing the Muslim population pursuant to Directive 4 (*see* paragraph 56-61). It cannot be a coincidence that Živanović spoke about “assignments” in the Žepa, Goražde, Cerska and Srebrenica areas just four days after the issuance of Directive 4, which had assigned tasks to the Drina Corps, including the removal of the Muslim population, in those very areas. With the presence of President Karadžić, Gen. Milovanović, Gen. **GVERO**, the Drina Corps command, brigade commanders and other important political and military figures at the seminar, the plans and goals outlined in Directive 4 must have been discussed. Finally, as discussed in detail at paragraphs 62-67, the day after this meeting, Živanović issued Drina Corps Order 2-126, which expressly implemented Directive 4 and outlined in even more specific detail the order to remove the Muslim population from the Žepa, Goražde, Cerska and Srebrenica areas. Accordingly, from these discussions there can be no doubt that **GVERO** had specific knowledge of the policy of ethnic cleansing as set out in Directive 4.

1761. Subsequently, during the height of the 1993 campaign against Srebrenica, **GVERO** was called upon to use his organs to assist the Drina Corps in facilitating the departure of the Muslims from Srebrenica.<sup>4266</sup>

<sup>4257</sup> **PANDUREVIĆ**, T.32076; Exh. P04402, Extract of notebook seized by NATO forces during a search of residences of the family of Radovan Karadžić, at ERN 0500-3449; Exh. P04222 at ERN 0425-6082.

<sup>4258</sup> **PANDUREVIĆ**, T.32075; Exh. P04402 at ERN 0500-3449; Exh. P04222 at ERN 0425-6082.

<sup>4259</sup> Exh. P04402 at ERN 0500-3449. *See also* **PANDUREVIĆ**, T.32079.

<sup>4260</sup> **PANDUREVIĆ**, T.32079; Exh. P04402 at ERN 0500-3449; ExhP04222 at ERN 0425-6082.

<sup>4261</sup> Exh. P04402 at ERN 0500-3449; Exh. P04222.

<sup>4262</sup> Exh. P04402 at ERN 0500-3449; Exh. P04222.

<sup>4263</sup> Exh. P04402 at ERN 0500-3449; Exh. P04222.

<sup>4264</sup> **PANDUREVIĆ**, T.32073; Exh. P04402, ERN 0500-3449.

<sup>4265</sup> Exh. P04402, ERN 0500-3449.

<sup>4266</sup> Exh. P04148, Drina Corps Command, Request to Main Staff Morale, Religious and Legal Affairs Section, type-signed by Col. Milenko Živanović, 13 April 1993 (requesting “that Assistant commander for Morale, General **GVERO** and his bodies should engage themselves with projecting information to the Muslims of Srebrenica on the means of their safe evacuation from the combat zone”).

1762. **GVERO** of course attended and addressed the Briefing on Combat Readiness held on 29 and 30 January 1995, where the “future political and military goals and strategies” were discussed and analysed by the highest echelons of the Bosnian Serb government and military.<sup>4267</sup>

1763. By the time General **MILETIĆ** drafted Directive 7/1 (again, using the “full” or “complete” method of group staff work) in March 1995, **GVERO**’s attitude towards UNPROFOR and the international community was revealed in the section he contributed to the “Moral and psychological support” section under “Support for Combat Actions”:

Through planned and coordinated informative and propaganda activities with state organs and media institutions, expose the bias of UNPROFOR and the international community, which are allowing the enemy to arm freely and continually attack Serbian defensive positions from the “protected zone” of Tuzla.”<sup>4268</sup>

1764. **GVERO**’s use of threat and deceit toward UNPROFOR and the international community would shortly contribute significantly to taking down both the Srebrenica and Žepa enclaves.

**(cxxix) GVERO’s role in restricting UN and humanitarian aid re-supply convoys.**

1765. **GVERO** would have participated in the drafting of Directive 7, since this followed the familiar “full” or “complete method” of group staff work wherein each branch of the command contributed elements specific to it.<sup>4269</sup>

1766. **GVERO** was already involved in the convoy approval process before Directive 7 was issued. For example, he approved the passage of a DutchBat convoy out of Srebrenica on 1 December 1994, and a helicopter mission and MSF travel on 8 December 1994.<sup>4270</sup>

1767. Mladić, as noted above at paras. 218-227, sought advice from **GVERO** and Tolimir during this process. For example, on a 5 January 1995 UNPROFOR request for a

<sup>4267</sup> Exh. 5D00967, Schedule, Briefing on Combat Readiness in 1994, 29 and 30 January 1995, signed by Col. Radivoje **MILETIĆ**, accepted by Col. Gen. Ratko Mladić, pp.1-2 (English).

<sup>4268</sup> Exh. 5D00361, Main Staff DT No. 02/2-15, Directive for Further Operations, No. 7/1, drafted by Col. Radivoje **MILETIĆ**, signed by Col. Gen. Ratko Mladić, 31 March 1995, p.6, para.6.1 (English) (also directing that “All forms of inappropriate behaviour, panic and spreading of rumours which negatively affect discipline and the overall mood of the soldiers should be promptly and effectively punished. Coordinate giving of information to the public about combat actions in the operation and psychological and propaganda activities directed against the enemy through the Centre for Information and Propaganda Activities of the VRS Main Staff.”).

<sup>4269</sup> LAZIĆ, T.21763.

<sup>4270</sup> Exh. P04152, Main Staff no. 09/21-534, notification to the Drina Corps of convoy approvals/denials, type-signed by Lt. Gen. Milan **GVERO**, 1 December 1994; Exh. P04153, Main Staff no. 08/23-321, notification to the Drina Corps of convoy approvals/denials, type-signed by Lt. Gen. Milan **GVERO**, 8 December 1994.

helicopter mission, Gen. Mladić wrote, “**GVERO** and Tošo!”<sup>4271</sup> Slavko Kralj, another Main Staff officer, identified Tolimir’s initials and “Yes” in Tolimir’s handwriting next to them.<sup>4272</sup> Above Mladić’s notation “**GVERO** and Tošo” is written, “No – They should go to Kiseljak, and from there by car;” however, Kralj did not recognize these initials or handwriting.

1768. Nevertheless, **GVERO**’s distinctive initials are easily identified by comparing various documents he has signed: thus, his initials can be seen on a June 1992 document that went out under his name, written in what appears to be dark ink about three quarters of the way up the page, and on another document which he initialled and signed as a VRS representative at a truce meeting among the three warring parties.<sup>4273</sup> With these easily recognisable initials in mind, **GVERO**’s initials can then be seen written on various convoy-related documents, both before and after Directive 7 was issued, including:

- a 20 January 1995 UNPROFOR request for a helicopter mission, where **GVERO**’s initials can be quickly recognised, both at the top right corner and again next to “I fully agree,” right below the UN letterhead logo;<sup>4274</sup>
- [REDACTED];<sup>4275</sup>
- a 4 February 1995 UNPROFOR medevac convoy request from Chief of Staff Maj. Gen. J.W. Brinkman, with **GVERO**’s initials in two places on upper center-right of first page;<sup>4276</sup>
- a 21 February 1995 UNPROFOR series of convoy requests from Chief of Staff Maj. Gen. J.W. Brinkman, with **GVERO**’s initials on every page except the last page, where the initials are in a different handwriting and there is a handwritten note that “Anđekić informed on the phone at 175. General **GVERO** approved.”<sup>4277</sup>

<sup>4271</sup> Exh. P04036, Main Staff Strictly confidential no. 06/17-13, notification of convoy approvals/denials, type-signed by Maj. Gen. Manojlo Milovanović, 6 January 1995, p.4 (BCS, ERN 0627-6842) (as noted above at para.169, Tolimir’s nickname is Tošo). KRALJ, T.29331-29332.

<sup>4272</sup> KRALJ, T.29332.

<sup>4273</sup> Exh. 6D00129, Main Staff Confidential no. 16/10-28, Prevention of reprisal and treatment of journalists and representatives of international organizations, type-signed by Maj. Gen. Milan **GVERO**, 20 June 1992 (initials on the right side of page, below and to the right of where “*za Badem*” is written); Exh. 5D01418, Central Joint Commission, Decisions taken in the meeting on 5 February 1995 (initialed on the first page by, proceeding from left to right, Generals Hadžihasanović, **GVERO**, Budimir and Brinkman; then signed in full on the second page in same order).

<sup>4274</sup> Exh. P04028, UNPROFOR request for a helicopter mission, signed by Brig. Gen. J.W. Brinkman, 20 January 1995, p.6 (BCS original, ERN 0627-7150; English, p.7) (with notation by Mladić: “No, but Tošo and **GVERO** should see this!”); KRALJ, T.29328-29330.

<sup>4275</sup> [REDACTED].

<sup>4276</sup> Exh. P04039, UNPROFOR medevac convoy request, signed by Chief of Staff Maj. Gen. J.W. Brinkman, 4 February 1995, p.2, initials at top center-right (ERN 0627-7468) (BCS original).

<sup>4277</sup> Exh. P03999, Main Staff No. 06/17-192, notification of convoy approvals/denials, type-signed by Lt. Gen. Manojlo Milovanović, 22 February 1995, with “*za*” before type-signature; **GVERO**’s initials at top of p. 2 “Yes;” p.3 “Yes;” p.4 “Yes;” p.5 “Yes;” p.6 “Yes” and “No, they must state the purpose” and “Check!?! They must return what is exchanged;” p.7 “Yes;” p.9 “Yes;” p.10 “Yes;” p.11 “Yes;” p.12 “Yes.” (BCS original). It should be noted that Slavko Kralj identified these initials as belonging to Radoslav Pandić.

- a 20 April 1995 UNPROFOR series of convoy requests from Chief of Staff Maj. Gen. Cornelis Nicolai, again with **GVERO**'s initials on virtually every page.<sup>4278</sup>

1769. In a 20 April 1995 meeting attended by Karadžić, Koljević, Kraijnsnik, General **GVERO**, Akashi and General Smith, Smith complained to **GVERO** about the fuel restrictions, to which **GVERO** replied that he had intelligence that UNPROFOR troops in Srebrenica were supplying the ABiH with fuel, and that **GVERO** further knew that UNPROFOR had sufficient fuel reserves.<sup>4279</sup> Ten days later, President Karadžić again accused UNPROFOR of providing fuel and supplies to the Muslims in the Eastern enclaves and warned that "you can expect more restrictions."<sup>4280</sup> Again, on 9 May 1995, Karadžić told Smith that Karadžić had been "convinced" by the VRS that the UN had ample fuel reserves in the enclaves and repeated the claim that in Srebrenica the Muslims had built up a large supply of fuel from UN sources.<sup>4281</sup> With the Bosnian Serb military and political leadership thus speaking with one voice, Karadžić and **GVERO** working together, the convoy restrictions proved brutally effective.

**(cxxx) Contributions to the *Krivaja-95* operation.**

1770. On 8 July 1995, General Živanović proposed engaging the Main Staff Press Centre and the Milići and Bratunac radio stations, since the "Muslim population in the Srebrenica enclave is attentively following both of the above-mentioned radio stations, which is a good opportunity to, from our side, work on this enclave by the media."<sup>4282</sup> While no evidence was presented concerning the Main Staff's use of these radio stations during *Krivaja-95*, Col. Milovan Milutinović, the Chief of the Main Staff Press Centre was indeed present during the Hotel Fontana meetings, which were filmed and used to great propaganda effect by the VRS.

<sup>4278</sup> Exh. P04040, Main Staff Number 06/17-361, notification of convoy approvals/denials, type-signed by Lt. Gen. Manojlo Milovanović with "za" before type-signature; **GVERO**'s initials at top of p. 2 "Yes;" p.3 "Yes" and "No;" p.4 "Yes;" p.5 "Yes;" p.6 "Yes;" p.7 "Yes;" p.8 "Yes;" p.9 "Yes;" p.10 "Yes;" p.11 "Yes;" p.12 "Yes;" p.13 "Yes;" p.14 "Yes;" p.15 "Yes." (BCS original). It should be noted that Slavko Kralj identified these initials as belonging to Aleksandar Tolimir. KRALJ, T.29350-29351.

<sup>4279</sup> SMITH, T.17492-17493, Exh. P02936, Report of Meetings in Sarajevo and Pale – 20 April 1995, by Lt. Col. J.R.J. Baxter, 22 April 1995, p.3, para.9 (English).

<sup>4280</sup> SMITH, T.17496; Exh. P02937, Report of Meeting in Sarajevo and Pale – 30 April 1995, by Lt. Col. J.R.J. Baxter, 30 April 1995, p.3, para.12 (English).

<sup>4281</sup> SMITH, T.17501; Exh. 6D00163, Report of Meeting between Gen. Smith and Pres. Karadžić on 9 May 1995, by Lt. Col. J.R.J. Baxter, 9 May 1995, p.2, para.5 (English).

<sup>4282</sup> Exh. P04154, Drina Corps Command, Strictly Confidential No. 05/2-282, to the Main Staff Assistant Commander for Morale, Religious and Legal Affairs, "Correctness of informing the public about the carrying out of combat operations in the middle Podrinje, proposal," signed by Maj. Gen. Milenko Živanović, 8 July 1995.



**Gvero was deployed to the Pribičevac IKM on 9 July**

1771. Božo Momčilović testified that on 9 July 1995 at around noon, he saw General **GVERO** arrive at the Pribičevac IKM with Major Trišić and Mr. Davidović, the president of the Executive Council.<sup>4283</sup> According to Momčilović, the fighting had ended by that time, and the separation of the enclaves had been completed.<sup>4284</sup> The three men went over to Gen. Krstić, who was some 30 metres away, and sat down together with Krstić, liaison officer Jevđević and some other soldiers for between an hour to an hour and a half.<sup>4285</sup> **GVERO** brought some daily newspapers from Belgrade for morale purposes.<sup>4286</sup> **GVERO**, Trišić and Davidović stayed together the whole time, then left together.<sup>4287</sup> At the time **GVERO** was at the IKM, Gen. Mladić was not present, only Krstić.<sup>4288</sup>

1772. Colonel Dragoslav Trišić testified that **GVERO** arrived at Pribicevac on 9 July 1995 alone with only a driver and that they had a coffee and drink at a table and spoke about everyday matters and not the Srebrenica operation very much; when Trišić left for Bratunac, **GVERO** left as well.<sup>4289</sup> Trišić and **GVERO** did speak about the military activities which were underway at the time, however.<sup>4290</sup>

1773. Defence witness Milenko Jevđević also confirmed that on 9 July, **GVERO** went to the Pribičevac IKM with at least two escorts.<sup>4291</sup> When **GVERO** arrived, Gen. Krstić was at an observation post approximately 50 metres away from where the IKM, from where the combat action from Zeleni Jadar towards the Bojna feature could be observed.<sup>4292</sup> **GVERO** proceeded to the observation post and joined Gen. Krstić.<sup>4293</sup> Gen. **GVERO** would have been able to review the combat activity from this observation point.

1774. **GVERO** was present as General Mladić's Main Staff command representative at the Drina Corps forward command post at Pribičevac on 9 July 1995, a critical point during the *Krivaja-95* operation. As discussed above, it was a customary practice in the VRS to send its officers forward, and **GVERO**'s presence at the Pribičevac IKM was a reflection of the practice where in critical operations Mladić would send one of his Main

<sup>4283</sup> MOMČILOVIĆ, T.14081.

<sup>4284</sup> MOMČILOVIĆ, T.14081, 14095.

<sup>4285</sup> MOMČILOVIĆ, T.14083, 14095.

<sup>4286</sup> MOMČILOVIĆ, T.14093-14094.

<sup>4287</sup> MOMČILOVIĆ, T.14084, 14095.

<sup>4288</sup> MOMČILOVIĆ, T.14084-14085.

<sup>4289</sup> TRIŠIĆ, T.27116-27117.

<sup>4290</sup> TRIŠIĆ, T.27139.

<sup>4291</sup> M.JEVĐEVIĆ, T.29701-29702.

<sup>4292</sup> M.JEVĐEVIĆ, T.29701:8-16.

<sup>4293</sup> M.JEVĐEVIĆ, T.29701:8-16.

Staff officers would be sent forward to a command post to help oversee the operations resolve problems between the corps and Main Staff with respect to resources, with respect to orders, and, crucially, with respect to realising Mladić's overall intent.

1775. Indeed, on 9 July 1995, General Tolimir sent a report marked Very Urgent personally to Generals **GVERO** and Krstić at the Drina Corps IKM in Pribićevec, reporting that the President of Republika Srpska was satisfied with combat operations around Srebrenica and had agreed with the continuation of operations to take over the enclave.<sup>4294</sup> Obviously, Tolimir knew that **GVERO** was at the IKM, otherwise he would not have addressed the communication to him.<sup>4295</sup>

1776. The fact that such a significant communication was marked Very Urgent and sent personally to Gen. **GVERO** at the IKM underscores the serious nature of his presence there. In addition to reporting Pres. Karadžić's agreement with the VRS proposal to take over Srebrenica, Tolimir also communicated another important instruction: to fully protect UNPROFOR members and the Muslim civilian population; to refrain from destroying civilian targets; to ban the torching of residential buildings; and observe the Geneva Conventions. Given the evidence that **GVERO** was responsible for contacts with international organisations and UNPROFOR, and the heightened international scrutiny that taking over the enclave would attract, the only reasonable conclusion is that **GVERO** was there on behalf of the Main Staff to assess the situation and take measures accordingly.

1777. Therefore, at such a critical time in the *Krivaja-95* operation, particularly in Mladić's absence, the idea that **GVERO** was at the Drina Corps IKM meeting with Krstić for over an hour on a coincidental social call is simply preposterous. As **GVERO** had throughout his service to Mladić in the VRS, he must have been there in Mladić's absence as a representative of the Main Staff, to provide insight, advice and guidance as needed, and to be informed by Krstić of the situation on the ground and thereby be able to provide timely and accurate information to the Main Staff, to be distributed to Miletić, Mladić and President Karadžić. The transmission of accurate information from the front, be it by electronic means or personal travel back to Crna Rijeka, was absolutely crucial for the

<sup>4294</sup> Exh. P00033 (same as Exh. P00849), Main Staff Strictly confidential no. 12/46-501/95, Conduct of combat operations around Srebrenica, personally to Generals **GVERO** and Krstić, type-signed by Maj. Gen. Zdravko Tolimir, 9 July 1995 (ERN: 0089-2590-0089-2590).

<sup>4295</sup> MILOVANOVIĆ, T.12362 ("That means Tolimir knows that they are at the forward command post of the Drina Corps, because if Tolimir had been thinking they were at the Main Staff, it would have been addressed to the Main Staff, not the forward command post out there in the field."). Moreover, the only reasonable conclusion is that Gen. Mladić also knew that **GVERO** was at the IKM. SKRBIĆ, T.15619.

ongoing decision making process from 10 July onwards. **GVERO's** presence at the IKM on 10 July formed an indispensable link between the Mladić, the Main Staff and the Presidency on the one hand, and General Krstić and the operation on the other. The fully informed command structure was able to make intelligent decisions in a timely manner in fighting the Muslims, disabling UNPROFOR, controlling the Muslim population, and removing the Muslim population, with Mladić, **GVERO** and **MILETIĆ** working hard together to achieve these aims.

**Gvero issued a false statement to the media on 10 July 1995**

1778. On 10 July 1995, a day when shells were shattering the Srebrenica hospital windows and Maj. Franken had instructed his soldiers to stop bothering counting the shells that were falling on the town, Gen. **GVERO** issued a statement through the Main Staff Information Services that falsely stated:

Our combat activities at the moment are directed towards simply neutralising the Muslim terrorists, and are in no way directed against civilians or members of UNPROFOR. Some UNPROFOR members, for their own safety, have crossed into our territory and are our guests now, well sheltered and safe. The civilians from Srebrenica who wish to do so can in an organised and safe manner leave the settlement. All in all, there is no reason for the media and foreigners to get involved in the Muslim war propaganda, be their trump card and justify their terrorist actions.

1779. General Nicolai testified that **GVERO's** statements that neither UN positions nor civilians were fired upon by the VRS were simply false, and the evidence is simply overwhelming that **GVERO** must have known they were lies when he issued the statement.<sup>4296</sup> **GVERO's** statement to the Muslims suggesting they had a choice to leave or stay is an outright lie; as the evidence has shown, the VRS removed almost every Muslim from the Srebrenica enclave by the evening of 13 July, pursuant to their long held goal to do just that.

1780. **GVERO's** lies in this report were designed to vilify the Muslims in the media and portray the Serbs as humanitarian—all to hide and take the spot light off **GVERO's** and the Serb leadership's true intention to disable UNPROFOR and remove the Muslim population.

**Gvero lied to and threatened UNPROFOR to stop further air support**

1781. **GVERO** also acted to prevent and control outside international protection of the enclaves, including air strikes and international monitoring, all to make it possible to achieve their objective of taking control of the Muslim population and removing them.

<sup>4296</sup> NICOLAI, T.18484-18485; Exh. P02753, Main Staff Statement by Lt. Gen. Milan **GVERO**, "Srebrenica – The Muslim War Trump Card," 10 July 1995; SKRBIC, T.15628 ("It's true that General **GVERO** wrote this. That's his style").

Gen. Nicolai testified that on 11 July 1995 at approximately 16:15 hours, in an attempt to prevent further NATO air support, **GVERO** told him in a telephone conversation that **GVERO** “would have the compound at Potočari and surrounding areas shelled” if there were further use of NATO air support.<sup>4297</sup> Indeed, in language that chillingly echoed General Mladić’s threat to Nesib Mandžić at the Hotel Fontana,<sup>4298</sup> **GVERO** told Nicolai that if Nicolai did not halt the use of NATO air power, Nicolai “would be held responsible for all further developments and the destiny of his men and the civil population in Srebrenica.”<sup>4299</sup> While Nicolai could not recall whether **GVERO** himself directly threatened to shell the UN compound in so many words or whether Nicolai had earlier heard that such a threat had been received by Col. Karremans,<sup>4300</sup> Nicolai understood this statement by **GVERO** to mean that **GVERO** “wanted to make me responsible, blame me for anything that happened to the civilian population and UNPROFOR, because he said, ‘You asked for air support, and so you are also responsible for any reactions on our part to that.’”<sup>4301</sup> Nicolai understood that **GVERO** was telling him that the VRS reaction would be the shelling of the Potočari compound and its immediate surroundings.<sup>4302</sup> General Gobilliard shared this understanding as well.<sup>4303</sup> Nicolai took **GVERO**’s threat seriously, given, for example, the demonstrated willingness of the VRS to fire on civilian targets, as it had in May when scores of civilians were killed in Tuzla by VRS shelling immediately following NATO air strikes.<sup>4304</sup>

1782. Consequently, wishing to avert a “blood-bath,” after Nicolai informed Gobilliard of his conversation with **GVERO** at 16:15 hours, UNPROFOR called off further air support, believing that the VRS threat would in fact be carried out.<sup>4305</sup> Nicolai also stood by his OTP witness statement,<sup>4306</sup> in which he stated that **GVERO** “threatened me by saying that I would be held responsible for all further developments, the destiny of my

<sup>4297</sup> NICOLAI, T.18486-18487, 18489, 18514, 18517; Exh. P02906, Notes of Telephone Conversation between Generals Nicolai and **GVERO**, 11 July 1995, 16:15 hours.

<sup>4298</sup> Exh. P02048, Srebrenica Trial Video transcript, p.48: “Nesib, the future of your people is in your hands, not only in this territory.”

<sup>4299</sup> Exh. P02906; [REDACTED]; NICOLAI, T.18489.

<sup>4300</sup> NICOLAI, T.18509-18511, 18516-18517; Exh. P00507, UNMO Srebrenica Situation Update, 11 July 1995, 16:00 hours (“The town is now in the hands of the BSA by now and the latest ultimatum given by the BSA is that if the airstrikes continue everything inside the enclave will be bombed. Also UNPROFOR and the other UN organizations.”).

<sup>4301</sup> NICOLAI, T.18489.

<sup>4302</sup> NICOLAI, T.18489, 18510, 18516-18517.

<sup>4303</sup> NICOLAI, T.18516.

<sup>4304</sup> NICOLAI, T.18479, 18487, 18492; SMITH, T.17509.

<sup>4305</sup> NICOLAI, T.18487, 18489, 18517, 18543.

<sup>4306</sup> Exh. 6D00153.

men and the civilian population.”<sup>4307</sup> Nicolai also stood by his Assen Debriefing Statement of 18 September 1995,<sup>4308</sup> in which he stated, “In the meantime, the battle on the ground continued as usual and B Compound had to abandon its positions. The stream of refugees triggered by this action combined with the threats made by General **GVERO** in Pale to General Nicolai about bombing the stream of refugees, the Potočari compound and the immediate vicinity made it an urgent priority to stop any further deployment of the air force.”<sup>4309</sup> **GVERO**’s threats and other tactics proved very effective in crippling UNPROFOR and Nato and preventing them from providing any significant protection to the Muslim population.

1783. In the same conversation during which he threatened Nicolai, **GVERO** lied outright to Nicolai by continuing to assert that it was not the VRS that was attacking UNPROFOR; that neither UNPROFOR nor the civilian population in Srebrenica were attacked; and that the UNPROFOR troops were forced by the Muslim army to send such reports.<sup>4310</sup>

1784. Following this conversation with Gen. Nicolai, Gen. **GVERO** issued a “Warning on treatment of UNPROFOR personnel in the enclave of Srebrenica,” in which he stated:

In relation to the total situation in the enclave of Srebrenica, the monitoring of reactions from UNPROFOR representatives and the world public opinion indicates that the attitude of the VRS personnel towards UNPROFOR personnel and units in the area of Srebrenica is in the focus of attention.

To that end Drina Corps command, acting through its subordinate commands, will ensure utmost decency in the attitude towards UNPROFOR personnel – our guests, and prevent any actions and provocations directed against UNPROFOR units in the enclave, regardless of their behaviour. Such attitude toward UNPROFOR units is at this moment of multifarious importance for the realisation of the assignment at hand and of our set objectives.<sup>4311</sup>

1785. As noted above, as the chief propagandist in the VRS, **GVERO** constantly had an eye on how the VRS was perceived in the international media, looking for opportunities to present the VRS positively, as well as watching out for sources of negative portrayal. For this reason and others, it was well within **GVERO**’s purview to deal with UNPROFOR and relations with UNPROFOR, because that was part of his duties and matters within his jurisdiction.<sup>4312</sup> Thus, **GVERO**’s warning must be seen not as some kind of humanitarian gesture, but as his propagandist’s recognition that not maltreating

<sup>4307</sup> T.18588-18589.

<sup>4308</sup> Exh. 6D00157.

<sup>4309</sup> NICOLAI, T.18590-18591.

<sup>4310</sup> NICOLAI, T.18488, 18516-18517, 18519, 18568. [REDACTED].

<sup>4311</sup> Exh. 6D00207, Main Staff Strictly confidential no. 03/4-1617, Warning on treatment of UNPROFOR personnel in the enclave of Srebrenica, type-signed by Maj. [sic] Gen. Milan **GVERO**, 11 July 1995, time-stamped received at 17:35 hours.

<sup>4312</sup> JEVĐEVIĆ, T.29796.

UNPROFOR had “multifarious” importance; specifically, that the “set objectives” of the VRS to remove the Muslim population completely and efficiently, would be best served with the least international scrutiny or condemnation. UNPROFOR troops were by and large not physically mistreated or abused by Serb troops on the ground. Again, **GVERO**’s actions proved effective on the ground, highlighting his authority and ability to control Serb forces when necessary to put on a false image for the world.

1786. Thus, taking a page from his own “Moral and Psychological Support Plan for the Operation” and issuing denials,<sup>4313</sup> **GVERO** continued to lie to UNPROFOR in a telephone conversation with General Gobilliard at 18:10 hours, claiming that the VRS had never attacked UNPROFOR; that the VRS were not attacking civilians.<sup>4314</sup> Toning down his previous threat to Nicolai only slightly, **GVERO** stated that “if UN soldiers do not take any actions today, they will be safe,” emphasising ominously that calling in air support “was a fatal mistake, which will influence the situation in the Srebrenica region over the next few days.”<sup>4315</sup> **GVERO** even added that the Muslim civilians “would be totally safe and were welcome to leave the enclave.”<sup>4316</sup>

1787. Col. Louis Fortin, Gen. Gobilliard’s Military Assistant, was present during the conversation and took detailed notes of it. Fortin testified that **GVERO** lied repeatedly during this conversation, noting that **GVERO**’s statement that “Our army never attacked UNPROFOR” was false and that his statement that the “BSA were not attacking civilians either” was also false.<sup>4317</sup> It was clear to Fortin that **GVERO** was lying “so they could complete the plan.”<sup>4318</sup> Indeed, Fortin testified that:

during this period, 9, 10, 11 July, we believed that the Serbs were basically always repeating the party line, if I may, and they were stalling tactics. While it created confusion on our part, it delayed us in taking actions, it allowed them more time to press on and move on to the pocket. So this example of General **GVERO** and some of the things that he said is more of the same.<sup>4319</sup>

1788. Fortin did not have the impression that **GVERO** was sidelined; quite to the contrary, **GVERO** was like the other VRS officers to whom they had been talking, and was using the same stalling tactics and creating confusion.<sup>4320</sup> So, while **GVERO** was

<sup>4313</sup> Exh. P04208, Plan of Moral and Psychological Support for the Operation (*Sadejstvo-95*), type-signed, Lt. Gen. Milan **GVERO**, approved by Col. Gen. Ratko Mladić, pp.5-6 (English).

<sup>4314</sup> Exh. P02968, Notes of Telephone Conversation between Generals Gobilliard and **GVERO**, 11 July 1995, 18:10 hours, p.2 (English).

<sup>4315</sup> Exh. P02379[REDACTED], Intercept between Generals Gobilliard and **GVERO**, 11 July 1995, 18:00 hours.

<sup>4316</sup> Exh. P02968, p.2 (English).

<sup>4317</sup> FORTIN, T.18254, T.18425-18426.

<sup>4318</sup> FORTIN, T.18260.

<sup>4319</sup> FORTIN, T.18427.

<sup>4320</sup> FORTIN, T.18427-18428.

able to protect UNPROFOR forces from malicious treatment by Serb soldiers in the enclave and Bratunac, he and the Serb leadership had no problem using UNPROFOR forces as hostages in the VRS effort to prevent Nato action that would interfere with their ability to take control of the Muslim population and remove them.

1789. On 11 July 1995, almost immediately upon threatening and lying to Gen. Nicolai in his conversation at 16:15 hours, Gen. **GVERO** updated Pres. Karadžić by telephone. [REDACTED]<sup>4321</sup> [REDACTED].<sup>4322</sup> As noted above, **GVERO** was a crucial communication link to the President and this allowed the President to make appropriate and timely decisions in furtherance of the plan to remove the Muslims.

**Gvero reported on the progress of Operation Krivaja-95 to Pres. Karadžić**

1790. **GVERO**'s familiarity with the developments in Potočari is further revealed in a conversation with Gen. Nicolai in the afternoon of 12 July 1995, wherein **GVERO** rejected Nicolai's offer to go to Potočari and his efforts to arrange helicopter evacuation of wounded, referring three times in the conversation to arrangements made earlier in a meeting between Mladić and Col. Karremans, thus proving that **GVERO** was receiving timely and accurate reporting of the events on the ground in Potočari.<sup>4323</sup> **GVERO** insisted that the Serbs had hospitals to treat the wounded and that there would be evacuation by land only, and rejected Nicolai's suggestion that Nicolai become involved, insisting instead on contacts between Mladić and Col. Karremans only.<sup>4324</sup> **GVERO** understood clearly that the VRS would continue to remain in control of the situation with Col. Karremans under their control, boxed in and "talking from the jail," rather than dealing with a general. **GVERO** no doubt remembered the famous intervention from General Morillon in 1993 causing the VRS to lose control of the Muslim population of Srebrenica to the UN Security Council and the creation of the "Safe Areas".

1791. Based upon his personal contacts with **GVERO** during this period, Nicolai concluded that **GVERO** "was the general who was entrusted with maintaining contact with the UN as long as General Mladić was absent, because he was present in the enclave. And presumably General **GVERO** was in charge of the headquarters at that time."<sup>4325</sup> While Nicolai stated that he simply assumed that **GVERO** was the officer entrusted with

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<sup>4321</sup> [REDACTED].

<sup>4322</sup> [REDACTED].

<sup>4323</sup> NICOLAI, T.18494-95; Exh. P02907, Notes of Telephone Conversation between Generals Nicolai and **GVERO**, 12 July 1995, 14:45 hours; [REDACTED].

<sup>4324</sup> Exh. P02907; [REDACTED].

<sup>4325</sup> NICOLAI, T.18495-18496.

maintaining contact with the UN, he stressed that the point is that for him, any general would do, since they were the only level at which business could get done in the VRS.<sup>4326</sup>

1792. Nicolai further observed from his contacts with **GVERO** that “based on what we said in the course of the conversations, one would conclude that he was poorly informed, but I’m not foolish enough to take that at face value. I assume that he was well-informed about what was going on; he just didn’t say so.”<sup>4327</sup> Nicolai assumed that **GVERO** knew what was happening on the ground “because in all respects the VRS made the impression of being a well-trained, disciplined army. In every well-trained and disciplined army, reports are submitted daily or multiple times a day about communications. They had the communication means required for this, so it would have been highly improbable for the headquarters of the VRS not to be aware of what was happening in the Srebrenica enclave.”<sup>4328</sup> Nicolai’s assessment has been proven absolutely accurate: **GVERO**, like the other members of the Main Staff inner circle with **MILETIĆ** at the information nerve center, were receiving timely and accurate reports and had up to the minute knowledge and was able to pass on that knowledge and advice to his superiors.

1793. The evidence is exceptionally strong that **GVERO** and TOLIMIR lied to UNPROFOR.<sup>4329</sup> During the VRS attack on the enclave and the immediate wake of its fall, **GVERO**’s false statements, taken together with similar false statements by TOLIMIR, constituted “delaying tactics” that impeded the UN’s ability to react to the situation on the ground (for example, by retarding decision-making regarding the use of air power) and in the meantime permitted the VRS to press forward its attack on the enclave.<sup>4330</sup>

**(cxxxi) GVERO Actively Participated in Moving Muslims out of Srebrenica**

1794. As the most senior General at the Main Staff during these fateful days,<sup>4331</sup> **GVERO** employed delegated authority from Gen. Mladić and actively participated in, and exercised control over, the movement of people out of the enclaves. For example, he helped to organise and coordinate the capture and detention of Bosnian Muslim men from Srebrenica, sending out a combat order under his signature on 13 July directing units to

<sup>4326</sup> NICOLAI, T.18550-18552.

<sup>4327</sup> NICOLAI, T.18496.

<sup>4328</sup> NICOLAI, T.18497.

<sup>4329</sup> NICOLAI, T.18515-18516.

<sup>4330</sup> FORTIN, T.18252; NICOLAI, T.18466-67, 18470, 18472-73, 18488 (convinced Tolimir knew exactly what was going on), 1875-76; SMITH, T.17599, 17602-17603.

<sup>4331</sup> MILOVANOVIĆ, T.12369 (**GVERO** most senior general by function and rank); TRKULJA, T.15098, 15101 (**GVERO** the oldest and highest-ranking officer at the Main Staff command post; consequently, **GVERO** would sign off on orders issued by Mladić and drafted by **MILETIĆ**);



prevent the escape of Muslim groups from the enclave.<sup>4332</sup> Though drafted by the Operations organ, **GVERO** read it, signed it and was responsible for it. During these days, **GVERO** also facilitated and oversaw the movement of wounded Muslims from Srebrenica, in such a manner to avoid closer international scrutiny.

**GVERO issued an Order on 13 July to prevent Muslims from escaping Srebrenica**

1795. On 13 July, Gen. **MILETIĆ**'s Operations organ drafted a critical order, to block the passage of Muslim men detected attempting a breakout from the enclave. The order specified that:

Based on the instructions received, and following the defeat in the Srebrenica enclave, the men from the enclave fit for military service were tasked with crossing over to Tuzla and Kladanj in groups and carrying weapons. Among them are inveterate criminals and villains who will stop at nothing just to avoid being captured and reach Muslim-controlled territory. On the night between 12 and 13 July 1995, a number of troops managed to pull out. They were spotted crossing the Bratunac – Konjević Polje – Milići – Vlasenica road, heading for Crni Vrh and Cerska.<sup>4333</sup>

1796. The order further specified, *inter alia*, that in order to protect the Serbian population living on the route along which the Muslim groups were moving, and to prevent their crossing over to Muslim-controlled territory, "Detain the captured and disarmed Muslims in appropriate facilities that can be secured by fewer troops. Immediately report to the superior command," and "Send interim reports with specific details of the situation in the areas of responsibility of all units so that the Corps Command and the VRS Main Staff can act in a timely manner."<sup>4334</sup>

1797. General **GVERO** signed this executive order, and given that it has the effect of a combat order, **GVERO** could have only done so legally with Mladić's authorisation.<sup>4335</sup> The only reasonable conclusion is that this is exactly what happened, given that **GVERO** was the most senior general in the Main Staff at the time and given the complete lack of evidence that **GVERO** would have done anything to undermine Mladić's authority or circumvent the command chain.

1798. Moreover, in order to issue such an order, **GVERO** did not have to be a career combat commander. To the contrary:

An order like this wouldn't be outside of his competence to issue, but it is a broader reflection of the cooperative effort of the generals and the staff of the Main Staff to ensure the overall

<sup>4332</sup> Exh. P00045 (same as Exh. P01059), Main Staff Strictly confidential No. 03/4-1629, Order to prevent the passage of Muslim groups towards Tuzla and Kladanj, type-signed by Lt. Gen. Milan **GVERO**, 11 July 1995.

<sup>4333</sup> Exh. P00045 (same as Exh. P01059), Main Staff Strictly confidential No. 03/4-1629, Order to prevent the passage of Muslim groups towards Tuzla and Kladanj, type-signed by Lt. Gen. Milan **GVERO**, 11 July 1995.

<sup>4334</sup> Exh. P00045, pp.1-2, paras.3 and 6 (English).

<sup>4335</sup> MILOVANOVIĆ, T.12371-12372.

accomplishment of the mission that's been given to them by their superior, General Mladić. General **GVERO** is a longstanding professional military officer and is well aware of what types of orders and directives are within his competence to issue. As a military professional, he wouldn't be issuing orders that he knows are outside of his competence to issue. So this just reflects, you know, that collaborative effort that is going on at the Main Staff in order to accomplish the mission.<sup>4336</sup>

1799. Thus, this order is another compelling example of how the VRS Main Staff operated:

If General Mladić presumably, you know, found out that General **GVERO** or any of his officers are issuing orders outside of their competence to jeopardise the operations, there would presumably be significant ramifications. General Mladić is not necessarily going to be aware of every single aspect of every single order that is coming out of the Main Staff. That is why he has a staff. As the senior officer, General Mladić is giving broad directives as to what he wants to accomplish, when he wants to accomplish these types of missions, and what he wants to be in a position to do after the accomplishment. It then goes to the work of the staff to get into the technical details of how that's to be accomplished. But, you know, the reason why General Mladić, you know, has a staff of officers that he trusts is precisely because he's established the relationship with them that they're able to interpret his general guidance and direction into these concrete tasks that military units need to accomplish missions.<sup>4337</sup>

1800. Not surprisingly, when the subordinate command received **GVERO**'s order, it was promptly acted upon without hesitation and passed down the command chain virtually verbatim, thus reflecting the implicit recognition by the lower echelons that **GVERO** would not be issuing any orders in contravention to Mladić's intentions and that, to the contrary, he may even have been given direct instructions by Mladić to do so.<sup>4338</sup>

1801. From this order **GVERO** took a direct role in the capture and detention of Muslim prisoners and personally branded the Muslims as "inveterate criminals and villains who would stop at nothing to ...". Such a statement from one of the highest military officers in the VRS sends a clear message to the subordinate units to give no quarter to the Muslims and treat them like the criminals and villains. This order undoubtedly led to innumerable abuses by VRS soldiers against Muslims from the column.

**GVERO was consulted about the capture, detention and plan to murder prisoners**

1802. At 14:00 hours on 13 July, Gen. Tolimir sent a proposal (under the signature block of the commander of the 65<sup>th</sup> Motorized Protection Regiment, Lt. Col. Milomir Savčić) to

<sup>4336</sup> BUTLER, T.19872-19873.

<sup>4337</sup> BUTLER, T.19873-19874, 20697-20698 ("As military professionals who understand the importance of these issues, that they're not going to be issuing orders that are outside their competence to do and that at the Main Staff level that these officers are not going to be engaged in some kind of guerrilla campaign to undermine their own authorities, the authorities of their fellow officers, or the goals set by General Mladić").

<sup>4338</sup> Exh. P00117, Drina Corps Command Strictly confidential no.: 03-156-11, "Order to prevent the passage of Muslim groups towards Tuzla and Kladanj," type-signed by Maj. Gen. Milenko Živanović, 13 July 1995; BUTLER, T. 20714-20715.

Generals Mladić and **GVERO**, and to the Command of the Military Police Battalion of the 65<sup>th</sup> Protection Regiment, in which he noted:

There are over 1000 members of the former 28<sup>th</sup> Division of the so-called BiH Army captured in the area of Dušanovo (Kasaba). Prisoners are under the control of the Military Police Battalion of the 65<sup>th</sup> Zmtp.<sup>4339</sup>

1803. Tolimir proposed: 1) prohibiting access to and filming of the prisoners; 2) prohibiting traffic for all UN vehicles along the Zvornik-Vlasenica road; 3) placing the prisoners indoors or out of sight from the ground or air; and 4) that “Once the Commander of the Military Police Battalion receives this order he shall contact General **MILETIĆ** and receive from him additional orders and verify if the proposal has been approved by the Commander of the VRS Main Staff.”<sup>4340</sup>

1804. It is clear from this document that by 14:00 hours on 13 July, Tolimir was fully aware that large numbers of Muslim men from Srebrenica had been captured along the Nova Kasaba-Konjević Polje road and that his proposal to “place them somewhere indoors or in the area protected from sighting from the ground or the air” was designed to prevent the UNPROFOR forces on the ground and the NATO forces, who were the only force to have unhindered daylight access to air travel, from knowing of the existence of the prisoners. The only logical reason to prevent the international forces from knowing about the prisoners was to facilitate the murder of those prisoners without anyone knowing about it. Indeed, by the end of the day on 13 July, organised executions were already occurring on the ground near Nova Kasaba at Jadar River, Cerska Valley and the Kravica Warehouse. By this time, with the second day men being separated out in Potočari without any screening process drawing to a close, **GVERO** must have been aware of the plan to execute the prisoners.

1805. Later on the night of 13 July, in response to Gen. Tolimir’s proposal, Gen. Mladić issued an order to “prevent the leakage of confidential information classified as military secrets,” again addressed to **GVERO**’s Sector, among others, in which he ordered:

1. By means of planned and organised control prevent the entry of all uninvited individuals to the area of combat operations in the general sector of Srebrenica and Žepa;
2. Until further notice close the Konjević Polje – Kravica – Bratunac and Rogatica – Borike – Višegrad roads to traffic, except for vehicles of the VRS and MUP units engaged in combat operations;

<sup>4339</sup> Exh. P00192, Forward Command Post of the 65<sup>th</sup> Motorized Protection Regiment, Borike at 14:00 hours, “Procedure for treatment of prisoners of war,” 13 July 1995, type-signed Lt. Col. Milomir Savčić, with notation “Sent: 15:10 hours,” 13 July 1995 (ERN: 0425-8580-0425-8580 (BCS); 0425-8580-0425-8580-EDT).

<sup>4340</sup> Exh. P00192.

3. Set up road blocks and checkpoints for the regulation and control of traffic at the crossroads in Konjević Polje, on the road leading out of Bratunac towards Kravica, and on the Rogatica – Borike and Višegrad – Borike roads;
4. In the area of combat operations in the wider areas of Srebrenica and Žepa, prevent the entry of all local and foreign journalists, except for the journalists of the VRS Main Staff Press Centre;
5. Ban and prevent the giving of information, the issuing of announcements and statements to the media on the course, situation and results of combat operations in this area and the overall activities in this area, particularly on prisoners of war, evacuated civilians, escapees and similar.<sup>4341</sup>

1806. That Tolimir's proposal and Mladić's final order went to General **GVERO** was not some fluke. Again, both as the most senior general and in his position as Assistant Commander for Morale, it was wholly within **GVERO**'s professional competencies<sup>4342</sup> and the cooperative nature of the Main Staff inner command for him to be part of this decision-making process. All for good reason, as **GVERO** was closely involved in all aspects of the Srebrenica operation, from his assignment at Pribicevac to his work related to UNPROFOR and the Muslims in Potočari to capturing the men of the Muslim column. He remained an essential person for keeping his superiors informed and providing his advice and experience in the continuing operation to remove the Muslims from Srebrenica and Žepa and kill the able bodied men of Srebrenica.

1807. On 13 July 1995, at around 22:30 hours, General Tolimir sent another communication to the attention of General **GVERO** personally, regarding the prisoners from Srebrenica.<sup>4343</sup> Tolimir proposed that if **GVERO** were unable to find adequate accommodation for all of the prisoners, space for 800 prisoners had been arranged in the area of the 1<sup>st</sup> Podrinje Light Infantry Brigade, where they could be used for agricultural work. Tolimir also stated that "it would be best if this is a new group which has not been in contact with the other r/zs Šprisoners of warĆ" and that they be transported at night.<sup>4344</sup> The only reasonable inference from Tolimir's proposal that the 800 prisoners chosen for work not have any contact with the other prisoners is that the latter group were marked for death and revealing their existence to the 800 prisoners would give away the murder operation and make it harder to control the prisoners chosen for work.<sup>4345</sup> Again, as with Tolimir's prior proposal and Mladić's order in response to it (Exh. P00192 and Exh.

<sup>4341</sup> Exh. P02897, Main Staff Strictly conf. no. 03/4-1638, Order, "Preventing leakage of military secrets in the area of combat operations," type-signed by Col. Gen. Ratko Mladić, 13 July 1995.

<sup>4342</sup> General Skrbić testified that points 1 and 4 of Mladić's final order (Exh. P002897) fell within **GVERO**'s remit. SKRBIĆ, T.15616-15618.

<sup>4343</sup> Exh. P00131, 1<sup>st</sup> Podrinje Light Infantry Brigade Command, Strictly confidential number: 04-520-51/95, personally to Gen. **GVERO**, "Accommodation of prisoners of war," type-signed by Maj. Gen. Zdravko Tolimir, 13 July 1995.

<sup>4344</sup> *Id.*

<sup>4345</sup> BUTLER, T. 19906-19909.

P02897, respectively), Tolimir addressed this new proposal to **GVERO** because he was the most senior general<sup>4346</sup> and part of the Main Staff inner command and someone who could help make sure the job was finished properly.

**GVERO oversaw the transport of wounded from Bratunac**

1808. After the fall of the Srebrenica enclave and the removal of the civilian population from Potočari, **GVERO** again lied to international representatives in order to block the access of the UN and other international organisations to Srebrenica, because by that time he was aware that much of the area from Bratunac north to Zvornik was a crime scene.<sup>4347</sup>

1809. Thus, when **GVERO** was tasked during the 15 July meeting in Belgrade (attended by President Milošević and Generals Smith and Mladić) to meet on 16 July with UNHCR regarding evacuation of the wounded from Bratunac and access to the area for UNHCR and ICRC,<sup>4348</sup> he had to know the sensitivity of these tasks in the larger context of the murder operation that had been underway since 13 July.

1810. The evidence establishes that **GVERO** did in fact meet with international organizations in connection with transporting wounded Muslims out of the enclave and granting access to the enclave. Although Gen. Nicolai testified that he thought it unlikely that **GVERO** met with UNHCR, [REDACTED] notes taken of a conversation between Nicolai and a Col. Marković from the Main Staf [REDACTED] show that **GVERO** did meet on 16 July with UNHCR.<sup>4349</sup>

1811. Moreover, the evidence is clear that **GVERO** met with ICRC representatives regarding access to the missing men from Srebrenica. By this time, serious questions had begun to be raised in the international community about the fate of the men and boys from Srebrenica. For example, the “ICRC Update No. 9 on ICRC activities in the former Yugoslavia” noted under the heading “Protection – detention activities,” that:

Throughout the past week ICRC delegates repeatedly requested that the Bosnian Serb authorities give them free access to all males detained by the BSA when it took over the Srebrenica enclave.

After a meeting held in Belgrade, the European envoy, Mr Carl Bildt, declared to the media on 16 July that the ICRC would be granted access to all detainees around Bratunac. The ICRC delegates

<sup>4346</sup> MILOVANOVIĆ, T.12368-12369 (**GVERO** received proposal because he was the most senior general by rank and function at the time).

<sup>4347</sup> [REDACTED].

<sup>4348</sup> Exh. P02942, UN Code Cable from Akashi to Annan, 17 July 1995 (noting issues of “Full access to the area for UNHCR and ICRC” and “UNHCR to meet with General **GVERO** 1200 hrs Sunday 16 July 1995 at Jahorina hotel” in attached “Understanding from Belgrade Discussions, Situation in Bosnia and Herzegovina, 15 July 1995.”).

<sup>4349</sup> NICOLAI, T.18498-18499; Exh. P02978, Notes of Telephone Conversation between Gen. Nicolai and Col. Marković, 16 July 1995, 15:00 hours (Marković says that **GVERO** was having a meeting with UNHCR trying to reach an agreement regarding transportation of the wounded);[REDACTED].

in Pale then had a meeting with General **GVERO** of the BSA, who ensured them that the ICRC would be given access to all detainees once security conditions in the area allowed.<sup>4350</sup>

1812. The next day, the ICRC issue a press release, which specified that:

Three medical teams of the International Committee of the Red Cross (ICRC), coming from Pale, Bijeljina and Belgrade, evacuated 88 wounded people from Bratunac and Potocari on 17 and 18 July. These casualties, some of them in very serious condition, were taken to Tuzla. Most of them had previously been treated at the Medecins sans frontiers (MSF) hospital in Srebrenica.

The ICRC conducted this operation with the agreement of General Milan **GVERO** of the Bosnian Serb Army.

When all the wounded had been collected in Bratunac on the first day of the evacuation, 23 of them were refused authorisation to leave. The ICRC considers them to be prisoners of war and noted their identities in order to be able to seek permission to visit them.

The ICRC is also concerned about the fate of thousands of people whose families, displaced to Tuzla have lost all track of them. It is requesting the highest Bosnian Serb authorities to give it access to all persons captured during the latest events in Srebrenica.<sup>4351</sup>

1813. On Thursday, 20 July, a Radio Deutsche Welle Interview with ICRC Belgrade office spokesman Josue Anselmo was broadcast at 16:30 hours. In the interview, Mr. Anselmo stated, among other things:

that early this week an oral agreement was reached with Gen Milan **GVERO** in Pale, according to which the ICRC delegates are in principle authorised to visit the Srebrenica Moslems detained by the BSA when it took over this UN protected area.

His delegation has been daily demanding from the Pale military leadership to make good on this promise immediately, while Pale has been responding that access to all the detainees will be allowed as soon as security conditions in the field permit. We will continue to make representations to Serb authorities in order to be able to visit all the detainees as soon as possible, because we are concerned about their fate, Mr Anselmo has stressed, adding that it would not be serious to give a figure of detainees, since it has not been established, although some other humanitarian organisations, like the UNHCR, estimate that Bosnian Serbs captured several thousand men and took them to Bratunac.

According to Mr Anselmo, Gen **GVERO** agreed with the usual conditions for ICRC visits to detention centres, which means: registration of all detainees, interview carried out in private, giving the detainees the possibility to write Red Cross messages and in this way inform their families that they are alive, repeated visits and the assessment of the conditions of detention.<sup>4352</sup>

1814. By 20 July 1995, **GVERO** surely knew that most of the Muslim men detained by the VRS after the fall of Srebrenica were no longer living, and rather than being part of a humanitarian effort to evacuate wounded, was in fact engaged in a grotesque cover up of the mass killings which were still underway while he was meeting with the ICRC and UNHCR. It was absolutely essential for the RS and VRS objective in Žepa and Gorazde

<sup>4350</sup> Exh. P04156, ICRC Update No. 9 on ICRC activities in the former Yugoslavia, 17 July 1995, p.3 (English).

<sup>4351</sup> Exh. P00536, ICRC Communication to the Press, No. 95/32, 18 July 1995.

<sup>4352</sup> See Exh. P04157, message from spokesman of the ICRC Belgrade office Josue Anselmo to ICRC Geneva concerning "ICRC Interview to Deutsche Welle Broadcasted Today (20.07), 20 July 1995 (ERN: 0460-0760-0460-0807).

and future negotiations with the international community that all information associated with the mass executions of Srebrenica be carefully controlled and hidden from view. **GVERO** took a lead role in this crucial task.

1815. **GVERO** and **MILETIĆ** shared this awareness of the need to restrict access to the area, ensuring that when the international representatives arrived to monitor the medical evacuation from Bratunac, and again later in the month, they would be permitted to see little:

*Note:* Related to this journey, security organs of the 1<sup>st</sup> Bratunac lpb must constantly monitor their movement and activities. They must not allow them to go anywhere on their own and must restrict their movement, but be very polite. In other words, the security organs must direct their movement.<sup>4353</sup>

1816. **GVERO**'s resort to "security concerns" to delay access to the area meant that the international community still did not have access to prisoners by 31 July, when General Smith met with him and General Mladić in Mrkonjić Grad, and that in the meantime, the victims of the mass executions could be safely buried without detection.<sup>4354</sup>

**(cxxxii) GVERO Actively Participated in Forcing the Muslims out of Žepa**

1817. On 15 July 1995, during a period when the *Stupčanica-95* operation was increasing in intensity, Gen. Tolimir ordered the transportation of a 5,000 watt loudspeaker van from the 1<sup>st</sup> Krajina Corps Press Centre to Rogatica, where he was based at the time.<sup>4355</sup> The arrangements were to be made with Col. Milovan Milutinović, Chief of the Main Staff Centre for Information and Propaganda Activities, which was subordinated to Gen. **GVERO**'s Morale Organ.

1818. This practice was already in place as early as the Cerska campaign towards Srebrenica, as can be seen from a Drina Corps Command Combat Order dated 13 March 1993, in which Drina Corps Commander Milenko Živanović, under the heading "Moral and psychological preparations," ordered that loudspeakers "shall apply psychological

<sup>4353</sup> Exh. P02570, Main Staff Number: 06/20-269, notification of convoy approvals/denials to Drina Corps for UNHCR convoy to travel to Bratunac to monitor medical evacuation on 19 July, type-signed by Maj. Gen. Radivoje **MILETIĆ**, Standing in for the Chief of Staff, 18 July 1995, p.2, para.3 (English); BUTLER, T.19733-19735. Exh. P02661a, Main Staff notification of approval of travel permits, type-signed by Radivoje **MILETIĆ**, Standing in for the Chief of Staff, 26 July 1995 ("Note: I hereby charge the Commander of the 1<sup>st</sup> Bratunac lpb / light infantry brigade/ to designate a representative of his unit who will attend the meeting in Bratunac – Srebrenica and follow the movement of the UNHCR team. The same applies to Vlasenica, where a representative of the Drina Corps will be also involved.").

<sup>4354</sup> SMITH, T.17561.

<sup>4355</sup> Exh. P02788, 1<sup>st</sup> Podrinje Light Infantry Brigade Command, Strictly confidential no.: 07/23-44, to the 1<sup>st</sup> Krajina Corps Security Department, type-signed by Gen. Maj. Zdravko Tolimir, 15 July 1995.

pressure on the enemy by calling them to surrender ahead of combat operations.”<sup>4356</sup> In his *Sadejstvo-95* Plan of Moral and Psychological Support for the Operation, **GVERO** included public address systems under the heading, “Psychological and propaganda activities aimed at the enemy.”<sup>4357</sup>

1819. On 19 July, General Milovanović returned to Cran Rijeka in the evening and reported to **GVERO** as the most senior person at the Main Staff.<sup>4358</sup> When Milovanović asked where Mladić was, **GVERO** told him that Mladić was negotiating with somebody about Žepa.<sup>4359</sup> Gen. Mladić was at that time meeting with Hamdija Torlak and Dr. Benjamin Kulovac at Bokšanica to obtain the surrender of Žepa.

1820. On 23 July **GVERO** spoke with Lt. Col. Jim Baxter, Military Assistant to Gen. Smith, when Baxter called to set up a meeting with Mladić to discuss Žepa. **GVERO** replied that “We believe such a meeting would be useful and I suppose it could take place, unless some extraordinary events occur during that time.” When Baxter inquired what **GVERO** meant by extraordinary events, **GVERO** replied, “Whatever is ordinarily considered an extraordinary or unexpected event in time of war, for instance groundless and irrational bombing, attack on our forces, support to the Muslims and similar.”<sup>4360</sup>

1821. By the morning of 25 July **GVERO** had received the text of the agreement signed by Torlak the day before.<sup>4361</sup> General Tolimir had sent another proposal personally to “General **GVERO** or General **MILETIĆ**,” noting that they had received the text of the agreement and citing the risk if UNPROFOR sent a general rather than a colonel to Žepa that there might be a repeat of Gen. Morillon’s stand at Srebrenica in 1993.<sup>4362</sup> In this proposal, Tolimir notes that the Muslims could take advantage of the signed agreement,

<sup>4356</sup> Exh. P04147, Drina Corps Command Strictly confidential no. 01/5-148, Combat order on further action, type-signed by Col. Milenko Živanović, 14 March 1993, pp.5-6 (English) (“The Department of Moral, Religious and Legal Affairs shall continue intense propaganda and psychological preparations with the goal of motivating the troops for offensive action to ensure their readiness to sustain more hardship and show greater will to fight”).

<sup>4357</sup> Exh. P04208, Plan of Moral and Psychological Support for the Operation, type-signed, Lt. Gen. Milan **GVERO**, approved by Col. Gen. Ratko Mladić, p.6 (English).

<sup>4358</sup> MILOVANOVIĆ, T.12203.

<sup>4359</sup> MILOVANOVIĆ, T.12203-12204.

<sup>4360</sup> P01320[REDACTED], Intercept between Col. Baxter and **GVERO**, 23 July 1995, 21:20 hours; SMITH, T.17542-17543.

<sup>4361</sup> Exh. P01328a, Intercept between X and Ljubo, 25 July 1995 at 07:09 hours (Golić “should be somewhere with Krstić. Check with Pop, he knows where he is and he’s somewhere with Krle. If not, then check with **MILETIĆ**, and **MILETIĆ** will call him on that line you have . . . I sent the text of the agreement last night, take a look, it’s over there at Milić’s, and subsequently a telegram this morning . . . **MILETIĆ** or **GVERO** with regard to UNPROFOR and the ICRC, so have Miloš go there to fetch it and have them inform you about the telegram.”).

<sup>4362</sup> Exh. P00191, 1<sup>st</sup> Podrinje Light Infantry Brigade Command, Strictly confidential number 04-520-63:95, personally to General **GVERO** or **MILETIĆ**, “Agreement on Žepa,” type-signed by Maj. Gen. Zdravko Tolimir, 25 July 1995, with notation received at 05:30 hours. MILOVANOVIĆ, T.12376-12377.



“which they have already tried to do by bringing up the issue of prisoners from Srebrenica.”<sup>4363</sup> Tolimir’s proposal thus recognises that the Serbs’ failure to account for the missing men from Srebrenica was becoming more difficult to avoid and to explain, particularly for **GVERO**, whose duties included dealing with UNPROFOR and international humanitarian organisations and specifically preventing leakage of information related to the mass execution of Srebrenica.

1822. Later that day, Gen. Smith, Lt. Col. Baxter and Capt. Bliss (Sayer) met at the Jela Restaurant with Mladić and **GVERO** to discuss the situation in Žepa and the agreement, which Mladić had with him. After the meeting, Mladić flew by helicopter to Žepa and Smith, Baxter and Sayer drove to Bokšanica to meet NGO and local Muslim representatives and to assess the situation; however, Mladić and Tolimir had already begun the transportation of the civilian population.<sup>4364</sup> **GVERO**’s presence at Mladić’s side during this important meeting shows that he was an essential part of the operation to take over Žepa and remove the Muslim population.

1823. The following day, 26 July, saw the removal of the Muslim population from Žepa begin in earnest, with Tolimir overseeing the boarding process down in Žepa centre. Meanwhile, observing the buses arrive up at Bokšanica loaded with the frightened and exhausted people were Mladić, **GVERO**, Krstić, **PANDUREVIĆ** and Kušić.<sup>4365</sup> Also present at Bokšanica with Mladić and **GVERO** was Torlak, who was told by Mladić to stay in Bokšanica as a guarantee of Tolimir’s safety.

1824. **GVERO**’s presence in Bokšanica with Mladić and Pandurević was no accident. On this day two major operations were under way; the final realization of Directive 7 (the removal of the Muslims from both Srebrenica and Žepa was almost accomplished); and at the same time, the VRS was facing catastrophe on the western front in the areas of Glamoc and Grahovo. **GVERO** was present at Boksanica and in the position to provide any needed additional advice or guidance to his commander on finishing the job in Žepa and to celebrate watch over what they had been working many years to achieve—the removal of almost the last Muslims from Eastern Bosnia.

<sup>4363</sup> Exh. P00191.

<sup>4364</sup> SMITH, T.17544-17545; Exh. P02747, Report of Meeting between Generals Smith and Mladić - 25 July, by Lt. Col. J.R.J. Baxter, 26 July 1995 (referring at p.1, para.3 to separate note, Exh. 6D00108, Report, The Situation in Žepa, by Lt. Col. J.R.J. Baxter, 26 July 1995.).

<sup>4365</sup> Exh. P04537, Boksanica Footage – Video containing footage of General Mladić, General **GVERO**, General Krstic, Lt. Colonel **PANDUREVIĆ**, Hamdija Torlak and refugees from Žepa at the UN checkpoint at Boksanica, on 26 July 1995.

1825. **GVERO** returned to Bokšanica the next day, 27 July, as well, after Smith had met with Mladić and the three Muslim representatives from Žepa (Torlak, Mehmed Hajrić and Imamović) and the transportations had concluded. Smith and Sayer both recall encountering **GVERO** at a checkpoint outside of Žepa on their last day there, and that **GVERO** was on his way into the enclave.<sup>4366</sup>

1826. After the removal of the Muslim population of Žepa was completed, **GVERO** and the entire VRS high command relocated to the Western front to deal with the Croatian offensive Operation Storm. Nevertheless, Mladić and **GVERO** met again with Smith in Mrkonjić Grad on 31 July to resolve the situation concerning the

**(X) CONCLUSION OF THE JOINT CRIMINAL ENTERPRISE AND OTHER FORMS OF LIABILITY UNDER ARTICLE 7(1).**

1827. Milan **GVERO** is individually criminally responsible under Article 7(1) of the Statute for the crimes with which he is charged in the Indictment as a member of the Joint Criminal Enterprise to forcibly remove the Muslim populations of Srebrenica and Žepa.<sup>4367</sup> As described above, **GVERO** made significant contributions to the execution of the common purpose of the JCE and shared the intent with the other members of the JCE to commit the crimes which fell within the common purpose of the JCE.

1828. In addition to his criminal liability for the crimes charged in the Indictment as a member of the Joint Criminal Enterprise, Milan **GVERO** is criminally responsible for ordering, planning, instigating and otherwise aiding and abetting the commission of the crimes charged in the Indictment.

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<sup>4366</sup> SAYER, T.21087-21089, 21091, 21133, 21135, 21137-21138, 21148; SMITH, T.17556-17557, 17724-17726, 17738, 17827, 17731, 17735, 17738.

<sup>4367</sup> See para. 76 of the Indictment.

(IX) **INDIVIDUAL CRIMINAL RESPONSIBILITY OF LJUBOMIR BOROVIČANIN UNDER ART. 7(1) AND ART. 7(3) OF THE STATUTE**

(Y) **INTRODUCTION**

1829. Ljubomir **BOROVIČANIN**, son of Milorad, was born on 27 February 1960 in Han Pijesak, Bosnia and Herzegovina.<sup>4368</sup> **BOROVIČANIN** attended primary and secondary school in Olovo, near Sarajevo.<sup>4369</sup> He studied political sciences at Sarajevo University, where he graduated in 1982.<sup>4370</sup> During the period relevant to the Indictment, Ljubomir (also known as Ljubiša) **BOROVIČANIN** was Deputy Commander of the Republika Srpska (RS) MUP Special Police Brigade.<sup>4371</sup> **BOROVIČANIN** was based at the Special Police Brigade headquarters in the village of Janja, 12 kilometres from Bijeljina.<sup>4372</sup>

(cxxxiii) **Background, role and responsibilities of Ljubomir BOROVIČANIN.**

1830. **BOROVIČANIN** was employed as a secondary school teacher in Travnik, from 21 September 1982 until 20 February 1986;<sup>4373</sup> and by the Municipality Council in Olovo from February 1986 until 1 November 1990.<sup>4374</sup> On 1 November 1990, **BOROVIČANIN** was appointed Commander of the Kladanj Police Station.<sup>4375</sup>

**1 August 1992 to 24 February 1994: Commander of the Bratunac Police Station.**

1831. From 1 August 1992 until 24 February 1994, **BOROVIČANIN** was the Commander of the Bratunac Police Station.<sup>4376</sup> In this position, **BOROVIČANIN** was second in command under the Chief of the Bratunac Police Station.<sup>4377</sup>

<sup>4368</sup> Exh. P02852, **BOROVIČANIN** February Interview, p.4.

<sup>4369</sup> Exh. P02852, **BOROVIČANIN** February Interview, p.5.

<sup>4370</sup> Exh. P02852, **BOROVIČANIN** February Interview, p.5.

<sup>4371</sup> Exh. P02852, Transcript of OTP Interview of Ljubomir **BOROVIČANIN**, dated 20 February 2002 (“**BOROVIČANIN** February Interview”), p. 6; Exh. P02857, Document brought by **BOROVIČANIN** to the interview on 20 February 2002 and marked Document 3: Official Memo assigning Ljubomir **BOROVIČANIN** - Former Deputy Cdr RS Special Police Brigade - as temporary Deputy Cdr RS Special Police Brigade in 1994, dated 24 February 1994.

<sup>4372</sup> Exh. P02852, **BOROVIČANIN** February Interview, p. 6; Exh. P02853, Transcript of OTP Interview of Ljubomir **BOROVIČANIN**, dated 11 and 12 March 2002 (“**BOROVIČANIN** March Interview”), p. 116.

<sup>4373</sup> Exh. P02852, **BOROVIČANIN** February Interview, p.6; Exh. P02855, Document brought by **BOROVIČANIN** to the interview on 20 February 2002 and marked Document 1: Official Memo assigning Ljubomir **BOROVIČANIN** - Former Deputy Cdr RS Special Police Brigade - as a schoolteacher in Travnik in 1982, dated 29 September 1982.

<sup>4374</sup> Exh. P02852, **BOROVIČANIN** February Interview, p.5; Exh. P02856, Document brought by **BOROVIČANIN** to the interview on 20 February 2002 and marked Document 2: Official Memo assigning Ljubomir **BOROVIČANIN** - Former Deputy Cdr RS Special Police Brigade - to work in the Town Hall, Olovo in 1986, dated 21 February 1986.

<sup>4375</sup> Exh. P02852, **BOROVIČANIN** February Interview, p.6; STANOJEVIĆ, T.12866.

<sup>4376</sup> Exh. P02852, **BOROVIČANIN** February Interview, p.6; ČELANOVIĆ, T.6701; NEŠKOVIĆ, T.27409:17 – 27411; TRIŠIĆ, T.27060-61.

<sup>4377</sup> In July 1992, the Chief of the Bratunac Police Station was Luka Bogdanović (Exh. P03850, List of active employees who carried out tasks and duties in the Bratunac Public Security Station during the month

1832. On 30 December 1992, **BOROVČANIN** was also appointed to the Command of the military rule in the Bratunac municipality.<sup>4378</sup> Military rule had been established in the Bratunac Municipality on 29 December 1992 pursuant to an Order issued by President Karadžić and the VRS in response to the growing threat from Bosnian Muslim forces.

1833. A number of significant historical and military events occurred just prior to, and during, the period in which **BOROVČANIN** held these positions of authority in Bratunac,<sup>4379</sup> including the burning and removal of the Muslims from the village of Glogova upon the orders of Miroslav Deronjić; the Muslim attack on Kravica on 7 January 1993; and the Bosnian Serb counter-offensive which led to the exodus of the Muslim population from this area and the establishment of the UN “safe areas” in Srebrenica, Žepa and Goražde.

1834. **BOROVČANIN** was fully informed of these historical events and the effect these events had on the Bosnian Serb and Muslim populations in and around the Bratunac area. **BOROVČANIN** himself acknowledged his familiarity with the events of 1992 and 1993 in Srebrenica and Eastern Bosnia during his March Interview with the OTP.<sup>4380</sup> As the Commander of the Bratunac Police Station during this period, **BOROVČANIN** must have been aware of the appalling conditions which the RS and VRS policies had inflicted on the Muslims in Srebrenica in 1993 and of the thousands of Muslims who fled the area and were bussed towards Tuzla in the spring of 1993.

**When he was the Commander of the Bratunac Police Station, BOROVČANIN developed relationships with key members of the charged JCE.**

1835. During the time when **BOROVČANIN** was the Commander of the Bratunac Police Station, he also developed important and long-standing relationships with key figures who, in July 1995, played a major role in the removal of the Bosnian Muslim population from the Srebrenica enclave and the murder of the able-bodied Muslim men. **BOROVČANIN** maintained relationships with Božko Nežković, Commander of the Bratunac Red Berets;<sup>4381</sup> [REDACTED];<sup>4382</sup> Momir Nikolić, Bratunac Brigade Chief of

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of July 1992 and who received a salary advance for July 1992 and who received a salary advance for July 1992, type-signed by SJB Chief Luka Bogdanović). See also D.STANOJEVIĆ, T.12866.

<sup>4378</sup> Exh. P03838, Bratunac Brigade Report No. 162/3-92 re establishing military rule in the Bratunac Municipality, type-signed Lt Col Milan Urošević, dated 30 December 1992.

<sup>4379</sup> L.SIMIĆ, T.27322-23.

<sup>4380</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 112.

<sup>4381</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 155.

<sup>4382</sup> [REDACTED].

Security and Intelligence;<sup>4383</sup> Zlatan Čelanović, Bratunac Brigade Lawyer/clerk; and Milomir Savčić, Commander of the 65<sup>th</sup> Protection Regiment.

1836. Savčić testified that he met **BOROVČANIN** at the end of 1992 while in Bratunac. He and **BOROVČANIN** maintained a close working relationship throughout the war:

*We worked together on some cases of paramilitary organisation. We neutralised this evil that was starting to appear in the area of Republika Srpska, and our successful cooperation lasted throughout the war.*<sup>4384</sup>

1837. Savčić also testified that **BOROVČANIN** participated in a combat operation commanded by Krstić in 1994.<sup>4385</sup> At that time, **BOROVČANIN** was resubordinated to the 2<sup>nd</sup> Romanija Brigade, which was under the command of then-Col. Krstić.<sup>4386</sup>

1838. Momir Nikolić testified that he respected **BOROVČANIN** very much, as an honourable and honest officer.<sup>4387</sup>

1839. [REDACTED].<sup>4388</sup>

1840. [REDACTED].<sup>4389 4390</sup>

**Feb. 1994 – Dec. 1995: Deputy Commander of the MUP Special Police Brigade.**

1841. On 24 February 1994, **BOROVČANIN** was appointed Deputy Commander of the MUP Special Police Brigade and was based at the Brigade headquarters in the village of Janja, 12 kilometres from Bijeljina.<sup>4391</sup> While **BOROVČANIN** relocated to Bijeljina, his parents remained in Bratunac.<sup>4392</sup> **BOROVČANIN** remained in this position until 23 December 1995 when he was appointed Chief of Police Administration with the MUP.<sup>4393</sup>

1842. During the period when **BOROVČANIN** was Deputy Commander of the MUP Special Police Brigade in Bijeljina, the Mount Jahorina Training Centre was established for recruits completing their military service and for Bosnian Serb army “deserters” who

<sup>4383</sup> M.NIKOLIĆ, T. 33202.

<sup>4384</sup> SAVČIĆ, T.15299:2-5 (emphasis added).

<sup>4385</sup> SAVČIĆ, T.15286-15287.

<sup>4386</sup> SAVČIĆ, T.15286; Exh. 4D00120.

<sup>4387</sup> M.NIKOLIĆ, T.33202:15-22.

<sup>4388</sup> [REDACTED].

<sup>4389</sup> [REDACTED].

<sup>4390</sup> [REDACTED].

<sup>4391</sup> Exh. P02852, **BOROVČANIN** February Interview, p. 6; Exh. P02857, Document brought by **BOROVČANIN** to the interview on 20 February 2002 and marked Document 3: Official Memo assigning Ljubomir **BOROVČANIN** - Former Deputy Cdr RS Special Police Brigade - as temporary Deputy Cdr RS Special Police Brigade in 1994, dated 24 February 1994; Exh. P02853, **BOROVČANIN** March Interview, p. 116.

<sup>4392</sup> TRIŠIĆ, T.27061; [REDACTED] PW-160, T.8571.

<sup>4393</sup> Exh. P02852, **BOROVČANIN** February Interview, pp. 6, 8.

had been arrested in Serbia.<sup>4394</sup> Training activities in Mount Jahorina commenced in mid-June 1995 with a pilot project involving 35 recruits who were doing their military service.<sup>4395</sup> On 22 June 1995, “deserters” who had been arrested in Serbia started to arrive at the training centre in Bijeljina. These men were received at Mount Jahorina where they were trained for selection into the MUP and the VRS.<sup>4396</sup>

1843. In June 1995, **BOROVČANIN** was on the Trnovo/Sarajevo front in command of the joint police forces.<sup>4397</sup> These forces included the Serbian MUP unit known as the “Skorpions.”<sup>4398</sup> On 16 June 1995, **BOROVČANIN** was also appointed Staff Commander of the newly established Tron facility in Pale, to command and control the police forces in Pale following NATO’s aerial bombardment of locations in this area.<sup>4399</sup>

**1-10 July 1995: BOROVČANIN was on the Trnovo/Sarajevo front in command of various MUP units when he received an order to go to Srebrenica.**

1844. On 1 July 1995, **BOROVČANIN** was on the Trnovo front in command of various MUP units, including the Skorpions. In his 1 July 1995 daily dispatch report to his superiors, **BOROVČANIN** reported on the activities of the Skorpions and the other units under his command.<sup>4400</sup> As the Trial Chamber is aware, the Skorpions were tasked with the summary execution of at least six Srebrenica Muslim males in late July 1995.

1845. On 10 July 1995, **BOROVČANIN** was appointed Commander of a joint force of MUP units by the Ministry of Interior and ordered to support the VRS in their ongoing attack on the Srebrenica enclave. This joint force included elements of the 2<sup>nd</sup> Šekovići Detachment of the RS Special Police, elements of the 1<sup>st</sup> PJP Company of the Zvornik Municipality Police and the 1<sup>st</sup> Company from the Jahorina Training Centre.

1846. The 10 July Order was authorized by Tomislav Kovač and promulgated pursuant to the RS Law on the Implementation of the Law on Internal Affairs During an Imminent

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<sup>4394</sup> JEVIC, T.8571.

<sup>4395</sup> Exh. 4D00626, RS Police Directorate, Dispatch No. 01-600/95 re Amendments of the Law on the Army (The Law on Amendments to the Law on Application of the Law on the Army during an imminent threat of War or a State of War from the RS Police Directorate signed by the President of the Republic Radovan Karadžić dated 5 June 1995); STOJČINOVIĆ, T.27596-97.

<sup>4396</sup> Exh. 4D00511, Report on the work of the Special Police Brigade for June 1995 - from Republika Srpska, Ministry of Interior, Special Police Brigade Bijeljina - dated July 1993; STOJČINOVIĆ, T.27598-99.

<sup>4397</sup> Exh. P02852, **BOROVČANIN** February Interview, pp. 20-21.

<sup>4398</sup> STOJČINOVIĆ, T.27630 onwards.

<sup>4399</sup> Exh. 4D00139, RS Ministry of Interior, K/P-717/95, Letter from the Office of the Minister and Conclusions from a MUP meeting in Pale; STOJČINOVIĆ, T.27594-95.

<sup>4400</sup> Exh. P03794, Document from the MUP Special Police Brigade IKM Trnovo, signed by Ljubiša **BOROVČANIN**, dated 1 July 1995.

Threat of War or a State of War,<sup>4401</sup> wherein MUP units were resubordinated to the VRS -- in this case General Krstić -- whilst remaining under the direct command of their own commander; in this case, **BOROVČANIN**.<sup>4402</sup>

1847. Pursuant to the 10 July Order, **BOROVČANIN** was ordered to proceed to Bratunac to report to General Krstić, who was then Chief of Staff of the Drina Corps and operational commander of the Srebrenica attack forces.

1848. **BOROVČANIN** told the Prosecution that he was on the Trnovo front commanding the joint police forces when he received the 10 July Order from Kovač ordering **BOROVČANIN** to take command of certain MUP units, including “Serbian and RS MUP forces,” proceed to the Bratunac area and report to General Krstić.<sup>4403</sup> This signified the start of **BOROVČANIN**’s involvement in the campaign to take over the Srebrenica enclave.<sup>4404</sup> The stated goal of the operation, as set out in the 10 July Order, was to “crush the enemy offensive being carried out from the safe area of Srebrenica.”<sup>4405</sup>

1849. It is not clear whether the “Serbian MUP” unit, envisaged by the 10 July Order to fall under **BOROVČANIN**’s command in the Srebrenica operation, actually arrived in Bratunac.<sup>4406</sup> According to **BOROVČANIN**, the Serbian MUP and the RSK unit identified in the 10 July Order did not arrive in the Bratunac area as ordered.<sup>4407</sup> However, the other units specified in the Order were under **BOROVČANIN**’s command and were deployed in the Bratunac area.

1850. During his interviews with the OTP, **BOROVČANIN** acknowledged that on 11 July, he was placed under the command of the VRS and in command of the following three units: the 1<sup>st</sup> PJP Company from the Zvornik CJB; the 1<sup>st</sup> Company from the Jahorina Training Centre commanded by Duško Jević; and the 2<sup>nd</sup> Šekovići Detachment

<sup>4401</sup> Exh. 4DP00725, RS Law on the Implementation of the Law on Internal Affairs During an Imminent Threat of War or a State of War of 29 November 1994.

<sup>4402</sup> Kovač’s order designated **BOROVČANIN** commander of the mixed unit and directed him to report to establish contact with Gen. Krstić. (Exh. P00094, 10 July Order). *See also* BUTLER, T.19817. **BOROVČANIN** had the task of commanding and leading MUP units, and those MUP units were resubordinated through him to the Chief of Staff of the Drina Corps, Gen. Krstić, through whom **BOROVČANIN** would receive orders from the Drina Corps Command. ([REDACTED] (PW-160), T.8670-8671). **BOROVČANIN** would then forward those orders through the MUP chain of command to [REDACTED] PW-160 and the subordinate MUP units. ([REDACTED] PW-160, T.8671). The MUP units could be used to perform tasks through **BOROVČANIN**, to be given a task from him at the level of the Drina Corps, and to carry out such specified tasks; **BOROVČANIN** would be the person relaying that order into the MUP line of command from the military. ([REDACTED] PW-160, T.8696).

<sup>4403</sup> Exh. P00094, 10 July Order.

<sup>4404</sup> Exh. P02852, **BOROVČANIN** February Interview, p. 20.

<sup>4405</sup> Exh. P00094, 10 July Order.

<sup>4406</sup> Exh. P00094, 10 July Order.

<sup>4407</sup> Exh. P02852, **BOROVČANIN** February Interview, pp. 26-27.

of the Special Police.<sup>4408</sup> These three units all arrived in the Bratunac area on 11 July and the early morning hours of 12 July 1995.

1851. From 11 July until around 18 July 1995, **BOROVČANIN** was responsible for commanding the MUP forces which including planning and directing the activities of all the subordinate formations under his command in accordance with the directives received from those in the higher command, in this case, the Drina Corps.

1852. As the commander of these MUP units, **BOROVČANIN** had the responsibility to ensure the safety and welfare of all Muslim prisoners within the area under his control.

**(cxxxiv) Overview of the case against Ljubomir BOROVČANIN**

1853. Ljubomir **BOROVČANIN** is individually criminally responsible under Articles 7(1) and 7(3) of the Statute for the crimes with which he is charged in the Indictment as a member of two Joint Criminal Enterprises: (1) to forcibly remove the Muslim populations of Srebrenica and Žepa;<sup>4409</sup> and (2) to murder the able-bodied men of Srebrenica.<sup>4410</sup>

1854. As outlined below, **BOROVČANIN** made voluntary and significant contributions to the execution of the common purpose of both JCEs and shared the intent to commit the crimes with the other members of the JCE which fell within the common purpose of the JCEs. **BOROVČANIN** is also responsible for ordering, planning, instigating and otherwise aiding and abetting the commission of crimes charged in the Indictment.

1855. In the early morning hours of 12 July, **BOROVČANIN** and the three MUP units under his command, working together with the VRS, advanced on Potočari. They took control of the UN Checkpoint at Yellow Bridge and then secured the area around the UN base in Potočari where thousands of Muslim civilians had gathered.

1856. On 12 and 13 July, **BOROVČANIN** commanded MUP forces as they, together with the VRS, separated, detained and transported the Muslim men and boys of Potočari. **BOROVČANIN** knew that these men and boys were to be murdered.

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<sup>4408</sup> Exh. P02852, **BOROVČANIN** February Interview, pp.20-26-27; *See also* Exh. 4D00510, **5 September Report**. Other MUP units including a second company from the Jahorina Training Centre commanded by Nedo Ikonić and the 5<sup>th</sup> PJP Company from the Zvornik PJP and 1 Platoon of the 2<sup>nd</sup> PJP Company from the Zvornik PJP were also under **BOROVČANIN**'s command at the time they were deployed in the area but most of the discussion in this brief will revolve around the three units specifically noted in the 10 July Order, as those units are directly linked to the crimes charged in the Indictment.

<sup>4409</sup> *See* para. 77 of the Indictment.

<sup>4410</sup> *See* para. 39 of the Indictment.



1857. On 12 and 13 July, **BOROVČANIN**, acting under orders from the VRS, commanded MUP forces who worked together with VRS units to transport the women, children and elderly out of Potočari.

1858. **BOROVČANIN** was present in Potočari on 12 and 13 July and personally oversaw the horrendous process of separation, transportation and detention of the Muslim population in Potočari by, *inter alia*, MUP units under his command.

1859. From 12 through 14 July, **BOROVČANIN** and MUP forces under his command, acting under orders from General Mladić, were deployed along the Bratunac-Konjević Polje Road. These forces captured and detained hundreds of Muslim men fleeing the Srebrenica enclave. MUP forces under **BOROVČANIN**'s command used UNPROFOR equipment to deceive many Muslim men into surrendering to them. **BOROVČANIN** knew that these Muslim men were to be murdered.

1860. Throughout the day on 13 July, Muslims were captured and detained at the Sandići Meadow. During this time they were robbed and some were physically abused or killed by units under the command of **BOROVČANIN**, pursuant to orders from the VRS.

1861. On the afternoon of 13 July, **BOROVČANIN** received orders from his VRS superior command to summarily execute at least 1,000 of the Muslim men detained by his troops at the Sandići Meadow. In furtherance of that order, **BOROVČANIN** ordered the transfer of approximately 1,000 prisoners from the Sandići Meadow to the Kravica Warehouse. Soon thereafter, **BOROVČANIN** issued an order to close the Bratunac – Konjević Polje Road to conceal the executions that were about to occur.

1862. Units under **BOROVČANIN**'s command then took part in the execution of the prisoners in the Kravica Warehouse. The transfer and execution of these prisoners required **BOROVČANIN**'s knowledge and authorisation.

1863. At approximately 17:15 – 17:20 hours, **BOROVČANIN** arrived at the Kravica Warehouse while the executions of the Muslim men were ongoing. **BOROVČANIN** did nothing to prevent those executions and failed to provide any kind of aid, help or medical assistance to the remaining surviving Muslims in the Warehouse. **BOROVČANIN**'s actions demonstrated his approval of the mass executions and encouraged the soldiers under his command and others to continue killing the Muslim prisoners and leave the wounded prisoners to die.

1864. Following the Kravica Warehouse executions, at 20:40 hours on the evening of 13 July, **BOROVČANIN** was called by Gen. Krstić and asked to provide a status report on the activities in his area. **BOROVČANIN** told Krstić that everything was going well.

1865. On 14 July, **BOROVČANIN** remained under the command of the VRS and in command of MUP units deployed along the road between Kravica and Konjević Polje. Acting on the orders of **BOROVČANIN**, those units continued to take part in executions at the Kravica Warehouse and assisted the VRS in the process of removing the approximately 1,000 bodies from the Warehouse.

**(Z) BOROVČANIN KNEW OF, CONTRIBUTED TO, AND SHARED THE INTENT WITH THE OTHER MEMBERS OF THE JCE TO PARTICIPATE IN THE JCE TO FORCIBLY REMOVE THE MUSLIM POPULATION FROM SREBRENICA AND ŽEPA**

**(cxxxv) 11 July: BOROVČANIN arrived in Bratunac.**

1866. Upon receiving the 10 July Order, **BOROVČANIN** travelled towards Bratunac on the night of 10 / 11 July.<sup>4411</sup> **BOROVČANIN** stopped *en route* in Jahorina where he met with Goran Sarić, Commander of the Special Police Brigade, to discuss the Srebrenica engagement.<sup>4412</sup> While in Jahorina, **BOROVČANIN** also met with [REDACTED] PW-160.<sup>4413</sup> [REDACTED] PW-160 testified that **BOROVČANIN** showed him the 10 July Order and told [REDACTED] PW-160 that he ([REDACTED] PW-160) had been assigned to go to Bratunac with a company from Jahorina.<sup>4414</sup> **BOROVČANIN** ordered [REDACTED] PW-160 to be in Bratunac by 15:00 hours and told [REDACTED] PW-160 that he would receive further orders once in Bratunac.<sup>4415</sup>

1867. **BOROVČANIN** arrived at the Bratunac Police Station around noon on 11 July.<sup>4416</sup> **BOROVČANIN** called the Bratunac Brigade to report to General Krstić.<sup>4417</sup> He was told that General Krstić was at the IKM at Pribičevac so **BOROVČANIN** travelled toward Pribičevac with his driver.<sup>4418</sup> **BOROVČANIN** arrived in Pribičevac around 15:00 hours<sup>4419</sup> and familiarised himself with the combat situation, learning that at that

<sup>4411</sup> Exh. P02852, **BOROVČANIN** February Interview, p.26.

<sup>4412</sup> Exh. 4D00510, 5 September Report at ERN:4D05-1184; Exh. P02852, **BOROVČANIN** February Interview, p. 26.

<sup>4413</sup> [REDACTED] PW-160, T.8573-74.

<sup>4414</sup> [REDACTED] PW-160, T.8573, 8652.

<sup>4415</sup> [REDACTED] PW-160, T.8573.

<sup>4416</sup> Exh. 4D00510, 5 September Report; Exh. P02852, **BOROVČANIN** February Interview, p. 26.

<sup>4417</sup> Exh. P02852, **BOROVČANIN** February Interview, pp. 27.

<sup>4418</sup> Exh. P02852, **BOROVČANIN** February Interview, pp. 27-31.

<sup>4419</sup> Exh. P02852, **BOROVČANIN** February Interview, pp. 30-31.

time there was intense combat at the entry to Srebrenica town itself.<sup>4420</sup> **BOROVČANIN** acknowledged that he was under the command of the VRS during this time.<sup>4421</sup>

1868. At Pribičevac, **BOROVČANIN** asked for Gen. Krstić but was instead connected to General Mladić.<sup>4422</sup> Mladić ordered **BOROVČANIN** to take all available manpower from Yellow Bridge to Potočari and onwards to the village of Milacevici.<sup>4423</sup> At that time, none of the MUP forces assigned to **BOROVČANIN** had arrived in the Bratunac area and **BOROVČANIN** informed General Mladić of this fact.<sup>4424</sup> Later that afternoon, the 1<sup>st</sup> Company from the Jahorina Training Centre arrived in the area of Bratunac with the Training Centre Commander, Duško Jević, and 1<sup>st</sup> Company Commander, Mendeljev (“Mane”) Đurić.<sup>4425</sup> [REDACTED] PW-160 testified that he met with **BOROVČANIN** in Bratunac on 11 July and was ordered by **BOROVČANIN** to billet his Jahorina unit in the nearby village of Bjelovac and await further orders.<sup>4426</sup> The 1<sup>st</sup> Company of the Jahorina Training Centre was composed of 70-100<sup>4427</sup> young Bosnian Serb men who had fled to Serbia to escape the war but had been sent back to Bosnia by Serb authorities.

1869. In the early evening hours of 11 July, the town of Srebrenica fell under the “complete control of the VRS.”<sup>4428</sup> At approximately 19:00 hours, **BOROVČANIN** went to the Hotel Fontana to report to Gen. Mladić. He found Mladić eating dinner with Gen. Krstić and two or three other officers. **BOROVČANIN** told Mladić that not all of the units assigned to him had arrived in the Bratunac area. Mladić responded by telling **BOROVČANIN** to leave the room.<sup>4429</sup>

1870. That evening, the 1<sup>st</sup> PJP Company from Zvornik arrived in Bratunac. The 1<sup>st</sup> PJP Company was commanded by Danilo Zoljić and his subordinate Radomir Pantić.<sup>4430</sup> Some of the members of the 1<sup>st</sup> PJP Company hailed from the Bratunac Police Station

<sup>4420</sup> Exh. 4D00510, 5 September Report at ERN:4D05-1185.

<sup>4421</sup> Exh. P02852, **BOROVČANIN** February Interview, pp. 29-30.

<sup>4422</sup> Exh. P02852, **BOROVČANIN** February Interview, p. 31.

<sup>4423</sup> Exh. 4D00510, 5 September Report at ERN:4D05-1185.

<sup>4424</sup> Exh. 4D00510, 5 September Report at ERN: 4D05-1185.

<sup>4425</sup> [REDACTED] PW-160, T.8573-76; Exh. 4D00510, 5 September Report at ERN:4D05-1185; ĐURIĆ, T.10799; [REDACTED] PW-100, T.14800.

<sup>4426</sup> [REDACTED] PW-160, T.8574-75; ĐURIĆ, T.10799.

<sup>4427</sup> Exh. P02852, **BOROVČANIN** February Interview, p.71; ĐURIĆ, T.10854; [REDACTED] PW-160, T. 8572-73.

<sup>4428</sup> Exh. 4D00510, 5 September Report at ERN: 4D05-1185.

<sup>4429</sup> Exh. P02852, **BOROVČANIN** February Interview, pp. 45-46.

<sup>4430</sup> Exh. P02852, **BOROVČANIN** February Interview, pp. 45-49; ZARIĆ, T.26913-26914; FILIPOVIĆ, T.26990-26991.

and knew **BOROVČANIN** from his time as Commander of the Bratunac Police Station, including defence witness Dobraslav Stanojević.<sup>4431</sup>

1871. That same evening, **BOROVČANIN** had contacts with Momir Nikolić and Colonel Cerović of the Drina Corps, from whom he learned about the Hotel Fontana meetings between the VRS, Dutchbat and Bosnian Muslim representatives.<sup>4432</sup>

1872. During the evening hours of 11 July, **BOROVČANIN** also learned that “[a] large number of civilians from the Srebrenica area gathered in Potočari”<sup>4433</sup> and that among them there were “military age men.”<sup>4434</sup> [REDACTED] PW-160 testified that on 11 July, **BOROVČANIN** ordered him to reconnoitre the Potočari area, the UNPROFOR base and the access leading toward Srebrenica, and report back to him.<sup>4435</sup> [REDACTED] PW-160 testified that he performed the reconnaissance around dusk and reported back to **BOROVČANIN** that large numbers of civilians were gathering at the UNPROFOR base area.<sup>4436</sup>

1873. [REDACTED] PW-160 also testified that **BOROVČANIN** told him that it had been decided that the “civilians were to be evacuated from the Potočari area”<sup>4437</sup> during a meeting among Mladić, the UNPROFOR commander and Muslim representatives. **BOROVČANIN** told [REDACTED] PW-160 that “in the morning we were supposed to go into the Potočari area and to secure UNPROFOR and the civilians until the beginning of the evacuation.”<sup>4438</sup>

1874. At around 03:00 hours on 12 July, the 2<sup>nd</sup> Šekovići Detachment arrived in Bratunac led by Miloš Stupar and his subordinate Rade Čuturić.<sup>4439</sup> **BOROVČANIN** knew the capabilities of the 2<sup>nd</sup> Šekovići Detachment since these troops had been under his command at the Trnovo/Sarajevo battlefield, immediately prior to their redeployment to Bratunac.<sup>4440</sup> This unit had also been under **BOROVČANIN**’s command in April 1995 at the Majevisa front.<sup>4441</sup>

<sup>4431</sup> STANOJEVIĆ, T.12920.

<sup>4432</sup> Exh. P02852, **BOROVČANIN** February Interview, pp. 51-52.

<sup>4433</sup> Exh. 4D00510, 5 September Report at ERN:4D05-1185.

<sup>4434</sup> Exh. P02852, **BOROVČANIN** February Interview, p. 55.

<sup>4435</sup> [REDACTED] PW-160, T.8579.

<sup>4436</sup> [REDACTED] PW-160, T.8579:16-23.

<sup>4437</sup> [REDACTED] PW-160, T.8580:5-9.

<sup>4438</sup> [REDACTED] PW-160, T.8580:16-18.

<sup>4439</sup> Exh. P02852, **BOROVČANIN** February Interview, p. 50; Exh. 4D00510, 5 September Report at ERN:4D05-1185.

<sup>4440</sup> Exh. P02852, **BOROVČANIN** February Interview, pp. 20-21.

<sup>4441</sup> Exh. 4D00509, **BOROVČANIN** Report on Combat Engagement of SBP in Majevisa, 06-24 April 1995 at ERN:4D05-1181.

### **Conclusion**

1875. By the early morning hours of 12 July, **BOROVČANIN** and each of his three units had arrived in the Bratunac area and had become fully integrated into the VRS operation to take over the Srebrenica enclave and move out the civilian population.

1876. During this time, **BOROVČANIN** was in direct contact with Gen. Mladić and was receiving information and instructions from Mladić's subordinates, including Col. Cerović and Momir Nikolić. From **BOROVČANIN**'s 5 September Report and his statements to the OTP, it is clear that he was well-informed of all the events happening around him during this time. The Hotel Fontana meetings, the large number of civilians and military age men assembling in Potočari, as well as **BOROVČANIN**'s orders on the morning of 12 July to take over and secure the UN base in Potočari and the civilians in and around the UN compound, all demonstrate **BOROVČANIN**'s level of knowledge and awareness during this time of the ongoing events. Despite **BOROVČANIN**'s suggestion that Gen. Mladić had a certain disdain or distrust of the MUP, on the morning of 12 July, **BOROVČANIN**'s forces were clearly given the major responsibility of assaulting the Srebrenica enclave and taking control of the Yellow Bridge checkpoint, and Potočari, from the Dutchbat.

1877. **BOROVČANIN** was fully aware of the VRS's plans to evacuate the Muslim population from in and around Potočari. **BOROVČANIN** had a deep knowledge and understanding of the history of the enclave and the Srebrenica/Bratunac/Zvornik region and he would have known that the Muslims of Srebrenica would only leave if left no other option. By the late evening of 11 July, **BOROVČANIN** thus knew that the VRS intended to forcibly remove the Muslim population assembled in and around Potočari, and that **BOROVČANIN** and his units were expected to play a key role in this operation.

1878. It is unclear if, by the late evening of 11 July or the early morning hours of 12 July, **BOROVČANIN** had received any information on the VRS's intentions to murder the able-bodied Muslim men in Potočari. However, by the end of the day of 12 July, **BOROVČANIN** and his commanders must have been fully aware of the VRS's intentions to separate and murder the Muslim men and boys in Potočari.

### **(cxxxvi) 12 July: The advance on Potočari.**

1879. Around 05:00-6:30 hours on the morning of 12 July, **BOROVČANIN**, and the three MUP units under his command, proceeded through the cleared minefield towards

the village of Budak and the area surrounding the Yellow Bridge.<sup>4442</sup> **BOROVČANIN**'s unit took control of the UN Yellow Bridge Checkpoint without encountering any resistance from the Dutch forces.<sup>4443</sup>

**The objective of BOROVČANIN's units was to defeat UNPROFOR and take control of the Muslim population in Potočari to facilitate their removal from the enclave.**

1880. At about the same time that **BOROVČANIN**'s forces took control of the Yellow Bridge from Dutchbat, Gen. Mladić held a meeting at the Bratunac Brigade HQ with Gen. Krstić and other authorities. At that meeting, as reported by Chief of the Zvornik CSB Dragomir Vasić in a 12 July Dispatch to his superiors, "tasks were assigned to all those involved;" the military operation was going according to plan and the "Turks are fleeing towards Sućeska while the civilians have gathered in Potočari."<sup>4444</sup>

1881. Vasić was present in Bratunac during this time. As a result, he would have been fully informed of the MUP units' orders and objectives and of basic intelligence received from the field. Vasić's report that the ABiH forces were fleeing towards Sućeska reflects the inaccurate information the VRS held at the time concerning the whereabouts of the Muslim forces.<sup>4445</sup> It is apparent from Vasić's report that by 08:00 hours on 12 July, the VRS had not yet fully realised that the 28<sup>th</sup> Division of the ABiH was actually moving from Jaglići and Šušnjari in the direction of Konjević Polje and Cerska.<sup>4446</sup>

1882. Vasić also stated in his report that "Šjćoint police forces are advancing on Potočari with the aim of taking UNPROFOR personnel prisoner, surrounding the entire civilian population and cleansing the area of enemy troops."<sup>4447</sup> This is a direct reference to **BOROVČANIN**'s units advancing on Potočari. It is clear from **BOROVČANIN**'s 5 September Report and from his interview with the OTP, that all three of his assigned units, the 1<sup>st</sup> PJP unit, the Jahorina unit and the 2<sup>nd</sup> Šekovići Detachment, were involved

<sup>4442</sup> Exh. 4D00510, 5 September Report at ERN:4D05-1185; Exh. P02852, **BOROVČANIN** February Interview, pp. 63-65.

<sup>4443</sup> [REDACTED] PW-160, T.8657-8659 (confirming that there was "no fighting or no exchange of fire" between his troops and the Dutch battalion); ĐURIĆ, T.10806, 10856, 10858; [REDACTED] PW-100, T.14873, 14875-76 (testifying that he never received or heard of any orders to disarm the Dutch Battalion); CELIĆ, T.13496; STANOJEVIĆ, T.12906, 12917 (testifying that he had no tasks requiring him to disarm, attack or have contact with the UN troops at the Yellow Brigade Checkpoint); ZARIĆ, T.26918 (testifying that he was told not to engage with UN soldiers); FILIPOVIĆ, T.26996.

<sup>4444</sup> Exh. P00059, CJB Zvornik No. 227/95, Information on the situation in the Bratunac (Potocari-Srebrenica) area, type-signed Dragomir VASIĆ, dated 12 July 1995.

<sup>4445</sup> Exh. P00059.

<sup>4446</sup> Exh. P00059; Exh. P00685, Srebrenica Military Narrative - Operation *Krivaja-95*, dated 15 May 2000 at ERN:0095-0766.

<sup>4447</sup> Exh. P00059.

in the advance on Potočari and its surroundings.<sup>4448</sup> Moreover, the testimony of [REDACTED] PW-160 and Mendeljev Đurić provides corroboration that the 1<sup>st</sup> Company from the Jahorina Training Centre marched into Potočari and were deployed there.<sup>4449</sup>

1883. **BOROVČANIN**'s 5 September Report reflects the same basic objective referred to in Vasić's report:

The first task---to take control of the UN checkpoint on Žuti Most---was completed successfully without any incidents. The (Dutch) UN members did not react.

A large number of civilians were gathering in Potočari. We estimated that there were 25,000 to 28,000 people. The general location was secured and at about 1400 hours, they began to be transported to Kladanj in an organised way.<sup>4450</sup>

1884. As noted above, **BOROVČANIN**'s first task was to take control of the UN Checkpoint at Yellow Bridge and then to secure the area around the UN Base in Potočari where thousands of Muslim civilians had gathered. Meeting these objectives required taking control of the Dutch Battalion forces and thereby taking control of the Muslim population. This was a significant step prior to the actual expulsion of the Bosnian Muslim population from Potočari.

1885. **BOROVČANIN**, in an official report to his superiors dated 13 July 1995, described the actions of his three units on the morning of 12 July as follows:

Š...ĆEngaged in offensive actions from the direction of Žuti Most toward Potočari. At 0530 hrs, we sealed off the checkpoint at Žuti Most and we then proceeded along the road toward Potočari. There was no strong armed resistance from the Muslims, so we took control of Potočari by 1300 hrs, and with the right-hand flank, we took control of the Budak and Milačevići features.

In Potočari, we sealed off the main UN base, where a throng of between 25,000 and 30,000 civilians had gathered, approximately five percent of whom were able bodied men.<sup>4451</sup>

1886. **BOROVČANIN**'s 13 July Report reflects the same basic actions and objectives as his 5 September Report did for that same day.<sup>4452</sup>

1887. In his interviews with the OTP, **BOROVČANIN** stated that he had two contacts with Gen. Mladić on 12 July. The first was a brief contact on the road between Yellow Bridge and Potočari as **BOROVČANIN** was entering Potočari.<sup>4453</sup> Mladić told **BOROVČANIN** there had been an agreement to transport the Muslims to other areas and

<sup>4448</sup> Exh. 4D00510, 5 September Report at ERN:4D05-1185; Exh. P02852, **BOROVČANIN** February Interview, pp. 63:20-24, 70:14-23.

<sup>4449</sup> [REDACTED] PW-160, T.8580-8581 ([REDACTED] PW-160 testified that the Jahorina unit and 1<sup>st</sup> PJP headed into Potočari); ĐURIĆ, T.10804-10816; PEPIC, T.13545; [REDACTED] PW-100, T.14800.

<sup>4450</sup> Exh. 4D00510, 5 September Report at ERN:4D05-1185-4D05-1186.

<sup>4451</sup> Exh. P03789, 13 July Report, dated 13 July 1995, p. 1.

<sup>4452</sup> See Exh. P03789, 13 July Report; Exh. 4D00510, 5 September Report.

<sup>4453</sup> Exh. P02852, **BOROVČANIN** February Interview, pp. 68-69.

that “he [Mladić] needs the police /assistance/ to regulate the traffic, because that there [sic] would be a huge action regarding the transport and moving out of Muslims towards Tuzla and Kladanj.”<sup>4454</sup>

1888. In the Srebrenica trial video, **BOROVČANIN** and his units can be seen in Potočari on 12 July carrying out General Mladić’s task of regulating traffic together with VRS forces.<sup>4455</sup> It is abundantly clear that **BOROVČANIN** and his forces played a major role in defeating and securing the UN forces and taking control of the Muslim population assembled in Potočari. Both of these actions provided significant contributions to the illegal aim of forcibly transferring the Muslim population out of Potočari.

1889. The Srebrenica trial video also shows that once Potočari had been secured by the VRS and MUP, **BOROVČANIN** and others were involved in creating propagandist footage which showed them handing out cigarettes and sweets to children in the crowd.<sup>4456</sup> This footage was also designed to calm the crowd, thus enabling the VRS and MUP to control the crowd of civilians and transport them out of Potočari.

### **Conclusion**

1890. While the takeover of Potočari by MUP and VRS forces did not involve physically taking the UNPROFOR troops prisoner, as stated in Vasić’s report, the Serb forces clearly took operational control of the area away from UNPROFOR and took control over the Muslim population, in order to move them out of the area. As the Trial Chamber is aware, later in the day on 12 July, the Serb forces, including forces under the command of **BOROVČANIN**, detained one unit of UNPROFOR soldiers and systematically disarmed others. This action rendered most of the UNPROFOR troops disarmed and helpless by the afternoon of 13 July.

1891. Even before **BOROVČANIN**’s troops began assisting in the actual removal of the civilian population from Potočari, **BOROVČANIN** knowingly and wilfully participated in the JCE to remove the Muslim population from Srebrenica. **BOROVČANIN** would have been fully aware that the attack on the Srebrenica enclave was a key precondition to moving out the Muslim population from the area. As noted above, **BOROVČANIN** was completely aware of the VRS’s plans to move out the Muslim population from Potočari on the night of 11 July, when he was told of the discussions between General Mladić, the DutchBat and the Bosnian Muslim representatives. **BOROVČANIN**’s actions in taking

<sup>4454</sup> Exh. P02852, **BOROVČANIN** February Interview, p. 69:3-7.

<sup>4455</sup> Exh. P02047, Srebrenica Trial Video, at 2:12:41-2:13:18.

<sup>4456</sup> Exh. P02047, Srebrenica Trial Video, at 1:57:27-1:58:07.



control of the UN forces and the Bosnian Muslim population made the VRS's goal to forcibly remove the Bosnian Muslim population from Srebrenica possible.

1892. Moreover, **BOROVČANIN** was fully aware of the wartime history of the enclave and of the Bosnian Serbs' intention, evident since 1992, to remove the Muslim civilian population from Eastern Bosnia.<sup>4457</sup> As a Bosnian Serb hailing from the area, **BOROVČANIN** undoubtedly knew how attached both the Bosnian Muslims and Serbs were to their homes, their land, their farms, their places of worship and their communities. As such, **BOROVČANIN** would have known that the only circumstances under which the Muslims of Eastern Bosnia would leave their homes was if they were forced to flee in fear of their lives.

1893. Accordingly, when **BOROVČANIN** heard from the third Hotel Fontana meeting that the Muslims had "agreed" to leave Potočari, he would have been fully aware that the Serb forces had given the Muslims no other choice. Since **BOROVČANIN**'s forces played a critical role in neutralising UNPROFOR and in taking over and controlling the Muslim population in Potočari, **BOROVČANIN** certainly appreciated the important role he played in forcing the Bosnian Muslim population out of Potočari and Srebrenica. As such, **BOROVČANIN** and his forces played a significant role in achieving the goal of the joint criminal enterprise to forcibly remove the Muslim population from Potočari.

**(cxxxvii) Transporting the Women and Children out of the enclave**

1894. **BOROVČANIN** acknowledged that on the night of 11 July, he learned of the Hotel Fontana meetings and of the agreement reached at the meeting after the Bosnian Muslims had expressed their wish to leave Srebrenica in an organised way.<sup>4458</sup> **BOROVČANIN** stated that "it was communicated that it had been agreed at that meeting, that the civilians begin to move out and that the police forces are necessary to regulate the traffic in that area."<sup>4459</sup> **BOROVČANIN** told the OTP that this arrangement was communicated to him by General Mladić in Potočari on the morning of 12 July:<sup>4460</sup>

General Mladić appeared Šin Potočarić and we met there on the road. And he told me that he needs the police to regulate the traffic, because there would be a huge action regarding the transport and moving out of the Muslims towards Tuzla and Kladanj ...

*Did he help, did he ask you or order you to assist in putting the people on the buses?*

<sup>4457</sup> See paras. 1831-1840.

<sup>4458</sup> Exh. P02852, **BOROVČANIN** February Interview, p. 66:1-2.

<sup>4459</sup> Exh. P02852, **BOROVČANIN** February Interview, p. 68:13-16.

<sup>4460</sup> Exh. P02852, **BOROVČANIN** February Interview, p. 69:3-7, p. 69:12-14.

*He wasn't very precise, but I think that this was so understood.*<sup>4461</sup>

1895. In his 13 July Report to his superiors regarding the actions of his units in Potočari on 12 July, **BOROVČANIN** stated:

In Potočari, we sealed off the main UN base, where a throng of between 25,000 and 30,000 civilians had gathered, approximately five percent of whom were able-bodied men.

*A part of the MUP forces was involved in the organisation of the evacuation of civilians from Srebrenica to Kladanj.*<sup>4462</sup>

1896. In this report, **BOROVČANIN** refers to his troops as those taking part in the "organisation of the evacuation of civilians."<sup>4463</sup> **BOROVČANIN** thus clearly acknowledges his responsibility for the transportation of the Bosnian Muslim civilians out of the enclave.

1897. **BOROVČANIN** made a similar statement in his 5 September Report, explaining that after his units had secured the area in which the 25,000-28,000 Muslims had gathered:

...at about 1400 hours, they the Muslims began to be transported to Kladanj in an organised way. This job was organised by the Army of the Republika Srpska, while the MUP forces had a supportive role, such as regulating traffic and maintaining public law and order.<sup>4464</sup>

1898. In this report, **BOROVČANIN** makes a partial but nonetheless significant admission wherein he acknowledges that his units were supporting the VRS's overall operation to remove the Muslim population from the area.

1899. **BOROVČANIN**'s MUP forces were involved in much more than simply "regulating traffic." They played an important role in the removal of the Muslim women and children and the separation of the Muslim men. This work began the moment the first buses arrived in Potočari on 12 July. **BOROVČANIN**'s statement that his units were "maintaining public law and order" is a complete fabrication on his part.<sup>4465</sup> **BOROVČANIN** was in Potočari on 12 July during the transportation process<sup>4466</sup> and would have received reports of the horrible violence which occurred during the forcible transfer operation, with no effort on the part of his forces or any Serb forces to maintain public order. **BOROVČANIN** therefore had detailed knowledge of the abuse suffered by the Muslims at the hands of Serb forces in Potočari and by his presence in Potočari and his failure to stop the abuses, he encouraged and contributed to those abuses.

<sup>4461</sup> Exh. P02852, **BOROVČANIN** February Interview, p. 69:3-7, 69:12-14 (emphasis added).

<sup>4462</sup> Exh. P03789, 13 July Report, p. 1 (emphasis added).

<sup>4463</sup> Exh. P03789, 13 July Report, p. 1.

<sup>4464</sup> Exh. 4D00510, 5 September Report at ERN:4D05-1185-4D05-1186.

<sup>4465</sup> Exh. 4D00510, 5 September Report at ERN:4D05-1186.

<sup>4466</sup> ČELIĆ, T.13474:4-5 ("[**BOROVČANIN**] might have been there. He might have passed by.").

1900. [REDACTED] PW-160 testified that **BOROVČANIN** tasked him with evacuating the civilians in Potočari. [REDACTED] PW-160 further testified that he ([REDACTED] PW-160) was in front of the UN base on 12 July when buses and trucks arrived to evacuate the civilians.<sup>4467</sup> [REDACTED] PW-160 stood in front of UNPROFOR, “instructing the buses and trucks to turn around so that the civilians could go in and out.”<sup>4468</sup> When asked by the Prosecution “to describe with more precision, what exactly he was doing at this location in front of the UN base,”<sup>4469</sup> [REDACTED] PW-160 replied:

*Mr. BOROVČANIN tasked me with evacuating the civilians. As soon as the buses started arriving, and the trucks, since the area was quite small and there was a huge crowd of people, I attempted to ensure that the civilians were evacuated as soon as possible, to the best of my abilities.*<sup>4470</sup>

1901. [REDACTED] PW-160 was then asked by the Prosecution “[a]fter the transportation of the civilians out of Potočari ended on the 12<sup>th</sup>, what did you do?”<sup>4471</sup> to which [REDACTED] PW-160 replied:

*Well, when we finished with that part of the evacuation on the 12<sup>th</sup>, we went back with the part of the unit from Potočari to the village where we were billeted. I reported to Mr. BOROVČANIN and he told me to get some rest and that in the morning we would continue with the evacuation. So I went to my quarters in the school, I slept, and then the next morning, I don’t know the exact time, we went back to continue evacuating the civilians.*<sup>4472</sup>

**The Petrović Video shows BOROVČANIN in Potočari on 13 July.**

1902. In the Petrović Video footage of 13 July, **BOROVČANIN** can be seen actively moving throughout the crowd of people and various forces.<sup>4473</sup> **BOROVČANIN** told the Prosecution that he was in Potočari for “half an hour maximum.”<sup>4474</sup> However, the Petrović Video in Potočari runs for exactly 9 minutes and 33 seconds with 36 separate stoppages where the filming was stopped and then started again. **BOROVČANIN** can be seen in three distinctly different locations during the time Petrović was filming in Potočari on 13 July. The first time **BOROVČANIN** appears is at counter 0:1’27”,<sup>4475</sup> where he can be seen walking in the crowd of people and soldiers on the road next to the buses and trucks that are parked in a line. At one point, **BOROVČANIN** can be seen turning to his right and walking between a red truck and a bus, with soldiers following

<sup>4467</sup> JEVIC, T.8586.

<sup>4468</sup> JEVIC, T.8586:20-22.

<sup>4469</sup> JEVIC, T.8587:7-8.

<sup>4470</sup> JEVIC, T.8587:9-13 (emphasis added).

<sup>4471</sup> JEVIC, T.8607:19-20.

<sup>4472</sup> JEVIC, T.8607:21-25, 8608:1-2.

<sup>4473</sup> Exh. P02000, Video footage shot by Zoran PETROVIĆ during July 1995 – provided by the BBC.

<sup>4474</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 87.

<sup>4475</sup> Exh. P02000, Video footage shot by Zoran PETROVIĆ during July 1995 – provided by the BBC.

him. While it is not known what **BOROVČANIN** is doing at this time, he is walking with purpose among the crowd, the transport vehicles and the soldiers, as any commander may have done under similar circumstances while performing his duties.

1903. The second time **BOROVČANIN** appears in the Petrović Video is at counter 0:06'22", where **BOROVČANIN** is shown in a group of people including "Miki," a Special Police Brigade member from the Jahorina Training Centre who was used as an interpreter for conversations between members of DutchBat and Serb forces.. Lt. Van Duijn is heard stating, "[f]or the, for sick people... not for, not for UNPROFOR, but for the sick people... from the Red Cross, from the Red Cross."<sup>4476</sup> Lt. Van Duijn's comments are directed toward **BOROVČANIN**, "Miki," and an unknown Serb soldier. Following this statement, **BOROVČANIN** is seen walking over to the water container, and then, to the farm tractor to which the container is harnessed. There, he talks to a man in civilian clothes, as well as two Serb soldiers.<sup>4477</sup> While it is not possible to hear what is being said by **BOROVČANIN** and the other Serbs, their conversation clearly concerns an issue relating to the water container and the tractor. Lt. Van Duijn testified as follows concerning the water container:

Here my soldiers explained to me that the Serb forces, by using the tractor that's in front of the water truck, the water truck is the white truck with "UN" on the side, that they want to tow away the water truck. And MSF had explained to me that they still needed the water truck for the injured and sick people that were still on a location just to the right. We gathered them there to help them before transporting them to the compound or to another place.<sup>4478</sup>

1904. From the Petrović Video and Lt. Van Duijn's testimony, it is clear that the water tank was a controversial issue that had to be dealt with by a Serb with authority on the ground. Fresh drinking water within access of thousands of thirsty people, including sick and wounded, in over 35 degree heat, presented a difficult and sensitive issue<sup>4479</sup> that could only be resolved by a person in authority. That person in authority was **BOROVČANIN**, who had to become personally involved in order to resolve the

<sup>4476</sup> Exh. P02000, Video footage shot by Zoran PETROVIĆ during July 1995 – provided by the BBC at 0:06:27-0:06:34.

<sup>4477</sup> Exh. P02000, Video footage shot by Zoran PETROVIĆ during July 1995 – provided by the BBC at 0:07:04-0:07:08.

<sup>4478</sup> VAN DUIJN, T.2309:14-20.

<sup>4479</sup> The lack of water was a serious problem as the refugees gathered at Potočari. Boering testified that "There was a very provisional water system that was often broken and often malfunctioned, not only for the population but also for DutchBat. The water supply was generally bad" – T.1891:18-20. Though Boering was testifying about the general situation, these comments are clearly even more relevant when demand for water at Potočari increased dramatically on 11-13 July.

problem, as shown in the video. **BOROVČANIN** admitted his involvement in his March 2002 interview, stating:<sup>4480</sup>

[...]someone took away the tractor that Red Cross used to bring water from Ljubovija. And one of Dutch officers or soldiers wanted someone to intervene and get that tractor back, because the tractor was need [sic] for another shipment of water. *And I think we sorted that out there as well. So, I presume that was my reason for the visit to Potočari.*

1905. The third and final time **BOROVČANIN** can be seen on the video is at counter 0:08'05", where **BOROVČANIN** is standing with Major Kingori, "Miki" the Serb interpreter and another Serb soldier in front of the White House.<sup>4481</sup> Major Kingori testified that he recognised **BOROVČANIN** as "one of the senior officers there" to whom he spoke about the issue of overcrowding at the White House.<sup>4482</sup> When **BOROVČANIN** was asked in his March interview about meeting Major Kingori, he recalled meeting Kingori in Potočari, but claimed that he thought "that the conversation was related to the tractor that was carrying water..."<sup>4483</sup>

1906. During this interview, when **BOROVČANIN** was confronted with Kingori's remark concerning the appalling conditions at the White House ("What about the overcrowding in this place? It's too crowded") and asked what Kingori was referring to, **BOROVČANIN** told the Prosecution, "I don't understand" and then when the question was re-phrased, he responded "No. I cannot comment on that."<sup>4484</sup> By giving such evasive answers, **BOROVČANIN** was clearly trying to not to incriminate himself in the events which occurred at the White House. It is simply not credible that **BOROVČANIN** did not recall the serious issue of the men being held at the White House, particularly since he identified himself in conversation with Kingori when shown the video sequence filmed outside the White House (although he refused to admit that the conversation was filmed in front of the White House).<sup>4485</sup> It is apparent both from Kingori's testimony and from Kingori's comments about overcrowding as recorded on the video, that the subject of the conversation between **BOROVČANIN** and Kingori outside the White House was the Bosnian Muslim men being held captive there.

<sup>4480</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 85 (emphasis added).

<sup>4481</sup> Exh. P02000, Video footage shot by Zoran PETROVIĆ during July 1995 – provided by the BBC, at 0:08:06-0:08:08.

<sup>4482</sup> KINGORI, T.19292-19293.

<sup>4483</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 126:22-24.

<sup>4484</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 127:2-8.

<sup>4485</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 128; Exh. P03246, **BOROVČANIN** Interview Book of Still Images with Stipulations at ERN:0619-9544.

### **Conclusion**

1907. It is clear from **BOROVČANIN**'s own report and admissions, as well as from the admissions of his subordinates, that **BOROVČANIN** and his units played a key role in the VRS's operation to transfer the Bosnian Muslim population from Potočari by regulating the movement of buses and trucks and assisting in the evacuation of the Muslims within these vehicles.

1908. Given **BOROVČANIN**'s presence in Potočari during both days of the transportation, he witnessed first-hand and received reports about the horrendous nature of the boarding process. It was patently obvious to **BOROVČANIN** and the other Serb commanders and soldiers that the Bosnian Muslims feared for their lives as they boarded the buses as quickly as possible or resisted boarding the buses. During this process, Muslims were pushed, shoved, beaten and murdered as able-bodied men were forcibly separated from their families and herded into buildings where they were held under inhumane conditions. The Bosnian Muslims gathered in Potočari were coerced by force, fear or both to leave their homes in the Srebrenica area. Given **BOROVČANIN**'s presence in Potočari and his command over his troops there and their involvement in the forcible transfer process, it is unquestionable that on 12 July 1995, **BOROVČANIN** was a knowing, willing and intentional participant in the JCE to forcibly remove the Bosnian Muslim population from Srebrenica.

**(AA) BOROVČANIN KNEW OF, SIGNIFICANTLY CONTRIBUTED TO, AND SHARED THE INTENT WITH THE OTHER JCE MEMBERS, TO PARTICIPATE IN THE JCE TO MURDER THE MUSLIM MEN FROM SREBRENICA.**

### **(cxxxviii) The Separation of Muslim men and boys by BOROVČANIN's units.**

1909. The 1<sup>st</sup> Company from the Jahorina Training Centre, under the command of **BOROVČANIN**, Training Centre Commander Duško Jević (Stalin) and 1<sup>st</sup> Company Commander, Medeljev Đurić (Mane), conducted separations of Muslim men and boys from their families on both 12 and 13 July.<sup>4486</sup> [REDACTED]. Also, Mendeljev Đurić was on the ground in Potočari on 12 and 13 July directing the separations of able-bodied men. Mendeljev Đurić testified that he received an order from Duško Jević on the evening of 11 July that their assignment for the next day (12 July) was to go to Potočari to protect the civilians there who would likely be transported to the Tuzla area.<sup>4487</sup>

<sup>4486</sup> Exh. P02047, Srebrenica Trial Video at 02:13'16.19 (Member of 1<sup>st</sup> Company from Jahorina walking behind bus); [REDACTED]; see also [REDACTED].

<sup>4487</sup> ĐURIĆ, T.10804.

Mendeljev Đurić further testified that he had several contacts with Duško Jević during the day on 12 July in Potočari:

At some point after you reached the UN base, did you see Mr. Jević?

Mr. Jević came several times there. We had direct contact perhaps two or three times. If I needed something, we would communicate by radio... We saw each other two or three times. I can say that those times were maybe some form of control.<sup>4488</sup>

1910. Duško Jević was commanding and controlling Đurić as any superior officer would. In order to maintain communication, Đurić carried a Motorola radio while in Potočari. This Motorola radio can be seen in Đurić's hand on the trial video<sup>4489</sup> and Đurić acknowledged on cross examination that he had a radio in his hand in Potočari.<sup>4490</sup> Đurić also acknowledged that Jević's call sign was "Stalin" and that Đurić's own call sign was "Javor." Those code names had been easy to remember because they had been the names from the beginning.<sup>4491</sup>

1911. Dutchbat officer Lt. Van Duijn confirmed that Mendeljev Đurić told him in Potočari that his supervisor was "code-named" "Stalin" and that Van Duijn had seen "Stalin" in the area at the time.<sup>4492</sup> Lt. Van Duijn also testified that he saw Momir Nikolić in contact with "Stalin" in Potočari where it appeared to Van Duijn that Nikolić was acting as "Stalin's" superior. This is corroborated by Momir Nikolić's acknowledgment that he worked with Duško Jević and other units in organising the transportation of Muslim women and children and the separation of Muslim able-bodied men in Potočari on 12 July.<sup>4493</sup>

1912. Lt. Van Duijn testified that he spent both 12 and 13 July with "Mane." During this time, Mane and Mane's troops systematically separated the Muslim men from their families and detained them in houses near the Dutchbat compound.<sup>4494</sup> Lt. Van Duijn testified that as soon as the buses and trucks started arriving on 12 July, Mane approached Van Duijn and told him that the Dutchbat could either get involved in the boarding process or else return to their base. According to Van Duijn, the separations by Mane and his people commenced immediately upon the arrival of the buses, with the first wave of Muslims being loaded on the buses.<sup>4495</sup>

<sup>4488</sup> DURIC, T.10808:2-10809:4.

<sup>4489</sup> Exh. P02047, Srebrenica Trial Video at 2:26:04.

<sup>4490</sup> DURIC, T.10863-10864.

<sup>4491</sup> DURIC, T.10809.

<sup>4492</sup> VAN DUIJN, T.2278.

<sup>4493</sup> Exh. C00001, Momir NIKOLIĆ Statement of Facts and Acceptance of Responsibility, dated 6 May 2003 at ERN:4D00-0191; *See also* M.NIKOLIĆ, T.32904.

<sup>4494</sup> *See paras.* 348-380.

<sup>4495</sup> VAN DUIJN, T.2284-2285.

1913. The account of Orahovac survivor [REDACTED] PW-169 corroborates the testimony of Lt. Van Duijn. [REDACTED] PW-169 testified he was among the first group of people who tried to board the buses when they arrived in Potočari on 12 July. While trying to board the buses, [REDACTED] PW-169 was separated from his family and detained in an “unfinished” house nearby.<sup>4496</sup>

**(cxxxix) BOROVIČANIN and his subordinate commanders Duško Jević and Mendeljev Đurić carried out the separations of Muslim men and boys in Potočari fully aware of and engaged in implementing the plan to murder those men and boys.**

1914. By the early afternoon of 12 July **BOROVIČANIN** had proven himself to be an important part of the Potočari operation to cripple UNPROFOR and take control of the Muslim population in Potočari. The VRS command ordered **BOROVIČANIN** to take part in the separation and detention of hundreds of Muslim men for the purpose of executing them. Any normal military order provides the subordinate command with the objective of the operation and the VRS would have communicated as much to **BOROVIČANIN**. In addition, the VRS’s plan to detain and kill the Muslim men was conducted without any normal military accounting of, or care or support of, the condemned prisoners and given the extreme heat and conditions the prisoners were detained, it would have soon been obvious to **BOROVIČANIN** and his commanders that the VRS intended to execute the prisoners.

1915. The knowledge and involvement of **BOROVIČANIN** and his men in the murder operation was also evident in the abuses they allowed, and likely took part in, on 12 and 13 July, including beatings and individual murders as described in paras. 341-404.

1916. **BOROVIČANIN**’s knowledge and involvement in the separation and murder operation from 12 and 13 July in Potočari is also evident from his clearly false statements to the Prosecution on any issue related to the subject of separations. The separations of hundreds of Muslim men and boys on 12 and 13 July was an enormous undertaking and if the separations had any legitimate purpose **BOROVIČANIN** would have noted such in his official reports. In those reports **BOROVIČANIN** never mentioned any “check ups” or “screening” of the Muslim men, or any separations. This noticeable absence of information was due to **BOROVIČANIN**’s knowledge that the separations had no legitimate military objective and were simply carried out so the Muslim men and boys could be isolated and summarily executed.

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<sup>4496</sup> [REDACTED] PW-169, T.17364, 17373-74, 17378.



1917. In his interview with the OTP, **BOROVČANIN** stated that he had heard that it had been decided at the Hotel Fontana meeting earlier that day<sup>4497</sup> that there would be “check ups” on the Muslim men.<sup>4498</sup> **BOROVČANIN** said he was aware that Bratunac Brigade MPs had lists of “men of fighting age” that would be checked. This checking was being coordinated by Momir Nikolić who appeared in Potočari around noon on 12 July.<sup>4499</sup> However, **BOROVČANIN** went on to state that prior to leaving Potočari on 12 July “he had not heard anything about separations.”<sup>4500</sup> Later in the interview, **BOROVČANIN** acknowledged that he was in Potočari on 13 July with Zoran Petrović, but claimed that he was only in Potočari as a result of receiving a report that Duško Jević had stolen a bus and that **BOROVČANIN** had been asked by the manager of the transport company to “intervene.”<sup>4501</sup> **BOROVČANIN** described in the interview what was happening in Potočari when he arrived:

So in Potočari on the 13<sup>th</sup>, the transport of civilians was still going on, but the second company already entered Srebrenica and established a police station. And they had several points or check points and the aim was to prevent looting. And I don't know anything else that was of importance.<sup>4502</sup>

1918. Given that on 13 July in Potočari, the abuse of Muslim civilians was rife and the separation of Muslim men and boys from their families was ongoing, it is utterly unfathomable that **BOROVČANIN** did not know anything else of “importance” that was happening. **BOROVČANIN** must have personally witnessed the abuse and separations. His knowledge of such events cannot be disputed and such conduct would have been reported to him as commander of MUP units which were heavily involved in the separations.

1919. Following his denial of having any knowledge of anything of “importance,” **BOROVČANIN** acknowledged that the Muslim population were still boarding the buses when while he was in Potočari. When asked by the investigator whether he saw men being separated from women and children, **BOROVČANIN** gave the following preposterous response:

I didn't pay attention to that. So, if they were separated, maybe that happened before because we're talking about the 13<sup>th</sup>.<sup>4503</sup>

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<sup>4497</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 10.

<sup>4498</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 27:1-2.

<sup>4499</sup> Exh. P02853, **BOROVČANIN** March Interview, pp. 11-12.

<sup>4500</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 27:3-5.

<sup>4501</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 85:3-6.

<sup>4502</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 85:24-25, p. 86:1-2 (emphasis added).

<sup>4503</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 86:6-7.

1920. Asked again, following a brief intermission in the interview to reload the recording tape, whether he knew anything about the separation of the men on the day of 13 July, **BOROVČANIN** replied:

No, I don't know anything.<sup>4504</sup>

1921. When shown the video of the now famous White House and the piles of belongings in front of the house, **BOROVČANIN** was asked if he had ever seen Muslims taken to that house, whereupon he replied "No."<sup>4505</sup>

1922. This last statement is a lie. As the Trial Chamber will recall, the Petrović Video includes footage which pans **BOROVČANIN** standing in front of the White House; to showing the White House itself; then zooming to show the balcony where numerous Muslim men can be seen crowded together in a small space on the balcony, looking in the direction where **BOROVČANIN** is standing, less than 20 to 30 metres away.<sup>4506</sup> It is inconceivable that **BOROVČANIN** would not have noticed the Muslim men crowded onto the balcony. **BOROVČANIN** lied to the Prosecution to cover up his knowledge and involvement in the separation and murder of those men and boys.

**Conclusion.**

1923. **BOROVČANIN**'s repeated denials of witnessing or having knowledge of any of the events related to the separations of Muslim men from their families on 12 and 13 July is entirely inconceivable and clearly lacking in truth. **BOROVČANIN** and his troops were deeply engaged in the very public and horrific separation process. **BOROVČANIN** was fully engaged in the separation process and was entirely aware that the separations were illegal and bore no relation to any legitimate military screening operation and covered up this fact to hide his own knowledge and involvement in the operation to separate and murder the Muslim men and boys.

**(cxl)     On 12 July, BOROVČANIN's units were deployed to the Road.**

1924. **BOROVČANIN** and MUP forces under his command, namely the 2<sup>nd</sup> Sekovići Detachment, the 1<sup>st</sup> Company, Zvornik PJP and Jahorina Training Centre troops, were deployed along the Bratunac–Konjević Polje Road from 12 through 14 July.<sup>4507</sup> These

<sup>4504</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 86:13.

<sup>4505</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 128:1-10.

<sup>4506</sup> Exh. P02047, Srebrenica Trial Video at 2:30:24-2:30:51.

<sup>4507</sup> Exh. P03789, 13 July Report; Exh. 4D00510, 5 September Report.

MUP forces were in control of the stretch of the road from Kravica to Hrnčići<sup>4508</sup> and were responsible for dealing with the Muslim men who tried to cross the road as they headed towards Muslim-held territory and securing the road for passage of the Muslim convoys from Potočari. The evidence proving this comes from five basic sources: **BOROVČANIN**'s official reports; other military and MUP documents (including reports from Dragomir Vasić); the testimony of multiple witnesses; the Petrović Video; and **BOROVČANIN**'s interviews with the OTP.

**The deployment of the MUP forces and their control of the road on 12 July is confirmed in contemporaneous official documents.**

1925. In his 13 July Report, **BOROVČANIN** described the redeployment of his MUP forces from Potočari to the Bratunac – Konjević Polje road on 12 July:

...As we had received information that all able-bodied Muslims from Srebrenica had set out on a breakthrough toward Konjević Polje and further toward Tuzla, *I urgently dispatched our forces, with the support of hardware, to seal off the Kravica-Konjević Polje road, where they spent the night...*<sup>4509</sup>

1926. **BOROVČANIN**'s 5 September Report described this redeployment in more detail, in particular stating that the area under **BOROVČANIN**'s control stretched from Kravica as far as Hrnčići:

12 July 1995 (St. Peter's Day)

...I received an order from General MLADIĆ to send half of my men and the available technical equipment to that axis so as to block the area and fight the aforementioned formation.

The 2<sup>nd</sup> Special Police Detachment, the 1<sup>st</sup> Company of the Zvornik PJP with two tanks, a BOV /launch platform for Malyutka missiles/ (20/3), a *praga* /self-propelled anti-aircraft gun/ and a mortar platoon were deployed along the road from Kravica-Sandići-Pervani up to Hrnčići ....<sup>4510</sup>

1927. In his 12 July dispatch (No. 281/95), Zvornik CJB Chief Dragomir Vasić wrote:

...The majority of men of military age...are in the Konjević Polje and Sandići sector. The Šekovići Special Detachment, the 1<sup>st</sup> Company of the PJP of the Zvornik CJB, and the 5<sup>th</sup> Company of the Zvornik CJB are blocking this section with the goal of destroying these forces...<sup>4511</sup>

<sup>4508</sup> The 2<sup>nd</sup> Šekovići Detachment held the area between Kravica and the Sandići Meadow, while the 1<sup>st</sup> Company, Zvornik PJP held an area from the Sandići Meadow towards Konjević Polje. During the night, members of the 1<sup>st</sup> Company, Jahorina Training Centre were deployed between Bratunac and Glogova.

<sup>4509</sup> Exh. P03789, 13 July Report, pp.1-2 (emphasis added).

<sup>4510</sup> Exh. 4D00510, 5 September Report at ERN:4D05-1185-4D05-1186.

<sup>4511</sup> Exh. P00060, CJB Zvornik Report No. 227/95, re transport of the civilian population of Srebrenica, type-signed Dragomir VASIĆ, dated 13 July 1995. Vasić refers to the 5<sup>th</sup> Company, Zvornik PJP, which presumably was deployed somewhere in the area between Bratunac and Zvornik. However, there is no indication that it was present along the Kravica – Konjević Polje road section held by **BOROVČANIN**'s forces on 12 July.

1928. The VRS command, to which **BOROVČANIN** was resubordinated,<sup>4512</sup> also considered that the road was under **BOROVČANIN**'s control. In a Drina Corps communication to the VRS Main Staff Intelligence Sector on 12 July, Gen. Krstić stated:

We have informed organs of the MUP of RS in Konjević Polje about the illegal corridor used by the Muslims of Srebrenica *since it is their task to control the Bratunac – Konjević Polje road...*<sup>4513</sup>

1929. These reliable and contemporaneous documents confirm the disposition of **BOROVČANIN**'s forces on 12 July, as well as confirm that the road was under his control. Notably, the only mention of VRS forces in **BOROVČANIN**'s 5 September Report is on the road between Nova Kasaba and Konjević Polje, which other evidence in the case confirms was held by the Military Police Battalion of the 65<sup>th</sup> Protection Regiment based in Nova Kasaba and the 5<sup>th</sup> Engineering Battalion of the Drina Corps.

1930. In addition, **BOROVČANIN**'s reports reference the military hardware that was at his disposal on the road, comprising two tanks, 1 Praga and 1 BOV armoured vehicles, and a mortar platoon.

**Witness testimony corroborates the documentary evidence.**

1931. 2<sup>nd</sup> Šekovići Detachment member Milenko Pepić testified that his unit was deployed to Sandići to secure the road, pursuant to an order from the unit Deputy Commander, Rade Čuturić.<sup>4514</sup> Pepić's fellow 2<sup>nd</sup> Šekovići Detachment member Predrag Čelić corroborated this evidence, testifying that the unit deployed on the road between Kravica and Sandići<sup>4515</sup> around 13:00 to 14:00 hours<sup>4516</sup> and spent the night in position along the road.<sup>4517</sup>

1932. 1<sup>st</sup> Company, Jahorina Training Centre Commander, Mendeljev "Mane" Đurić, testified that around 50 of his men were deployed on the night of 12 July between Bratunac and Glogova, to protect Bratunac from the Muslim column.<sup>4518</sup>

<sup>4512</sup> Exhs. P00057, RS Ministerial Order 64/95 to MUP units, type-signed Tomislav KOVAC, dated 10 July 1995; P02852, **BOROVČANIN** February Interview, p.87.

<sup>4513</sup> Exh. P00111, Drina Corps Command Intelligence Service Report No.17/896, statement by Izudin BEKTIC, type-signed Radislav KRSTIĆ, dated 12 July 1995 at ERN:0307-7179 (emphasis added).

<sup>4514</sup> PEPIĆ, T.13549, 13589. ČELIĆ, T.13468-9. The Second Platoon was deployed closest to Kravica, then the First Platoon, with the Third Platoon closest to Konjević Polje (PEPIĆ, T.13550).

<sup>4515</sup> ČELIĆ, T.13469, 13472.

<sup>4516</sup> ČELIĆ, T.13501.

<sup>4517</sup> PEPIĆ, T.13551, 13590-13591, 13594; ČELIĆ, T.13471-13472, 13475-13476. *See also* Exh. P02986 at ERN:0618-4109 which shows the location of the destroyed White House.

<sup>4518</sup> ĐURIĆ, T.10812-10813, 10865-10870. N.B., [REDACTED] PW-160 estimated that there were about 200 Jahorina Training Centre troops along the road during the night. [REDACTED] PW-160, T.8618-8620. However, [REDACTED] PW-160's testimony was confused as to which events took place on 12 July and which took place on 13 July. [REDACTED] PW-160 testified that he was ordered sometime between 09:00 or 10:00 hours and noon on 12 July to redeploy two platoons from the 1<sup>st</sup> Company,

1933. 1<sup>st</sup> Company, Zvornik PJP members, Dobrisav Stanojević, Nenad Filipović and Zarko Zarić, testified that their unit deployed along the road from the Sandići Meadow towards Konjević Polje on the evening of 12 July<sup>4519</sup> There were some Special Police Brigade members there, as well as what Stanojević described as “army troops,” who told them that they were being fired on occasionally from the woods.<sup>4520</sup> When cross-examined by the **BOROVČANIN** Defence, Stanojević explained that the reason he thought they were “army troops” was because he “didn’t recognise the soldiers and they didn’t wear the same kind of insignia that the police wore or the Special Police Brigade wore.”<sup>4521</sup> However, there is no evidence to suggest that any army unit was assigned to the road on the evening of 12 July, and it is likely that these soldiers were either members of the 2<sup>nd</sup> Šekovići Detachment whose Special Police Brigade insignia were not visible,<sup>4522</sup> or members of the Jahorina Training Centre troops.

1934. *En route* from Bratunac to Sandići, Zarić saw many soldiers in camouflage uniforms on the road, but he did not know which unit this was.<sup>4523</sup> In view of Filipović’s evidence that the 2<sup>nd</sup> Šekovići Detachment was deployed in a line starting from the partially destroyed house and continuing in the direction of Bratunac,<sup>4524</sup> it is most likely that the soldiers in camouflage uniforms who Zarić saw were members of the 2<sup>nd</sup> Šekovići Detachment.

1935. Zarić, Filipović and Stanojević all returned to Bratunac on the morning of 13 July. Zarić and Filipović were both injured in an attack at around 04:00 hours,<sup>4525</sup> while Stanojević returned because Zeljko Ninković (a colleague of Stanojević’s from the Bratunac Police Station)<sup>4526</sup> had been killed.<sup>4527</sup> However, as seen on the Petrović Video,

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Jahorina Training Centre from Potočari to a position somewhere between Bratunac and Konjević Polje (which, from his description, must have been the Sandići Meadow). [REDACTED] PW-160, T.8580-8581, 8585-8586, 8684-8685. However, [REDACTED] PW-160 acknowledged that he might have been mistaken about the date ([REDACTED] PW-160, T.8607) and this must have been 13 July, as he described seeing General Mladić and **BOROVČANIN** at the Sandići Meadow, as well as seeing some dead bodies along the road and a group of civilians who had surrendered.

<sup>4519</sup> D.STANOJEVIĆ, T.12880, 12900 – 12901; Exh. PIC00132, Aerial Image P02103 marked by D.STANOJEVIĆ. As discussed elsewhere in this brief, Stanojević spoke about a possible deployment to Zvornik, however both Zarić and Filipović gave clear testimony that the orders they received were to deploy to Sandići. ZARIĆ, T.26930; FILIPOVIĆ, T.26998-26999. When asked on cross-examination “Did you ever receive an order to go on to Zvornik, or was your order only to be deployed on that road in the area of Sandići,” Filipović replied, “Just to deploy along the road at Sandići.” FILIPOVIĆ, T.27015, 26999; ZARIĆ, T.26931-26933, 26970-26971.

<sup>4520</sup> D.STANOJEVIĆ, T.12880, 12883.

<sup>4521</sup> D.STANOJEVIĆ, T.12917.

<sup>4522</sup> For example, if they had rolled down their overalls, as seen on the Petrović Video.

<sup>4523</sup> ZARIĆ, T.26933-26934.

<sup>4524</sup> FILIPOVIĆ, T.27017. This is consistent with Pepić’s and Čelić’s evidence about the disposition of the MUP forces along the road on 12 July.

<sup>4525</sup> ZARIĆ, T.26932-26934; FILIPOVIĆ, T.27001-27002.

<sup>4526</sup> D.STANOJEVIĆ, T.12865-12866.

the 1<sup>st</sup> Company, Zvornik PJP, remained on the road during the course of that day and was involved in the capture and detention of the surrendering Muslims on 13 July.

**BOROVČANIN confirmed the deployment of his units on 12 July in his interviews.**

1936. **BOROVČANIN**'s interviews are reasonably consistent with the above-stated evidence concerning the deployment of the MUP units on 12 July, although as explained elsewhere in this brief, he lied about his orders and said that his forces were on their way to Zvornik on 12 July when they were "forced" to stop and deploy along the road. Nevertheless, he confirmed that on 12 July, he deployed the 2<sup>nd</sup> Šekovići Detachment and the 1<sup>st</sup> Company, Zvornik PJP to the Bratunac – Konjević Polje road.<sup>4528</sup> However, regarding the Jahorina Training Centre troops, **BOROVČANIN** denied that they were deployed to the Bratunac – Konjević Polje road on 12 July,<sup>4529</sup> a statement which is contradicted by Duško Jević and Mendeljev Đurić.

1937. Most importantly, in his first OTP interview **BOROVČANIN** was clear that apart from the Bratunac Brigade Red Berets intervention unit, who took part in some fighting in the area on 12 and 13 July, there were no VRS troops helping to secure the road. When asked, "did you have any assistance from the any [sic] troops to help secure this road on the night of the 12<sup>th</sup>?", **BOROVČANIN** answered, "As far as I know, no."<sup>4530</sup>

**Conclusion.**

1938. **BOROVČANIN**'s troops arrived on the road starting on the afternoon of 12 July. They took control of the section between Kravica towards Konjević Polje, and were later joined by Jahorina Training Centre troops who were deployed between Bratunac and Glogova during the night. No VRS troops were deployed to the road.

**(cxli) On 13 July, BOROVČANIN's units remained in their positions on the Road.**

1939. The 2<sup>nd</sup> Šekovići Detachment, 1<sup>st</sup> Company, Zvornik PJP and First Company, Jahorina Training Centre remained in position along the road on 13 July. In the

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<sup>4527</sup> D.STANOJEVIĆ, T.12883, 12884-12886.

<sup>4528</sup> There is no credible evidence that **BOROVČANIN** intended to deploy these units to Zvornik. *See also*, Exh. P02853, **BOROVČANIN** March Interview, p.28. These units took up positions on the road from Kravica village to Sandići village, covering a stretch of around 2.5 kilometres. Initially, no MUP forces were deployed between Bratunac and Kravica as this stretch was covered by a Bratunac Brigade position above the road, and for about five kilometres from Sandići towards Konjević Polje, the road was empty.

<sup>4529</sup> Exh. P02853, **BOROVČANIN** March Interview, p.35.

<sup>4530</sup> Exh. P02852, **BOROVČANIN** February Interview, pp.83-85. A member of the Red Berets was injured at the Kravica Warehouse when the killings there were taking place, and it is likely that other individuals from this intervention unit were present, and may have participated in the killings. However, there is no evidence that they were deployed to the road as a unit.

afternoon, Belgrade journalist Zoran Petrović filmed the troops who were deployed along the road as far as Pervani (around three kilometres from the Sandići Meadow towards Konjević Polje) and, after thorough investigation, the only troops identified in his video belong to **BOROVČANIN**'s units. In addition, the Second Company, Jahorina Training Centre was deployed from Konjević Polje towards Sandići sometime on 13 July and linked up with the rest of **BOROVČANIN**'s forces. As on the previous day, the road was under the control of **BOROVČANIN**'s units.

**The deployment of the MUP forces and their control of the road on 13 July is confirmed in contemporaneous official documents**

1940. As with the deployment on 12 July, the continued presence of **BOROVČANIN**'s units along the road on 13 July is memorialised in contemporaneous official documents which corroborate the witness testimony discussed above.

1941. It is clear from **BOROVČANIN**'s 13 July Report that the troops deployed on 12 July remained in position. In his 5 September Report, he referred to the arrival of the 2<sup>nd</sup> Company, Jahorina Training Centre, as well as the 5<sup>th</sup> Company, Zvornik PJP.

1942. **BOROVČANIN**'s control of the road on 13 July is also clear from two dispatches sent by Vasić. In his dispatch No. 282/95 of 13 July, Vasić stated, "We have no cooperation or assistance from the VRS in sealing off and destroying the large number of enemy soldiers ... *the MUP is working alone in this operation* and both the area and the number of Muslim soldiers are large."<sup>4531</sup> Vasić further stated in a second dispatch filed the same day (No. 283/95) as follows:

At the meeting with General MLADIĆ this morning we were informed that the VRS was continuing operations towards Žepa and leaving all other work to the MUP, as follows:...

2. Killing of about 8,000 Muslim soldiers whom we blocked in the woods near Konjević Polje. Fighting is going on. *This job is being done solely by MUP units...*<sup>4532</sup>

**Witness testimony corroborates the documentary evidence**

1943. Pepić and Čelić confirmed that their unit, 2<sup>nd</sup> Šekovići Detachment, remained deployed along the road from Kravica village to the Sandići Meadow until the evening of 13 July. Moreover, as seen in the Petrović Video, 2<sup>nd</sup> Šekovići Detachment Skelani Platoon Commander Milenko "Čop" Trifunović was involved in calling Muslims from the forest and guarding them at the Sandići Meadow at around 16:00 hours and 2<sup>nd</sup>

<sup>4531</sup> Exh. P00062, Document from Zvornik CJB, signed by Chief of the Centre Dragomir VASIĆ, dated 13 July 1995.

<sup>4532</sup> Exh. P00886, Document from the Zvornik CJB to Republika Srpska MUP Office of the Minister, Pale Bijelina Public Security Department, Bijeljina Police Forces Headquarters, signed by Chief of the Center Dragomir VASIĆ, dated 13 July 1995.

Šeković Detachment member Mirko “Dugi” Milanović was on the road at the Meadow at the same time, and was also involved in guarding the prisoners.<sup>4533</sup> The video also shows that the unit’s Praga and BOV vehicles were deployed at Pervani in the mid-afternoon. As can be seen on the video, **BOROVČANIN** and Petrović spent at least several minutes by the Praga and BOV vehicles while they fired at the Muslim column in the forest, including moving with them to a new firing position.<sup>4534</sup> The tank seen at the Sandići Meadow must also have belonged to the unit – there is no conceivable reason why a single tank from any VRS unit would deploy to that location when **BOROVČANIN**’s forces had its own tanks.<sup>4535</sup>

1944. Around 170 men from the 1<sup>st</sup> and 2<sup>nd</sup> Companies of the Jahorina Training Centre were deployed to the road on 13 July.<sup>4536</sup> These troops are seen in the Petrović Video patrolling the road between the Sandići Meadow and Konjević Polje during the mid-afternoon,<sup>4537</sup> and unknown persons on the video are heard saying that Special Police from Jahorina are nearby the Meadow.<sup>4538</sup>

1945. 1<sup>st</sup> Company Commander Mane Đurić testified that, following the deployment of around 50 men on the previous night, he sent more men to the road on 13 July.<sup>4539</sup> [REDACTED] PW-100<sup>4540</sup> confirmed this,<sup>4541</sup> testifying that he arrived at the Sandići Meadow in the late afternoon, and saw other Jahorina Training Centre troops there, guarding prisoners and securing the road.<sup>4542</sup>

<sup>4533</sup> [REDACTED] PW-156, T.7090; [REDACTED] PW-127, T.3517-3518, 3532-3533, [REDACTED]. [REDACTED].

<sup>4534</sup> As indicated in Exh. P02986, “Road Book” – Still Images from the Petrović Video at ERN:0618-4088-4089-4090, the Praga and BOV were at a position near Pervani around 2,800 metres from the Sandići Meadow. Then, they moved to a position around 3,100 metres from the Sandići Meadow.

<sup>4535</sup> **BOROVČANIN** stated in his March 2002 interview that he did not know to whom this tank belonged: Exh. P02853, **BOROVČANIN** March Interview, p.128. Exh. P03246, **BOROVČANIN** Interview Book of Still Images with Stipulations at ERN:0619-9574. However, he stated in his 5 September Report that he deployed, *inter alia*, two tanks to the road.

<sup>4536</sup> [REDACTED] PW-160, T.8603-8604. Although [REDACTED] PW-160 was specifically asked how many men were deployed on 12 July, this line of questioning clearly referred to [REDACTED] PW-160’s account of the deployment to the road which took place on the day when he saw General Mladić and **BOROVČANIN** at the Sandići Meadow, and this estimate therefore clearly relates to 13 July (on which day, both the 1<sup>st</sup> and 2<sup>nd</sup> Companies from the Jahorina Training Centre were deployed).

<sup>4537</sup> [REDACTED].

<sup>4538</sup> Exh. P02000, Video footage shot by Zoran PETROVIĆ during July 1995 – provided by the BBC at 21’38” – 22’05”; Exh. P02985, Transcript of Petrović Video, at ERN:V000-3915-3.

<sup>4539</sup> ĐURIĆ, T.10822, 10870-10871.

<sup>4540</sup> [REDACTED] PW-100, T.14791, 14797, 14801.

<sup>4541</sup> [REDACTED] PW-100, T.14821-14822. He testified that his unit was supposed to have 13 July off, but in the afternoon they were called up to relieve their colleagues, who had been deployed on a stretch of road between Kravica and Konjević Polje.

<sup>4542</sup> [REDACTED] PW-100, T.14822, 14824-14826, 14908-14909. 2<sup>nd</sup> Šeković Detachment member Predrag Čelić’s testimony that another unit arrived at his position on the afternoon or evening of 13 July (ČELIĆ, T.13505) most likely refers to the arrival of [REDACTED] PW-100’s unit.



1946. [REDACTED] PW-160 testified that [REDACTED] 2<sup>nd</sup> Company arrived and linked up with the 1<sup>st</sup> Company “somewhere in the middle”,<sup>4543</sup> of the road. Đurić confirmed the arrival of the 2<sup>nd</sup> Company on 13 July; he testified that Jević notified him that the unit would be arriving, and he met the 2<sup>nd</sup> Company Commander Nedo Ikonić that evening.<sup>4544</sup>

1947. As explained above, the three witnesses from the 1<sup>st</sup> Company, Zvornik PJP (Stanojević, Zarić and Filipović) all returned to Bratunac early on 13 July. However, the rest of their unit remained in position along the road, and 1<sup>st</sup> Company members were present at the Sandići Meadow in the mid-afternoon, as seen on the Petrović Video.<sup>4545</sup>

**BOROVČANIN largely confirmed the deployment of his units on 13 July in his interviews.**

1948. **BOROVČANIN** said in his OTP interviews that his forces remained in their positions on the road on 13 July. At around 07:00 hours, and again around noon, he said that he met with the commanders of the 1<sup>st</sup> Company, Zvornik PJP, and 2<sup>nd</sup> Šekovići Detachment (as well as at noon, “their subordinate officers, platoon Commanders and lower”) at the Sandići Meadow; and his units were deployed along the road at those times.<sup>4546</sup>

1949. In addition, as noted above, **BOROVČANIN** confirmed in his first OTP interview that other than the presence of the Bratunac Brigade Red Berets intervention unit who took part in some fighting in the area on 12 and 13 July, there were no VRS troops helping to secure the road.<sup>4547</sup>

**Conclusion**

1950. The evidence in the case establishes that **BOROVČANIN**’s MUP forces were present and in control of the Bratunac – Konjević Polje road from Kravica village to Hrnčići starting on 12 July and then during all of 13 July. No VRS troops were deployed to the road at this time. As described below, the MUP forces in control of the road participated in the capture, detention, transfer and execution of the fleeing Muslim men in

<sup>4543</sup> [REDACTED] PW-160, T.8585, 8599-8602.

<sup>4544</sup> ĐURIĆ, T.10822-10823.

<sup>4545</sup> [REDACTED].

<sup>4546</sup> Exh. P02853, **BOROVČANIN** March Interview, pp.40-42 (describing his trip along the road at around 07:00 hours), p.51 (stating that at around noon, he went to see his units in the field), p.54 (stating that police forces were still along the road), and pp.56-57 (stating that he met the 1<sup>st</sup> Company, Zvornik PJP Commander and the 2<sup>nd</sup> Šekovići Detachment Commanders, their subordinate officers, platoon Commanders and lower, when he went along the road at around noon).

<sup>4547</sup> Exh. P02852, **BOROVČANIN** February Interview, pp.83-84.

the column, all of which was known to, facilitated, supported and encouraged by, **BOROVČANIN**.

**(cxlii) The Deployment of BOROVČANIN's Units along the Road, 14 July 1995**

1951. **BOROVČANIN**'s forces remained in control of the road on 14 July and continued to block the Muslim column. During the day, there were further killings of the Muslims who remained alive at the Kravica Warehouse, and the clean-up of the bodies began. It is clear from **BOROVČANIN**'s 5 September Report that his forces remained in position along the road on 14 July. The entry for 14 July reads as follows:

In addition to the fighting along the aforementioned axis, a new problem arose. Zvornik was threatened by forces coming from Cerska. The town needed to be protected.<sup>4548</sup>

1952. There is no mention in this report about the redeployment of any of the units which were present on the road on 13 July. Accordingly, it is reasonable to conclude that the 2<sup>nd</sup> Šekovići Detachment, 1<sup>st</sup> Company, Zvornik PJP, and Jarhorina Training Centre troops were still deployed between Kravica and Konjević Polje.

1953. Vasić's 14 July dispatch (No. 12-6/08-508-95) confirms the continued presence of these units on the road, stating as follows:

Apart from the VRS forces the following MUP units are engaged in blocking and crushing these forces:

1. The 1<sup>st</sup> company of the Zvornik CJB PJP in coordination with the forces of the Šekovići SOP is blocking and destroying the enemy in the village of Sandići – village of Lolići area....
6. One company from the Jahorina Camp is setting up ambushes in the village of Konjević Polje – Sandići area.<sup>4549</sup>

**Witness testimony**

1954. Neither Čelić nor Pepić could account for the 2<sup>nd</sup> Šekovići Detachment's whereabouts on 14 July.<sup>4550</sup> However, in view of the documentary evidence, it is clear that the 2<sup>nd</sup> Šekovići Detachment remained on the road on 14 July. Since killings continued at the Kravica Warehouse, as well as the start of the clean-up operation there, it is reasonable to conclude that the 2<sup>nd</sup> Šekovići Detachment were involved.

<sup>4548</sup> Exh. 4D00510, 5 September Report at ERN:4D05-1186 (emphasis added).

<sup>4549</sup> Exh. P03112, CJB Zvornik Dispatch No. 12-6/08-508/95, re the activities of various PJP units, signed by Dragomir VASIĆ, dated 14 July 1995.

<sup>4550</sup> Čelić testified that the 1<sup>st</sup> and 2<sup>nd</sup> Platoons went to Konjević Polje in the evening of 13 July. However, he was not sure about the 3<sup>rd</sup> (Skelani) Platoon, testifying that, "it is quite possible that they were not taken to Konjević Polje." (ČELIĆ, T.13480) Čelić testified that he went in the direction of Zvornik on 14 July (ČELIĆ, T.13483-13484). However, on cross-examination, Čelić's testimony was not clear about what he did or where he was on 14 July and could not remember where he spent the night of 14 July (ČELIĆ, T.13507). Similarly, Pepić testified that he spent the night of 13 July in Konjević Polje (PEPIĆ, T.13600); however, he could not remember where he was or what he did on 14 July (PEPIĆ, T.13601).

1955. The testimonies of [REDACTED] PW-160 and [REDACTED] PW-100<sup>4551</sup> confirmed that the troops from the Jahorina Training Centre were deployed on the road on 14 July. Both witnesses testified that on 14 July, members of the Jahorina Training Centre's soldiers were injured by a grenade along the road.<sup>4552</sup>

1956. This incident is confirmed by the Bratunac Health Centre log, which contains entries for three "Special Police Brigade Jahorina" soldiers admitted at 04:30 hours that day, suffering from blast injuries inflicted at Sandići.<sup>4553</sup> Furthermore, [REDACTED] PW-160 testified that the Jahorina Training Centre troops continued to secure the road, on **BOROVČANIN's** orders, until at least 16 July.<sup>4554</sup>

1957. [REDACTED].<sup>4555</sup>

1958. As noted above, all three of the 1<sup>st</sup> Company, Zvornik PJP witnesses testified that they returned to Bratunac on 13 July (because of injuries, or, in Stanojević's case, because his colleague had been killed). However, as explained above, their continued deployment along the road is confirmed by **BOROVČANIN's** and Vasić's reports.

### **Conclusion**

1959. The 2<sup>nd</sup> Šekovići Detachment, 1<sup>st</sup> Company, Zvornik PJP, and Jahorina Training Centre troops continued to be deployed along the road on 14 July. The fact that none of the witnesses from these units were able to provide any details about what tasks were undertaken that day suggests that they were involved in tasks associated with the killings that had taken place the previous day, as well as on the morning of 14 July, at the Kravica Warehouse. [REDACTED].

### **(cxliiii) On 13 July, BOROVČANIN's units captured Muslims from the column as they came down to the road.**

1960. As confirmed by documentary evidence, witness testimony and video evidence, **BOROVČANIN's** forces deployed along the road on 13 July were involved in the capture of thousands of Muslim men who were fleeing towards Muslim-held territory. The 2<sup>nd</sup> Šekovići Detachment, 1<sup>st</sup> Company, Zvornik PJP, and Jahorina Training Centre troops were all involved in capturing the Muslims.

<sup>4551</sup> [REDACTED] PW-100, T.14836-14837, 14840;14886.

<sup>4552</sup> [REDACTED] PW-160, T.8629; [REDACTED] PW-100, T.14839-14840, 14886-14888.

<sup>4553</sup> Exh. 4DP01892, Bratunac Health Centre patient log book at ERN:1793-3916.

<sup>4554</sup> [REDACTED] PW-160, T.8630-8631, 8688-8690; Exh. 4D00084, Drina Corps Command – Regular Combat Report by General KRSTIĆ (14 July Drina Corps Daily Combat Report setting same task as day before); Exh. 4D00085, Drina Corps Command – Regular Combat Report by General KRSTIĆ (15 July Drina Corps Daily Combat Report setting same task).

<sup>4555</sup> [REDACTED].

### Documentary evidence

1961. **BOROVČANIN** clearly stated in his 13 July Report that his forces were capturing thousands of Muslims along the road:

In the night between 12 and 13 July 1995, this armed Muslim group launched an attack in the direction of Konjević Polje. In the combat that lasted several hours which continued throughout today, the enemy sustained a loss of 200 soldiers who were killed, and *we captured, or had surrender to us, around 1,500 Muslim soldiers. The number increases by the hour.*<sup>4556</sup>

1962. **BOROVČANIN**'s report is corroborated by Dragomir Vasić's 14 July dispatch, which confirms that MUP units were capturing large numbers of Muslims along the road on 13 July. Vasić's dispatch states:

During the combat operations from the previous day the enemy suffered serious losses in manpower *and large number of enemy soldiers surrendered to our units.*<sup>4557</sup>

1963. Both of these documents accurately describe the situation on 13 July, when the Muslims in the column had to cross the Bratunac – Konjević Polje road as they tried to reach Muslim-held territory, and many decided to surrender or were captured.

1964. Notably, however, **BOROVČANIN** made no mention of the captured Muslims in his 5 September Report.<sup>4558</sup> It is clear that, knowing what had become of the men captured by his forces on 13 July (who were killed either at the Kravica Warehouse, or at other sites of execution), he avoided making any mention of them. This omission is clear evidence of **BOROVČANIN**'s consciousness of guilt. It is clear from the context of his 13 July Report that it was written and sent prior to **BOROVČANIN**'s receipt of orders to murder the Muslim men in the Kravica warehouse.

### Witness testimony

1965. [REDACTED] PW-100, who was among the 1<sup>st</sup> Company, Jahorina Training Centre troops deployed to the road on the afternoon of 13 July, testified that his platoon leaders instructed members of his unit that if anyone surrendered, they were to notify their superiors and pass on the prisoners.<sup>4559</sup> A few of them had been issued radios and would communicate with the regular Special Police Brigade members who also had hand-held radios when they had a question or had some prisoners.<sup>4560</sup> Furthermore,

<sup>4556</sup> Exh. P03789, 13 July Report at ERN:0359-2236 (emphasis added).

<sup>4557</sup> Exh. P03112, CJB Zvornik Dispatch No. 12-6/08-508/95, signed Dragomir VASIĆ, dated 14 July 1995.

<sup>4558</sup> Exh. 4D00510, 5 September Report at ERN:4D05-1186.

<sup>4559</sup> [REDACTED] PW-100, T.14824-14826.

<sup>4560</sup> [REDACTED] PW-100, T.14826, 14828-14830.

[REDACTED] PW-100 testified that he saw regular Special Police Brigade members calling to the Muslims on a megaphone to surrender at the Sandići Meadow.<sup>4561</sup>

1966. Similarly, 2<sup>nd</sup> Šekovići Detachment member Predrag Čelić testified that he could hear a megaphone being used at Sandići to call on the Muslims to surrender.<sup>4562</sup> 2<sup>nd</sup> Šekovići Detachment member Milenko Pepić also testified that the Serb forces were calling on the Muslims to surrender, and he recalled that UNPROFOR was mentioned as being there.<sup>4563</sup> As seen on the Petrović Video, 2<sup>nd</sup> Šekovići Detachment members such as Skelani Platoon Commander Milenko “Čop” Trifunović were actively involved in calling on the Muslims to surrender on the afternoon of 13 July.

1967. Pepić, Čelić and Dobrisav Stanojević of the 1<sup>st</sup> Company, Zvornik PJP all denied seeing any Muslims surrender near their positions,<sup>4564</sup> which is not surprising as all three men were fully aware of the fate that befell those who surrendered or were captured. [REDACTED] PW-100 testified that no Muslims surrendered directly to him (other than one person, whom he and his partner waved to go away – although it is not clear whether this incident happened on 13 July); however, he testified that Muslims were surrendering to other members of his unit around 100 – 150 metres away from his position.<sup>4565</sup>

1968. In addition, some prisoners were taken by MUP forces to Bratunac, where prisoners were arriving and being detained at sites throughout the town. Čelanović testified that sometime during the morning of 13 July “Specials” brought five Bosnian Muslim men captured in the Konjević Polje area to the Bratunac Brigade HQ.<sup>4566</sup> Čelanović interrogated them and the “Specials” then took them to the Vuk Karadžić School.<sup>4567</sup>

1969. Finally, Miloš Đukanović testified that he directed two Muslims to surrender either at the Kravica Warehouse complex, or at the Kravica School,<sup>4568</sup> where there were “Specials.” It is clear that his reference to “Specials” must have taken place on 13 July. The “Specials” could only have been members of **BOROVČANIN**’s Special Police units.

<sup>4561</sup> [REDACTED] PW-100, T.14822-14823, 14827.

<sup>4562</sup> ČELIĆ, T.13475.

<sup>4563</sup> PEPIĆ, T.13553-13554.

<sup>4564</sup> PEPIĆ, T.13552; ČELIĆ, T.13476; D.STANOJEVIĆ, T.12883-12884.

<sup>4565</sup> [REDACTED] PW-100, T.14825-14826, 14839.

<sup>4566</sup> ČELANOVIĆ, T.6632-33 (“soldiers who were referred to as members of special forces”), 6645-47 (“specials”; “the policemen had represented themselves as special police”).

<sup>4567</sup> ČELANOVIĆ, T.6645-6647, 6650. *See also* M.NIKOLIĆ, T.33073, 33352. [REDACTED].

<sup>4568</sup> ĐUKANOVIĆ, T.11755.

**BOROVČANIN's MUP forces used UNPROFOR equipment and claimed to be UNPROFOR to deceive the Muslims to surrender**

1970. Pepić's evidence that the Serbs were using UNPROFOR as a trick to get the Muslims to surrender<sup>4569</sup> is corroborated by several Muslim witnesses. [REDACTED] PW-127, who was with the Muslim column in the forest and saw an UNPROFOR APC being driven up and down the road and at one point calling out, "Come down, don't be afraid. UNPROFOR is here to make it possible for you to be escorted to Tuzla."<sup>4570</sup> [REDACTED], Ramiz Husić, also saw UNPROFOR vehicles and soldiers in UN uniforms on the road: "The Serbs told us that UNPROFOR was waiting for us to take us to Tuzla and exchange us for Serb soldiers." When he arrived at the Sandići Meadow, Ramiz Husić saw "two UN APCs... There were also soldiers with UN helmets, but I realised they were Serbs and that the UN vehicles and helmets were only used as a trick for us to surrender."<sup>4571</sup> [REDACTED] PW-156 testified that as he was being taken to the Kravica Warehouse, he saw some soldiers standing around an UNPROFOR APC, who did not react as the prisoners passed by.<sup>4572</sup> Finally, [REDACTED] PW-111 testified that a Serb soldier wearing a blue UN helmet was among those guarding the prisoners at the Kravica Warehouse and then shooting them.<sup>4573</sup>

1971. Sergeant Mulder of DUTCHBAT stated that on 13 July, he and a colleague were forced by Bosnian Serbs on the Bratunac – Konjević Polje Road to hand over their UN flak jackets and blue helmets. Sgt. Mulder described these soldiers as wearing "camouflage uniforms from the Krajina." Further on, two Serb soldiers in a blue VW Golf who Mulder thought belonged to a "special unit" and whose uniform "differed from the standard ŠVRSC uniform" forced the Dutch soldiers out of their vehicle and took them to Konjević Polje. Later on, Serb soldiers driving a UN APC drove Sgt. Mulder and his colleague back towards Bratunac. The Serb soldiers gave the two Dutchmen Kalashnikovs and helmets and forced them to sit on top of the APC. They turned off the road after about 1 kilometre and drove around for around 45 minutes.<sup>4574</sup>

1972. Sgt. Mulder's evidence is corroborated by Momir Nikolić and [REDACTED] PW-138. Nikolić stated that he drove with Janković along the road in an UNPROFOR APC, while MP Mile Petrović called from a megaphone for the Muslims to surrender.<sup>4575</sup>

<sup>4569</sup> PEPIĆ, T.13553-13554.

<sup>4570</sup> [REDACTED] PW-127, T.3516-3517.

<sup>4571</sup> R.HUSIĆ, Exh. P02203 at ERN:0613-9633, 0613-9635.

<sup>4572</sup> [REDACTED] PW-156, T.7094.

<sup>4573</sup> [REDACTED] PW-111, T.6992, 6999.

<sup>4574</sup> MULDER, Exh. P02199 at ERN:0084-7209-0084-7210.

<sup>4575</sup> Exh. C00001, Momir Nikolić, Statement of Facts and Acceptance of Responsibility, p.5.

[REDACTED],<sup>4576</sup> who must have been Sgt. Mulder and his colleague.<sup>4577</sup>  
[REDACTED].<sup>4578</sup>

1973. Momir Nikolić was working in close co-operation with **BOROVČANIN** and the MUP forces at this time.<sup>4579</sup> He knew that **BOROVČANIN**'s forces were deployed along the road<sup>4580</sup> and he liaised with MUP personnel when he arrived at Konjević Polje.<sup>4581</sup> In these circumstances, he would only have undertaken to drive along the road in an UNPROFOR vehicle and call prisoners down if **BOROVČANIN** had ordered or agreed to this tactic.

1974. As an experienced military commander, **BOROVČANIN** was aware that the use of such tactics, namely, the use of the symbols of a neutral force such as the United Nations to gain an advantage, amounts to the war crime. Nevertheless, he ordered or authorised the use of such tactics in the knowledge that any Muslims who surrendered as a result were to be killed.

1975. In addition, the Petrović Video shows **BOROVČANIN** shaking hands and talking to a Special Police Brigade member<sup>4582</sup> wearing a blue UN helmet,<sup>4583</sup> thereby corroborating the other evidence showing that his units sought by perfidy to trick the Muslims into surrendering to an apparently neutral international force.

**The Petrović Video shows the involvement of BOROVČANIN's units in the capture of Muslim men along the Road.**

1976. The involvement of **BOROVČANIN**'s units in the capture of Muslims is clear from the Petrović Video, in which Milenko "Čop" Trifunović, commander of the 2<sup>nd</sup>

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<sup>4576</sup> [REDACTED].

<sup>4577</sup> However, [REDACTED] PW-138 claimed that the DUTCHBAT soldiers were inside the APC, not forced to ride on the outside. [REDACTED] PW-138, T.3823-3824.

<sup>4578</sup> [REDACTED].

<sup>4579</sup> Nikolić testified that he met **BOROVČANIN** and shared information and intelligence with him before **BOROVČANIN**'s forces moved towards Potočari (M. NIKOLIĆ, T.32912-32913). Furthermore, in his statement of facts, Momir Nikolić stated that he worked in co-ordination with Duško Jević on 12 July (Exh. C00001, Momir Nikolić, Statement of Facts and Acceptance of Responsibility, p.2).

<sup>4580</sup> M. NIKOLIĆ, T.32936 : "...the forces engaged between Sandići and Konjević Polje were, in my understanding, under the command of Mr. Ljubiša **BOROVČANIN**". See also Exh. C00001, Momir Nikolić, Statement of Facts and Acceptance of Responsibility, p.4: while on his way to Konjević Polje on 13 July, Nikolić saw MUP forces along the road and at Sandići, with heavy weapons.

<sup>4581</sup> Exh. C00001, Momir Nikolić, Statement of Facts and Acceptance of Responsibility, p.4: At Konjević Polje, Nikolić "contacted the MUP commanders and directed them that the Muslim prisoners should be detained and would be moved to Bratunac later that day." Nikolić testified that he also met Jević in Potočari on the morning of 13 July, and told him that the Muslim prisoners at Konjević Polje should be transferred to Bratunac, although he was not in a position to give orders to Jević (M. NIKOLIĆ, T.33168; 33170).

<sup>4582</sup> The soldier is identifiable by the Special Police Brigade insignia worn on his left arm.

<sup>4583</sup> Exh. P02000, Video footage shot by Zoran PETROVIĆ during July 1995 – provided by the BBC at 0:21:30 – 0:21:38.

Šekovići Detachment's 3<sup>rd</sup> Platoon (the "Skelani Platoon"),<sup>4584</sup> is seen instructing Ramo Osmanović to call to the Muslims in the forest to surrender to the Serbs;<sup>4585</sup> Jahorina Training Centre troops are seen positioned along the road, in order to capture Muslims, also calling on them to surrender, and describing the numbers who have been captured so far;<sup>4586</sup> and 1<sup>st</sup> Company, Zvornik PJP members are seen escorting captured Muslims through a field and towards the Sandići Meadow.<sup>4587</sup> Furthermore, **BOROVČANIN** is seen travelling all along the road, speaking with his troops who were involved in these activities.

1977. **BOROVČANIN**'s units captured thousands of Muslims who came down to the road on 13 July. Perfidious tactics were used, which **BOROVČANIN** clearly knew of, and must have condoned. Once his forces had captured the men, **BOROVČANIN** had a duty to protect them from harm, based on his control of the area and the responsibility he assumed upon detaining them. The harm that befell these men, some at the Sandići Meadow, at least 1,000 at the Kravica Warehouse, and the rest, elsewhere, is described in other sections of this brief.

**(cxliv) On 13 July, BOROVČANIN's units detained the captured Muslims in Sandići Meadow and executed 10-15 Muslim prisoners.**

1978. As described at paras. 518-544, on 13 July, MUP forces under the command of **BOROVČANIN** captured and detained Muslim prisoners at the Sandići Meadow.<sup>4588</sup> During the course of the day, individuals were robbed.<sup>4589</sup> Some were physically abused or killed.<sup>4590</sup> Their treatment mirrors the treatment of the men who had gone with the crowd of refugees to Potočari: the Muslims were ordered to leave their belongings behind;<sup>4591</sup> young boys were separated and put on passing buses carrying women,

<sup>4584</sup> PEPIC, T.13541; ČELIĆ, T.13489-13490.

<sup>4585</sup> Exh. P02000, Video footage shot by Zoran PETROVIĆ during July 1995 – provided by the BBC at 0:09:45; Exh. P02985, Transcript of Petrović Video at ERN:V000-3915-3.

<sup>4586</sup> Exh. P02000, Video footage shot by Zoran PETROVIĆ during July 1995 – provided by the BBC at 0:18:45 – 0:21:32; P02985, Transcript of Petrović Video at ERN:V000-3915-3.

<sup>4587</sup> Exh. P02000, Video footage shot by Zoran PETROVIĆ during July 1995 – provided by the BBC at 0:22:25 – 0:24:05.

<sup>4588</sup> [REDACTED] PW-111, T.6974-6975; 7052.

<sup>4589</sup> [REDACTED] (PW-156), T.7090; [REDACTED] (PW-127), T.3517-3518; 3532-3533; [REDACTED]. [REDACTED].

<sup>4590</sup> [REDACTED] PW-156, T.7088-7089; [REDACTED] PW-127, T.3518; 3530-3532; R.HUSIĆ, Exh. P02203 at ERN:0613-9635.

<sup>4591</sup> [REDACTED] PW-127, T.3523.



children and the elderly towards Kladanj;<sup>4592</sup> while the remaining men were transferred to the Kravica Warehouse or elsewhere, before being killed.<sup>4593</sup>

1979. Throughout the day on 13 July, the prisoners were taken away either to the Kravica Warehouse or to Bratunac. By the evening there were ten to fifteen prisoners left in Sandići Meadow.<sup>4594</sup> As described at paras. 632-636, the remaining prisoners were subsequently executed by MUP soldiers under the command of **BOROVČANIN**.

1980. As testified by [REDACTED] PW-100, a member of the 1<sup>st</sup> Company, Jahorina Training Centre, these executions would have required the knowledge and authorisation of the commander, Ljubomir **BOROVČANIN**. All of these features are indicative of an organised operation intended to culminate with the murders of the captured Muslims, in accordance with the plan that had evolved over the preceding days.

**Documentary evidence corroborates the capture of the Muslim prisoners**

1981. As explained above, both **BOROVČANIN** and Vasić described the capture of large numbers of Muslims in their contemporaneous reports. The capture of thousands of prisoners necessarily required significant involvement in their detention.

**BOROVČANIN's troops are seen on the Petrović Video detaining captured Muslims at the Sandići Meadow**

1982. **BOROVČANIN**'s men are seen guarding the prisoners at the Sandići Meadow (at around 16:06 hours, based on the video time stamp).<sup>4595</sup> Two of these MUP soldiers have been positively identified by name as 1<sup>st</sup> Company, Zvornik PJP member Slobodan Petrović and 2<sup>nd</sup> Šekovići Detachment Skelani Platoon Commander Milenko "Čop" Trifunović,<sup>4596</sup> and the fact that the other soldiers with them are seen wearing similar

<sup>4592</sup> R.HUSIĆ, Exh. P02203 at ERN:0613-9635. [REDACTED] PW-127 climbed onto a bus and hid among some women, as he was sure the Serbs would not have let him board the bus. [REDACTED] PW-127, T.3535.

<sup>4593</sup> [REDACTED] PW-111 testified that the fittest, strongest men were separated and were the first to be taken to the Kravica Warehouse. [REDACTED] PW-111, T.6979-6980.

<sup>4594</sup> [REDACTED] PW-100, T.14830, 14883.

<sup>4595</sup> Exh. P02000, Video footage shot by Zoran PETROVIĆ during July 1995 – provided by the BBC at 9'45" – 10'47".

<sup>4596</sup> **Slobodan Petrović**, a Milići policeman who was a member of the 1<sup>st</sup> Company, Zvornik PJP, is seen guarding the prisoners (Exhs. P02000, Video footage shot by Zoran PETROVIĆ during July 1995 – provided by the BBC at 10'00" – 10'47"; [REDACTED]). He is carrying an automatic rifle, and he is wearing a camouflage-patterned flak jacket over a white t-shirt, with camouflage overalls rolled down to his waist. He also has a distinctive "flat-top" haircut. Other soldiers wearing camouflage overalls are seen standing near Petrović, and one of them walks over to where he is standing, indicating that the soldiers seen guarding the prisoners were working together, and were likely part of the same unit. **Milenko "Čop" Trifunović**, Commander of the 2<sup>nd</sup> Šekovići Detachment's 3<sup>rd</sup> Platoon (the "Skelani Platoon") (PEPIĆ, T.13541; P. Čelić, T.13489-13490), is seen instructing Ramo Osmanović to call on the Muslims in the forest to surrender (Exhs. P02000, Video footage shot by Zoran PETROVIĆ during July 1995 – provided by the BBC at 9'45"-9'47"; [REDACTED]). Trifunović is seen wearing camouflage overalls, with the

uniforms and interacting closely with them indicates that they also belonged to **BOROVČANIN**'s MUP units.

1983. Both Slobodan Petrović<sup>4597</sup> and Trifunović<sup>4598</sup> can be identified in the group seen on the video at around 16:12 hours when Zoran Petrović filmed the people in the Meadow from the other side of the road. In addition, a third man in the group,<sup>4599</sup> was standing near Trifunović in the earlier scene, while others in the group are wearing high-collared camouflage-patterned flak jackets similar to those worn by Slobodan Petrović and Trifunović.

1984. Moreover, no fewer than sixteen men under **BOROVČANIN**'s command have been identified in this case, all who appear on this segment of the Petrović Video, taken on the Bratunac-Konjević Polje Road, in the vicinity of the Sandići Meadow. The identified men belonged to the Special Police Brigade, Jahorina Training Centre; 2<sup>nd</sup> Šekovići Detachment; and the 1<sup>st</sup> Company, Zvornik PJP.<sup>4600</sup>

1985. In addition, [REDACTED] PW-160's testimony corroborates that **BOROVČANIN**'s forces were responsible for guarding the Muslims at the Sandići Meadow. [REDACTED] PW-160 testified that Jahorina Training Centre troops and were securing the prisoners who General Mladić addressed at the Meadow.<sup>4601</sup>

**(cxlv) BOROVČANIN, and units under his command, took part in the summary execution of at least 1,000 Muslim men and boys at the Kravica Warehouse on 13 July 1995.**

### **Summary**

1986. Troops under **BOROVČANIN**'s command took part in the capture, detention, transfer and summary execution of approximately 1,000 Bosnian Muslim prisoners from the Sandići Meadow to the Kravica Warehouse in the afternoon hours of 13 July.

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Special Police Brigade insignia worn on his left arm. He is carrying an automatic rifle, and wearing a light-coloured headband. He is also wearing a flak jacket (identifiable by the thick, high collar seen around his neck, as well as the rigid back-section which is visible in other images).

<sup>4597</sup> Seen in the centre of the picture, and identifiable by his "flat-top" haircut, as well as his white t-shirt worn under a flak-jacket.

<sup>4598</sup> Seen in the centre of the picture with his back to the camera, he is identifiable by his light-coloured headband, and is holding an automatic rifle and wearing a flak-jacket.

<sup>4599</sup> Seen wearing a white or yellow sleeveless t-shirt and rolled-down camouflage overalls.

<sup>4600</sup> [REDACTED]. Note, 15 men were identified as men under **BOROVČANIN**'s command and the Special Police Brigade insignia can clearly be seen on the 16th man's uniform.

<sup>4601</sup> [REDACTED] PW-160, T.8585-8586. Given the scene that [REDACTED] PW-160 described in his testimony, it is clear that he witnessed General Mladić's speech to the prisoners at the Sandići Meadow in the middle of the day on 13 July, when **BOROVČANIN** was also present.

1987. Specifically, during the afternoon hours, the MUP units bussed and marched at least 1,000 of Muslim men and boys from the Sandići meadow approximately one kilometre along the Bratunac-Konjević Polje road to the Kravica Warehouse. By about 17:00 hours that day, at least 1,000 Muslim men and boys had been transferred to the Kravica Warehouse. The prisoners were crowded into large rooms at either end of the Warehouse; the “West room” and the “East room.” A small “Centre room” was in-between.<sup>4602</sup>

1988. Shortly before 17:00 hours on 13 July, **BOROVČANIN** called his Deputy Commander, Rade Čuturić of the 2<sup>nd</sup> Sekovići Detachment of the Special Police (codenamed “Oficir”) and ordered Čuturić to stop the convoy of buses transporting the Muslim women and children from Potočari to Kladanj. The stopping point for the convoy of buses was a few hundred metres west of the Kravica Warehouse in the village of Kravica.<sup>4603</sup> **BOROVČANIN**’s order to close the road was to facilitate the murder of the Muslim prisoners in the Kravica Warehouse and ensure that the murders did not occur while buses carrying Muslim women and children from Potočari were driving past.<sup>4604</sup>

1989. Shortly thereafter, pursuant to orders from the VRS leadership, MUP forces under the command of **BOROVČANIN**, and at least one member of the Bratunac Brigade Red Berets, participated in the murders of roughly 500 Muslims detained in the West room of the warehouse. By about 17:15 hours, all of the Muslim prisoners in the West room of the warehouse had been killed or incapacitated. The executioners then moved to the East room of the warehouse and murdered the 500 remaining Muslim prisoners.<sup>4605</sup>

1990. At approximately 17:15 to 17:20 hours, a Muslim prisoner managed to take away a Serb soldier’s rifle and shoot two of the executioners. A police officer from the 2<sup>nd</sup> Seković Detachment, Krsto Dragičević, was fatally wounded and a VRS soldier from the Red Beret unit of the Bratunac Brigade was also wounded by a gunshot through his

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<sup>4602</sup> The Kravica Warehouse is a long, single-storey building lying parallel to, and on the south side of, the Bratunac-Konjević Polje road (Exh. P01563, Aerial Image, still taken from aerial film of Kravica Warehouse; Exh. P04529, Declaration of Tomasz BLASZCZYK regarding Kravica warehouse measurements with 2 sketches and 1 photo attached, dated 4 May 2009, p. 4; Exh. 4D00137, Map of Udrc, Konjevic Polje, Kravica, Glogova. Looking from the road, the warehouse has two large rooms, one to the left (East room, Bratunac side of the building), and one to the right (West room, Sandići side of the building), separated by a smaller, central room (Centre room) (Exh. P04529, Declaration of Tomasz BLASZCZYK regarding Kravica warehouse measurements with 2 sketches and 1 photo attached, dated 4 May 2009, pp. 2, 4). *Note* From the Petrović Video footage, the centre room is seen to be unguarded and there are bodies lying in front.

<sup>4603</sup> See paras. 605-616.

<sup>4604</sup> See paras. 605-616.

<sup>4605</sup> See paras. 618-628.

elbow. At that moment, Rade Čuturić, grabbed the barrel of the rifle and took it away from the Muslim prisoners. In the process, Čuturić burnt his hands on the hot barrel.<sup>4606</sup>

1991. This incident, where two MUP soldiers were shot, was reported to **BOROVČANIN** immediately by 2<sup>nd</sup> Šekovići Detachment Commander, Miloš Stupar. Stupar requested **BOROVČANIN** to “come back.” At the time, **BOROVČANIN** was with his unit near the Sandići Meadow, not far from the Kravica Warehouse. **BOROVČANIN** and Belgrade journalist Zoran Petrović drove quickly to the scene. Upon his arrival, **BOROVČANIN** stated that he stayed on the Bratunac-Konjević Polje Road<sup>4607</sup> from where he observed “several dozens” of dead people “who were killed, who were lying down” in front of the entrance to the Kravica Warehouse.<sup>4608</sup>

1992. As can be seen on the Srebrenica Trial Video, **BOROVČANIN** and Petrović arrived at the Kravica Warehouse after all of the Muslim men in the West room and in the Centre room of the Warehouse had been executed.<sup>4609</sup> Based upon the time the wounded soldiers, Čuturić and Stanojević, arrived at the Bratunac Medical Centre,<sup>4610</sup> **BOROVČANIN** and Petrović arrived at the murder scene at approximately 17:15 to 17:20 hours.

1993. Zoran Petrović testified that he and **BOROVČANIN** drove directly past the Kravica Warehouse without stopping. Moreover, Petrović was extremely evasive regarding what he saw at the warehouse. Given that both Petrović and **BOROVČANIN** acknowledge the large number of bodies they observed in front of the building, Petrović’s refusal to acknowledge that they stopped at the warehouse can only be construed as an attempt to distance both himself and **BOROVČANIN** from the atrocious crimes that were occurring there when they arrived, and from the identity of the perpetrators. moreover, from the automatic gunfire that can be heard on the Petrović Video immediately before it cuts out, it is obvious that the executions at the Kravica Warehouse were in progress as Petrović and **BOROVČANIN** arrived.

1994. By nightfall, almost all of the Muslim prisoners in the warehouse were either dead or dying. Later that evening, while **BOROVČANIN** was at the Bratunac Brigade HQ, he

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<sup>4606</sup> PEPIC, T.13559-13562.

<sup>4607</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 66:24.

<sup>4608</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 66

<sup>4609</sup> Exh. P02047, Srebrenica trial video at 02:56:00-02:56:52.

<sup>4610</sup> Exh. 4DP01892, Bratunac Health Centre patient log book at ERN: 1793-3920.

received a call at 20:40 hours from Gen. Krstić.<sup>4611</sup> Krstić asked **BOROVČANIN** how everything was going and **BOROVČANIN** responded “It is going well”.

1995. **BOROVČANIN**’s responsibility for these executions is further evidenced by the presence and participation of his units at all stages of the murder operation; from the capture of the Muslim men along the Konjević Polje – Bratunac Road; to their detention at Sandići Meadow; to their transportation to the Kravica Warehouse and finally to their detention and subsequent execution (*see below*).

**MUP units guarded prisoners at the Kravica Warehouse**

1996. On 13 July, the Kravica Warehouse and surrounding area was under the control of **BOROVČANIN**’s MUP forces.<sup>4612</sup> Evidence from witness testimony, the Petrović Video and the Bratunac Health Centre log, establishes that MUP forces under **BOROVČANIN**’s command, guarded the Bosnian Muslim prisoners held captive in the Kravica Warehouse on 13 July.<sup>4613</sup>

1997. Significantly, **BOROVČANIN** himself admitted that when he arrived at the Kravica Warehouse he saw “police officers that were previously placed along the road...gathered there.”<sup>4614</sup> More specifically, he admitted that 2<sup>nd</sup> Šekovići Detachment members were present at or near the Kravica Warehouse around the time he arrived, including 2<sup>nd</sup> Šekovići Detachment Commander Miloš Stupar, Deputy Commander, Rade Čturić (“Oficir”),<sup>4615</sup> and potentially thirty or more “others.”<sup>4616</sup>

1998. The following witnesses have identified the guards at the Kravica Warehouse as being members of the MUP forces under **BOROVČANIN**’s command: Miloš Đukanović, Miladin Jovanović, [REDACTED] PW-100, [REDACTED] and Ljubisav Simić.

<sup>4611</sup> See paras 2018-2029.

<sup>4612</sup> See also ČELIĆ, T.13477-13480, 2<sup>nd</sup> Šekovići Detachment member Predrag Čelić testified that he was on duty on the section of road between the Sandići Meadow and the Kravica Warehouse when the column of prisoners came past his “area of responsibility,” providing further confirmation that the area in which the prisoners were moved was controlled by the MUP forces. Indeed, with Pepić nearby the Kravica Warehouse on one side, and Čelić nearby on the other side, the only reasonable conclusion is that the area in between was under the control of their unit.

<sup>4613</sup> See paras. 594-627.

<sup>4614</sup> Exh. P02853, **BOROVČANIN** March Interview, p.64.

<sup>4615</sup> Exh. P02853, **BOROVČANIN** March Interview, p.64.

<sup>4616</sup> Exh. P02853, **BOROVČANIN** March Interview, p.72. When asked who could identify the VRS officers he claimed were present near the Kravica Warehouse when he arrived, **BOROVČANIN** referred to “...police officers who were there, certainly can tell you their names. So, if you talk to Stupar, Pantić and others... that they would point out to other people, because I believe there is at least 30 people who can confirm that in a better way than I.”

1999. Miloš Đukanović, a worker at the Kravica agricultural cooperative, testified that he saw men he identified as “Specials” guarding the prisoners from before the shooting started at the Kravica Warehouse until the next day.<sup>4617</sup> Đukanović’s description of the uniforms worn by all the Specials he saw,<sup>4618</sup> *i.e.*, one-part camouflage uniforms, wide black fabric belts, and automatic rifles with folding stocks,<sup>4619</sup> matches the uniforms worn by the MUP units seen on the Petrović Video.<sup>4620</sup>

2000. Miladin Jovanović (who went to the Kravica Warehouse on the night of 13 July), testified that the men guarding the prisoners were from Skelani,<sup>4621</sup> corresponding with the presence of the 2<sup>nd</sup> Šekovići Department’s Platoon as seen at Sandići Meadow on the Petrović Video.

2001. [REDACTED] PW-100, member of the 1<sup>st</sup> Company from the Jahorina Training Centre, testified that a fellow recruit in his unit who went to the Kravica Warehouse on 13 July, said that the killers belonged to “a regular special police force.”<sup>4622</sup>

2002. Similarly, [REDACTED] PW-160 testified that he heard about the involvement of the (2<sup>nd</sup>) Šekovići Detachment in the killings at the Kravica Warehouse and<sup>4623</sup> Ljubisav

<sup>4617</sup> ĐUKANOVIĆ, T.11760-11761, 11764-11766; JOVANOVIĆ, T. 24233; [REDACTED] PW-100, T.14823, 14835, 14899; [REDACTED]; SIMIĆ, T. 27206-27207; L.SIMIĆ, Exh. 4D00606/4D00606a at T.7629-7630; Exh. PIC00114, Aerial Image of Kravica Warehouse marked by ĐUKANOVIĆ. Đukanović testified that these Specials had first arrived in Kravica on 12 July and were walking alone or in twos or threes on the road near warehouse, and also by the school in Kravica (T.11751-11752). This corresponds with the deployment of **BOROVIČANIN**’s forces to the Bratunac – Konjević Polje road on 12 July. Đukanović’s recollections of the night he spent on guard in the cornfield behind the Kravica Warehouse must correspond to the night of 13 July, as this is the only night when there was a need to guard the building. In addition, Đukanović testified that he saw his boss Jovan Nikolić at the warehouse that night (T.11760), which is consistent with Perica Vasović’s testimony that he arrived at the Kravica Warehouse with Jovan Nikolić on the night of 13 July (VASOVIĆ, T.24214; 24251; Exh. 2D00555, Witness Statement of P.VASOVIĆ, p.1 (indicating that Jovan Nikolić did not visit the Kravica Warehouse on the night of 12 July: “Since it was two days since we had last received a shipment of raspberries, the director and I became worried, so on July 13, 1995, in the evening a bit after 20 00 hours, we decided to visit the cooperative.”).

<sup>4618</sup> ĐUKANOVIĆ, T.11773.

<sup>4619</sup> ĐUKANOVIĆ, T.11754.

<sup>4620</sup> This also corresponds to Zlatan Čelanović’s description of men he saw in Bratunac on 13 July, who also called themselves “the specials.” Čelanović testified: “[They wore] [o]veralls. Military overalls. They were camouflage overalls, and one could see that the fabric was new, that overalls were new, one could see very well. The belts that they had were not plain leather ones, no. They were the modern type ones and very few of our people had that...” ČELANOVIĆ, T.6647. The uniforms of these three men match the descriptions given by Đukanović and Čelanović of the uniforms they saw being worn by “Specials,” in particular, the wide, dark-coloured belts they wore, which were unusual for other members of the Serb forces. The one-piece overalls are also distinctive; [REDACTED] PW-160 testified that regular Special Police Brigade members wore such overalls, unlike the Jahorina Deserters ([REDACTED] (PW-160), T.8577) and they can be seen being worn by Special Police Brigade members identified on the Petrović Video [REDACTED].

<sup>4621</sup> JOVANOVIĆ, T.24232-24233. Jovanović provided the further detail that during the car journey back from the Kravica Warehouse on the night of 13 July, he learned from Jovan Nikolić (“Jole”) that “Special Police from Skelani” were guarding the Muslims. Exh. P03592, Witness Statement of Miladin JOVANOVIĆ, dated 21 September 2005, p. 5.

<sup>4622</sup> [REDACTED] (PW-100), T.14835.

<sup>4623</sup> [REDACTED] PW-160, T.8623.

Simić testified that he heard that the policeman who was killed at the warehouse was “guarding those people.”<sup>4624</sup>

2003. Finally, on the Petrović Video, the three armed men who are visible in the Kravica Warehouse footage<sup>4625</sup> are wearing uniforms the same as those worn by Special Police Brigade members. One of the men (walking towards the road with his back to the warehouse) is wearing a camouflage uniform with a wide black or dark-coloured belt; one (close to or on the road, walking westwards) is wearing a camouflage uniform with a black or dark-coloured belt and is carrying a weapon pointed downwards; and one (walking westwards alongside the bus, looking at **BOROVČANIN**’s car and giving a thumbs-up signal) is wearing overalls which are rolled down to the waist, and appears to have a weapon hanging on a sling.<sup>4626</sup>

**The Bratunac Health Centre log shows BOROVČANIN’s men, Čuturić and Krsto, were treated at the Bratunac Health Centre as a result of being wounded at the Kravica Warehouse.**

2004. The presence of **BOROVČANIN**’s men at the Kravica Warehouse during the executions on 13 July is further corroborated by the Bratunac Health Centre log from that afternoon of 13 July.<sup>4627</sup> The log records that Rade Čuturić, Stanojević and Krsto Dragičević were treated at the health centre after 17:30 hours on 13 July for wounds they undoubtedly received at the Kravica Warehouse that afternoon. As set out above, the log entry at 17:30 hours reflects the gunshot wound to Stanojević’s elbow; the entry at 17:40 hours reflects the burn injury Rade Čuturić suffered at the Kravica Warehouse when he grabbed the hot barrel of the gun from the Muslim man; and the entry at 19:00 hours reflects the fatal wounding of Krsto Dragičević.

**Conclusion**

2005. **BOROVČANIN**, two of his subordinate commanders and several of his soldiers were present at the Kravica Warehouse during the executions and they took part in guarding and killing the prisoners detained therein.

2006. **BOROVČANIN**, and MUP units under his command, played a crucial role in the each stage of the Kravica Warehouse executions. **BOROVČANIN** used his units’ control over the Bratunac - Konjević Polje Road to capture, detain and transfer the Muslim

<sup>4624</sup> L.SIMIĆ, Exh. 4D00606/4D00606a at T.7629-7630.

<sup>4625</sup> Exh. P02047, Srebrenica Trial Video, at 2:56:23-2:56:52.

<sup>4626</sup> Z. Petrović testified that he realised the soldier was giving a “thumbs-up” signal when he saw the footage in slow-motion (PETROVIĆ, T.18803).

<sup>4627</sup> Exh. 4DP01892, Bratunac Health Centre patient log book at ERN:1793-3920.

prisoners from Sandići Meadow to the Kravica Warehouse, where they were guarded by his units. Upon the prisoners' arrival at the Warehouse, **BOROVČANIN** enabled the murder operation to take place by ordering convoy traffic along the road to be stopped so that the Muslim prisoners detained at the Kravica Warehouse could be executed out of the sight and earshot of the passing convoys of Muslim women and children.

**(cxlvi) BOROVČANIN's Admission: he failed to assist any wounded Muslims at the Kravica Warehouse.**

2007. Despite admitting to seeing "a large number of bodies of people that were killed in the yard"<sup>4628</sup> of the Kravica Warehouse; upon his arrival at the warehouse, **BOROVČANIN** admitted that made no attempt to assist any of the wounded Muslim prisoners:

Did you make any effort to see if there were any wounded people among the mass of Muslims that had been shot at the warehouse?

First, my officer was wounded and he needed medical assistance. And whether there were any wounded among the Muslims, I did not want to interfere in that matter.<sup>4629</sup>

2008. **BOROVČANIN**'s answer and his actions at the warehouse clearly demonstrated his lack of care or concern for the murdered and dying Muslims lying before him. **BOROVČANIN** expressed no shock at the horrendous scene he observed upon his arrival at the Kravica Warehouse. He was more concerned for his officer who burned his hands than for the many hundreds of Muslims trapped inside the building. **BOROVČANIN**'s failure to do anything to prevent any further killings or help the remaining Muslims at the warehouse indicates that he was both aware of, and part of the operation to kill the Muslims at the Warehouse.

2009. There is no satisfactory explanation for **BOROVČANIN**'s account of why he failed to assist any wounded Muslims or prevent further executions. Furthermore, **BOROVČANIN** stated without reservation that the Muslims in the Warehouse were unarmed, and that killing them amounted to murder.<sup>4630</sup> In his role as Commander, **BOROVČANIN**'s presence at the Kravica Warehouse during the killing operation was a clear signal to the units that he approved of the murders of the Muslim prisoners by the soldiers there. Moreover, as a senior MUP Commander of the units controlling the area of the Kravica Warehouse, **BOROVČANIN**'s presence during the killings would have

<sup>4628</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 64:11-13

<sup>4629</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 72:16-19.

<sup>4630</sup> Exh. P02853, **BOROVČANIN** March Interview, pp. 67-68.



had an encouraging and legitimising effect on the troops' perpetration of the crimes, without **BOROVČANIN** even having to say anything to this effect.

2010. **BOROVČANIN** exhibited a similarly callous attitude toward the Muslim victims of the murder operation in his responses to questions from the Prosecution concerning the hundreds of Muslims that were separated from their families in Potočari:<sup>4631</sup>

---"I don't know anything else that was important" They [Jević's men] were not under my command so "I was not interested in that",<sup>4632</sup>

2011. **BOROVČANIN** displayed an equally indifferent attitude when asked if all the prisoners had been moved out of Bratunac on 14 July:

I don't know that, I tried not to know...not the thing that was supposed to interest me...I had enough headaches...I did not think about it...I did not know what might happen to them.<sup>4633</sup>

**BOROVČANIN's Admission: He lied about how Krsto Dragičević was killed and did not include the Kravica Warehouse executions in his official reports**

2012. **BOROVČANIN**'s involvement in the Kravica Warehouse murders is further revealed through his lies regarding the death of Krsto Dragičević and his deliberate omission from the Kravica murders in his official reports. **BOROVČANIN**'s 5 September Report mentions nothing which remotely relates to the murders of the Muslims at the Kravica Warehouse. **BOROVČANIN** did state that a member of the Skelani Platoon of the 2<sup>nd</sup> Sekovići Special Police was killed, however **BOROVČANIN** deliberately lied and stated the police officer "was killed in the fighting with the enemy." **BOROVČANIN** obviously lied to try to disguise the Kravica Warehouse executions and his and his units' involvement in them.

2013. **BOROVČANIN** further lied when he told the Prosecution that he did write a report on the incident, stated "In my report I said that the incident occurred between Kravica and Sandići. And in my report I wrote that a larger number of Muslims got killed."<sup>4634</sup> Nowhere in either his 5 September Report or 13 July Report does **BOROVČANIN** mention the murder of Muslim men at the Kravica Warehouse.

2014. In his 13 July Report to his superiors, **BOROVČANIN** noted that 200 Muslims were killed in combat along the road on 13 July. The reference to 200 Muslims killed is obviously meant to be a cover for the hundreds of Muslims killed at the warehouse and **BOROVČANIN** compounded his original lie in his report on this issue by telling the

<sup>4631</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 86

<sup>4632</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 89:4.

<sup>4633</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 95.

<sup>4634</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 67:18-19

Prosecution he reported on the Kravica murders---when in fact he had deliberately covered up those murders.

**BOROVČANIN's Admission: he did not order any of his subordinate officers to report on the Kravica Warehouse executions.**

2015. The fact that **BOROVČANIN** never ordered any of his subordinate officers to report on the killings of the Muslim prisoners at the Kravica Warehouse is further evidence that **BOROVČANIN** and his units were directly involved in the murders. **BOROVČANIN** admitted to the Prosecution that he never asked nor ordered any of his subordinates to write a report on the Kravica killings<sup>4635</sup> and that he was never interviewed by anyone in relation to the killings prior to the OTP interview.<sup>4636</sup>

2016. As one of the most senior commanders in the most elite armed force in the RS, **BOROVČANIN** was undoubtedly fully aware of his duty to ensure that his subordinates reported on the Kravica killings, as well as of his own duty to report and investigate such killings, including reporting the killings to his commander, General Krstić, as set out below. The fact that **BOROVČANIN** took no action whatsoever in this regard is confirmation that he and his units were directly involved in the Kravica Warehouse executions, as ordered by **BOROVČANIN**'s superiors in the VRS.

**BOROVČANIN's Admission: he lied and was evasive in answering Prosecution questions about his intercepted conversation with General Krstić, at 20:40 hours on 13 July, in a deliberate attempt to hide the true meaning of the conversation.**

2017. During his interview with the Prosecution, **BOROVČANIN** volunteered that he travelled to the Bratunac Brigade HQ on the evening of 13 July where around 20:00 hours he had a telephone conversation with General Krstić:

I told him that, I explained to him that I was about to move my people from that area and then I told him that he should send some military units there and he said that he would.

2018. The Prosecution then showed **BOROVČANIN** a transcript of an intercept from 20:40 hours on 13 July between himself and General Krstić:

Krstić	Hello, this is KRSTIĆ
<b>BOROVČANIN</b>	Hello, this is <b>BOROVČANIN</b> . General. How are you?
Krstić	Well, where are you, fuck it?
<b>BOROVČANIN</b>	I'm here at the command post.
Krstić	How's it going?
<b>BOROVČANIN</b>	It's going well.

<sup>4635</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 69:20-21; [REDACTED].

<sup>4636</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 70:12-18.

Krstić Don't tell me you have problems.  
**BOROVČANIN** I don't. I don't.  
 Krstić ...went somewhere towards you.  
**BOROVČANIN** That is exactly what I want to know.  
 Krstić ...  
**BOROVČANIN** Is there anything special for us from you?  
 Krstić Working on this part...  
**BOROVČANIN** Yes.  
 Krstić ...  
**BOROVČANIN** At the moment.  
 Krstić ...  
**BOROVČANIN** We'll continue that tomorrow  
 Krstić ...  
**BOROVČANIN** All right man.  
 Krstić ...  
 Krstić OK, we'll be in touch.<sup>4637</sup>

2019. The above intercepted conversation is a short, clear conversation in which Krstić calls **BOROVČANIN** to determine how things are progressing with his units and whether **BOROVČANIN** has any problems that require dealing with. General Krstić, like any competent General, can be seen frequently in intercepted communications calling his subordinate commanders for updates on the situation in their zone of operations.

2020. At the time, General Krstić was present at the Drina Corps HQ where he was together with General Mladić receiving his promotion to commander of the Drina Corps. At the time Mladić and Krstić had spent the last 2 days together in Bratunac and Potočari, planning and implementing the operation to murder the Muslim men and boys of Potočari.

2021. In response to General Krstić, **BOROVČANIN**, in a courteous and respectful manner, simply reports to the General that everything is going well and that he has no problems. The second half of the conversation is brief and only **BOROVČANIN** is audible until Krstić ends the conversation by saying "OK, we'll be in touch".

2022. This conversation is consistent with the overall situation in Potočari and along the Bratunac-Konjević Polje road on the evening of 13 July. The MUP had successfully assisted the VRS to transport the Muslim women and children out of Potočari and there were no significant problems in Potočari at that time. The situation along the road from Bratunac to Konjević Polje was stable as there had been no serious combat along the road

<sup>4637</sup> Exhs P00993a, b [REDACTED], Intercept dated 13 July 1995, 20:40 hours.

since the early morning hours and the roadway was relatively quiet and secure. The 1,000 Muslim prisoners detained at the Kravica Warehouse had been systematically murdered and were all lying out of sight inside the warehouse awaiting removal by heavy equipment in the morning.

2023. Had the Kravica murders been a sudden unplanned mass murder by a criminal army unit, **BOROVČANIN** would certainly have considered this a large problem which he would have informed General Krstić about in his conversation of 20:40 hours. **BOROVČANIN** would never have hoped to conceal such a large scale execution from General Krstić, and as such, attempting to hide such information from Krstić and getting caught would certainly have ruined **BOROVČANIN**'s career. Accordingly, as **BOROVČANIN**'s superior, General Krstić would have been informed by the time of the conversation at 20:40 hours, of the mass executions which began at 17:00 hours at the Kravica Warehouse, and of **BOROVČANIN**'s role in those murders.

2024. **BOROVČANIN**'s responses to questions put to him by the Prosecution regarding this intercept clearly indicate that **BOROVČANIN** was deeply involved with these criminal events with General Krstić. **BOROVČANIN** became extremely evasive and lied repeatedly in response to direct, simple questions on the intercept:

*So, what is going on in this conversation?*

I don't know. It's obviously difficult to make a conclusion based on that.

...

*So, when he is saying "How is it going?" he is meaning how your day went I'm sure, is that right?*

I don't know what was in his head, what was he thinking.

...

*Is he asking for a status report on the military situation along the Bratunac – Milići road?*

I don't know. I wouldn't say so.

*What is your understanding of what he is asking you?*

I would really have to, you know, concentrate and think of what that would mean.

*Take, take your time...it's a...*

So, maybe someone told him that I requested the removal of my units and then maybe he is saying that someone else would arrive there.

*What do you remember, if anything, about what this conversation was about?*

So, that's what's written there. Obviously I don't know what it is.

.....

*So there is nothing in there that you wouldn't have said or that you don't recall saying?*

**I don't think this is an important conversation.**<sup>4638</sup>

<sup>4638</sup> Exh. P02853, **BOROVČANIN** March Interview, pp. 77-78 (emphasis added).

2025. At this point in the interview, **BOROVČANIN** was reminded by the Prosecution that General Krstić had been convicted for murdering the 6,000 Bosnian Muslim men who had been captured along the Bratunac-Milići Road, and that the conversation had historic significance:

*So, do you still think it's not an important conversation?*

I don't think that's an important conversation. I cannot, I cannot make any significant conclusion based on this conversation.

*You don't think General Krstić was calling you and asking you for a status report of how things have gone along the Bratunac-Milići road?*

He could not ask me about that situation.

*Why not?*

Why would he ask me? What had I to do with that?

*Well, your troops were stationed along the road and you'd been up and down there all day, you just told us that.*

Yes.

*And you received the order to report to him on the 11<sup>th</sup>. So, if he's not checking with you on a status report on what happened along the road, tell us what he's doing.*

I requested the withdrawal of police forces from Kravice and Sandići area and I insisted on that. And I think that this conversation is related to that issue and I believe this conversation says that he will send someone to replace my troops in that area. And it is not an issue, the police force, forces were along that road and some Muslims did surrender to police officers. So, that was about 10 km from the line of separation and we were securing this communication and people who surrendered were taken over by military unit. So, based on what can someone link me to this six thousand or even one?

*OK. So, you think this conversation was General Krstić approving the moving your troops out of the area of the Bratunac-Milići road?*

I presume that is the case, because I don't know what else it could be.<sup>4639</sup>

### **Conclusions**

2026. In the first question by the Prosecution on this intercept, **BOROVČANIN** repeatedly denies knowing what General Krstić was asking him about. **BOROVČANIN** refuses to acknowledge that this was simply General Krstić calling to receive a status update from **BOROVČANIN** relating to the situation along the Konjević Polje-Bratunac Road. At one point, **BOROVČANIN** denies that Krstić was asking for such a report ("I wouldn't say so"). Moreover, **BOROVČANIN** stated three times in response to various questions on the intercept that the conversation concerned **BOROVČANIN**'s request to remove a unit from the road, however, there is nothing in any of **BOROVČANIN**'s statements to General Krstić to suggest that the conversation pertained to any request to withdraw forces. Nowhere in any of **BOROVČANIN**'s responses (which are all audible)

<sup>4639</sup> Exh. P02853, **BOROVČANIN** March Interview, pp. 79-80.

nor in any of the audible portions of General Krstić's part of the conversation, is there anything related to the withdrawal of forces.

2027. Given the potentially dangerous situation in the Kravica-Konjević Polje area on the evening of 13 July, withdrawing forces would have been an important topic for discussion between **BOROVČANIN** and his superior, General Krstić. Accordingly, it is obvious that this conversation had nothing to do with the withdrawal of forces and was General Krstić checking in with **BOROVČANIN** for a status report.

2028. **BOROVČANIN**'s repeated evasiveness during this line of questioning, along with his refusal to admit that General Krstić was calling for a status report, was done in an attempt to conceal from the Prosecution the fact that he and General Krstić were working together as commander and subordinate in furtherance of the operation to kill Muslims from Srebrenica.

2029. Later during the Prosecution's questioning concerning this intercept, **BOROVČANIN** further compounds his lies by twice concluding that he did not think this was "an important conversation." In the last few questions on this point, **BOROVČANIN** goes so far as to say that Krstić could not even ask him about the situation along the road and refuses to answer the question. He then poses questions of his own, saying, "Why would he ask me? What I had Šsicc to do with that?"

2030. In **BOROVČANIN**'s evasive and untruthful answers he was obviously trying to hide his command relationship with General Krstić and the significant role that he and his units played in all the criminal events that occurred along the Konjević Polje-Bratunac Road that day.

**BOROVČANIN attempts to further distance himself from General Krstić and the crimes along the Kravica-Konjević Polje road by stating he was no longer under the command of General Krstić on the evening of 13 July.**

2031. During these questions concerning the Krstić intercept, **BOROVČANIN** was asked if he was under the command of General Krstić to which he answered:

I was not under his command...I was under the command of the police headquarters. And I asked the Army to replace us...<sup>4640</sup>

2032. Again, **BOROVČANIN** is obviously trying to distance himself from his command connection with the VRS, despite the fact that earlier in his interview he had acknowledged that he was under the command of the army. On the one hand,

<sup>4640</sup> Exh. P02853, **BOROVČANIN** March Interview, p.80:15-17.

**BOROVČANIN** asserts that his forces along the Konjević Polje – Bratunac Road were not being controlled by the VRS but by the Police, however, on the other hand, **BOROVČANIN** asserts that for combat duties along the road, he was under the command of the VRS. **BOROVČANIN** was evidently struggling to find a way to argue that he was not under anybody's command who was involved in war crimes.

### Conclusions

2033. **BOROVČANIN**'s evasive answers and outright lies in relation to the criminal events of 12-14 July indicate a strong consciousness of guilt on his part. This demonstrates that **BOROVČANIN** was well aware of the criminal nature of his units' actions and of his own wilful and voluntary involvement in these criminal actions.

### (BB) OTHER FORMS OF LIABILITY UNDER ARTICLE 7(1) OF THE STATUTE

2034. In addition to his criminal liability for the crimes charged in the Indictment as a member of two joint criminal enterprises, Ljubomir **BOROVČANIN** is criminally responsible for ordering, planning, instigating and otherwise aiding and abetting the commission of the crimes charged in the Indictment. **BOROVČANIN**'s criminal responsibility for ordering is briefly outlined below.

2035. **BOROVČANIN** ordered the commission of the crimes for which he is charged in the Indictment. Of particular importance in this respect is that a person knowingly relaying illegal orders from superiors to subordinates is also individually responsible for the crime ordered.<sup>4641</sup> Thus, when **BOROVČANIN** passed on orders from his commanders, General Mladić and General Krstić, to the MUP units under his command, in furtherance of the attack upon the Srebrenica enclave, while sharing Mladić's and Krstić's intent to forcibly remove the Muslim population from the enclave, **BOROVČANIN** is individually responsible for the crimes committed by the individuals who implemented those orders. Similarly, when **BOROVČANIN** authorised or supervised the use of MUP resources, equipment and personnel to participate in the detention, transport, execution and burial of Muslim prisoners in the Bratunac area with the intent that those prisoners be murdered, **BOROVČANIN** is individually responsible for the crimes committed by the individuals who implemented those orders.

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<sup>4641</sup> *Milutinović* TJ (Vol. 1), para. 87; *Kupreškić* TJ, para. 862; *Kupreškić* AJ, para. 451.

**(CC) LIABILITY FOR OMISSIONS UNDER ARTICLE 7(1) OF THE STATUTE**

2036. **BOROVČANIN** is liable under Art. 7(1) for the crimes committed along the road, at the Sandići Meadow and at the Kravica Warehouse based on breach of his duty to protect the prisoners from foreseeable harm, as a commission by omission.<sup>4642</sup>

**BOROVČANIN** had this duty because he was an “agent of the detaining power” by virtue of his appointment as the Deputy Commander of the Special Police Brigade of the RS MUP,<sup>4643</sup> and his appointment as commander of the joint RS MUP forces sent to the Srebrenica area and resubordinated to the VRS.<sup>4644</sup>

2037. **BOROVČANIN** was aware of this duty to protect the Muslims prisoners,<sup>4645</sup> which arose as soon as they were captured by, surrendered to, were taken into the custody or the control of the MUP forces under his command. Once this duty arose, it was never extinguished; at no point did control of these prisoners pass to any other legitimate authority.<sup>4646</sup>

2038. On 13 July, **BOROVČANIN**’s forces controlled the Bratunac- Konjević Polje road from Kravica to Hrnčići; they captured Muslim men along the road; established a temporary detention site at the Sandići Meadow where MUP forces secured the area and guarded them; and then transferred at least 1,000 of these prisoners to the Kravica Warehouse, which they also secured and guarded until the prisoners were killed.

2039. All of the abuses and harm caused to the Muslims men captured along the road were objectively foreseeable to a commander of **BOROVČANIN**’s experience and in his position. On 12 July, VRS and MUP forces separated, detained, abused and murdered Muslim men taken from the crowd of refugees in Potočari. Those crimes continued on 13 July throughout the area, including in Potočari, Bratunac, Konjević Polje, and Nova

<sup>4642</sup> See paras. 1223-1237.

<sup>4643</sup> See 4D00413, RS Official Gazette, Special Issue No. 1 of 29 November 1994,

Paragraph 2 of Article 4 (noting that

<sup>4644</sup> P00057; see also Exh. 4D00413, *RS Official Gazette, Special Issue No. 1, dated 29 November 1994, Art. 14 (providing that resubordinated police units “shall be under the direct command of a commander who is a member of the Ministry of the Interior. During the time they are resubordinated to the Army of the Republika Srpska, they shall retain their organization and may not be split up or separated”).*

<sup>4645</sup> Under RS law **BOROVČANIN** had an affirmative obligation to intercede to prevent serious harm from coming to the prisoners. See Exh.P00409, Regulations on the Application of the Rules of International Law of War in the Armed Forces of the SFRY, art. 210, dated 13 Apr 1988 a(requiring the humane treatment of POWs and their security against violence, insults and intimidation.”); RISTIVOJEVIĆ T.28107 6-19 (noting that the failure to extend assistance under RS law is criminal offense: “Whoever is in a position to extend assistance to a person whose life is in danger, without putting his own life in jeopardy or another person’s in jeopardy, if they fail to do so, they would be taken to prison”).

<sup>4646</sup> See Slivančanin, (noting that the duty to protect prisoners in one’s custody extends to and includes an obligation not to allow their transfer to anyone without first being assured that they would not be harmed).



Kasaba. Notably, an organised mass killing occurred at the Jadar River well before the prisoners held at Sandići Meadow were transferred to the Kravica Warehouse.

2040. In addition, **BOROVČANIN** had actual knowledge of many of the crimes committed against the Muslim men. He was aware of the situation in Potočari and Bratunac as well as along the road. He stayed in Bratunac on the night of 12 July and he was filmed in Potočari on 12 and 13 July. Indeed, he was filmed in front of the White House where prisoners were abused and killed. Furthermore, he patrolled the road at least three times on 13 July (at around 07:00-08:00 hours; around noon; and around 16:00 – 17:00 hours). Even before he arrived at the Kravica Warehouse around 17:15-17:20 hours, he saw bodies on the road and nearby the Sandići Meadow, as seen on the Petrović Video.

2041. **BOROVČANIN** was able to act in order to protect the Muslim prisoners. First, he was the commander of the resubordinated MUP units that were involved the commission of the crimes and could have asserted his command authority over them. Second, he had access to the highest of levels of the VRS command structures, and in particular Generals Krstić and Mladić, to whom he could have reported these crimes. Third, he could have reported the abuses and crimes committed against the Muslim men along the chain of communication within the RS MUP. Lastly, he had units positioned along the road whom he could have ordered to intervene forcibly to prevent the commission of crimes by any other persons. **BOROVČANIN** had at his immediate disposal over 200 soldiers, as well as heavy armour including two tanks and Praga and BOV anti-aircraft guns. He clearly had the means to deploy part or all of his forces to protect the prisoners in accordance with his duty, had he chosen to do so. There was nothing preventing him from doing any of these things.

2042. **BOROVČANIN** did absolutely nothing at any point to protect the prisoners from the abuses and harm they suffered along the road, at the Sandići Meadow, and at the Kravica Warehouse. Most starkly, **BOROVČANIN** did nothing to protect the prisoners who were still alive when he arrived at the Kravica Warehouse as the executions were underway.

2043. As a result of **BOROVČANIN**'s failure to protect the Muslims captured along the road, they were abused and harmed throughout 13 July, starting with the physical abuse, killings and robbery along the road and at the Sandići Meadow and culminating with their murders at the Kravica Warehouse.

**(DD) INDIVIDUAL CRIMINAL RESPONSIBILITY OF BOROVIĆANIN UNDER ARTICLE 7(1) OF THE STATUTE**

2044. The evidence submitted at trial has established beyond a reasonable doubt that Ljubomir **BOROVIĆANIN** is individually criminally responsible under Article 7(1) of the Statute for the crimes with which he is charged in the Indictment as a member of both Joint Criminal Enterprises: (a) to forcibly remove the Muslim populations of Srebrenica and Žepa;<sup>4647</sup> and (b) to murder the able-bodied men of Srebrenica.<sup>4648</sup>

2045. As outlined above, **BOROVIĆANIN** made voluntary and significant contributions to the execution of the common purpose of both JCEs and shared the intent to commit the crimes which fell within the common purpose of the JCEs. **BOROVIĆANIN** is also responsible for ordering, planning, instigating and otherwise aiding and abetting the commission of crimes charged in the Indictment.

**(EE) LJUBOMIR BOROVIĆANIN INTENDED TO COMMIT GENOCIDE**

**(cxlvii) BOROVIĆANIN's intent to commit genocide is evidenced by the existence of a genocidal plan and BOROVIĆANIN's involvement in it.**

2046. The best evidence of **BOROVIĆANIN's** intent to commit genocide may be inferred from his actions in furtherance of the joint criminal enterprises to murder the able-bodied Muslim men of Srebrenica, as well as his deliberate lies to the Prosecution, strategically designed to cover his intentions and involvement in the Genocide. Specifically, **BOROVIĆANIN** had direct and personal involvement in the separation of able-bodied Muslim men in Potočari and the executions at the Kravica Warehouse and Sandići Meadow.

2047. The existence of a plan or policy is not a legal ingredient of the crime of genocide.<sup>4649</sup> However, in the context of proving intent to commit genocide, "the existence of a plan or policy may become an important factor in most cases."<sup>4650</sup> The genocidal plan for Srebrenica evolved from a policy directive and subsequent decisions by members of the RS and VRS leadership. This policy directive culminated in the forcible removal of the Muslim populations of Srebrenica and Žepa and the murder of Muslim men of Srebrenica. **BOROVIĆANIN** furthered this objective with a clear and unmistakable intent to commit genocide, as evidenced by his participation and leadership in the separation, transfer and execution of the able-bodied Muslim men of Srebrenica.

<sup>4647</sup> See para. 77 of the Indictment.

<sup>4648</sup> See para. 39 of the Indictment.

<sup>4649</sup> Jelišić AJ, para. 48.

<sup>4650</sup> Jelišić AJ, para. 48.

2048. **BOROVČANIN** became involved in this genocidal plan on 12 July, shortly after he was appointed Commander of a joint force of MUP units.

2049. The evidence establishes a clear chronology of **BOROVČANIN**'s integration into the VRS genocidal plan. On 11 July, **BOROVČANIN** learned of the existence of "[a] large number of civilians from the Srebrenica area gathered in Potočari," including "military age men."<sup>4651</sup> It was also on 11 July that **BOROVČANIN** ordered a reconnaissance of the Potočari area, later informing [REDACTED] PW-160 that "civilians were to be evacuated from the Potočari area."<sup>4652</sup> By the evening of 11 July, **BOROVČANIN** was in direct contact with VRS Commander General Mladić and was receiving information and instructions from Mladić's subordinates.<sup>4653</sup>

2050. By the afternoon of 12 July, **BOROVČANIN** was fully integrated into the VRS operation to murder the able-bodied Muslim men of Srebrenica. **BOROVČANIN** was in direct command of a joint forces unit which had been resubordinated to the VRS and, as such, expected to act in furtherance of VRS plans and policies.<sup>4654</sup> Under his command, this unit advanced on Potočari, took over the UN base in Potočari and assumed responsibility for separating the able-bodied Muslim men in preparation for their execution.<sup>4655</sup>

**BOROVČANIN was familiar with the history of the Bratunac area and the RS and VRS plans to remove the Muslim population from eastern Bosnia, which he was involved in prior to 1995.**

2051. The importance of **BOROVČANIN**'s familiarity with the Bratunac area cannot be understated. **BOROVČANIN** possessed an intimate knowledge of the history of this area, a history plagued by ethnic cleansing.

2052. An individual's intent to commit genocide may be inferred, among other facts, from evidence of other culpable acts systematically directed against the same group.<sup>4656</sup>

<sup>4651</sup> See paras. XXX.

<sup>4652</sup> [REDACTED] PW-160, T. 8579:16-23.

<sup>4653</sup> See para. 1866.

<sup>4654</sup> <sup>4654</sup> Kovač's order designated **BOROVČANIN** commander of the mixed unit and directed him to report to establish contact with Gen. Krstić. (Exh. P00094, 10 July Order); See also BUTLER, T.19817.

**BOROVČANIN** had the task of commanding and leading MUP units, and those MUP units were resubordinated through him to the Chief of Staff of the Drina Corps, Gen. Krstić, through whom **BOROVČANIN** would receive orders from the Drina Corps Command. ([REDACTED] (PW-160), T.8670-8671). **BOROVČANIN** would then forward those orders through the MUP chain of command to [REDACTED] PW-160 and the subordinate MUP units. ([REDACTED] PW-160, T.8671). The MUP units could be used to perform tasks through **BOROVČANIN**, to be given a task from him at the level of the Drina Corps, and to carry out such specified tasks; **BOROVČANIN** would be the person relaying that order into the MUP line of command from the military. ([REDACTED] PW-160, T.8696).

<sup>4655</sup> Exh. P00094, 10 July Order;

<sup>4656</sup> *Krstić* Appeal Judgement, para. 33, quoting *Jelisić* Appeal Judgement, para. 47.

The facts of the instant case therefore cannot be severed from prior events which formed the basis of **BOROVČANIN**'s intent to commit genocide.

2053. **BOROVČANIN** has acknowledged his familiarity with the historical events of 1992 and 1993, a period marked by efforts to remove the Muslim civil population from eastern Bosnia.<sup>4657</sup> In the spring of 1993, hundreds of displaced Muslims were forced to flee into the Srebrenica area. As Bratunac Police Commander at that time, it is certain that **BOROVČANIN** would have witnessed this mass exodus firsthand. **BOROVČANIN** also would have been privy to the attack and burning of the village of Glogova in 1992, which his "close associate" Miroslav Deronjić pled guilty to.<sup>4658</sup> [REDACTED].<sup>4659</sup> These events created a climate of ethnic hatred in the surrounding area, a sentiment manifested in rampant anti-Muslim propaganda and VRS policies devised to inflict unbearable conditions upon the Muslims in the very area where **BOROVČANIN** served as Bratunac Police Commander.

2054. **BOROVČANIN**'s long-standing relationships with figures central to the VRS plan to commit genocide also suggests that he was informed of the plan to murder the Srebrenica Muslim men. As described in paras. 1835-1840, **BOROVČANIN** maintained close relationships with Miroslav Deronjić, the President of the SDS, the Commander of the 65<sup>th</sup> Protection Regiment and the Bratunac Brigade Chief of Security and Intelligence. These relationships highlight **BOROVČANIN**'s level of knowledge of the RS's and VRS's military objectives.

2055. It is clear that **BOROVČANIN**'s dealings with key figures exceeded the level of mere acquaintance. As the trusted Deputy Commander of the MUP Special Police Brigade, the "best in Republika Srpska," **BOROVČANIN** would have been imparted with knowledge of the VRS plan to commit genocide, a plan which he later intended to further through his participation in the plan.<sup>4660</sup>

2056. **BOROVČANIN**'s own experience as a Bosnian Serb from Bratunac also puts him in the unique position of possessing intimate knowledge of the Bosnian Muslims' attachment to their homes, land, places of worship and community. There is no question that upon learning at the Hotel Fontana that the Muslims had "agreed" to leave Potočari, **BOROVČANIN** would have known that the Muslims were forced to leave their

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<sup>4657</sup> See paras. 1831-1834

<sup>4658</sup> See paras. 1833-1839.

<sup>4659</sup> [REDACTED].

<sup>4660</sup> [REDACTED], SAVČIĆ, T. 15298-15299.

homes.<sup>4661</sup> As a person growing up in Bosnia, **BOROVČANIN** would have been completely familiar with the role of the male in Bosnian Muslim family and that by killing all the able bodied Muslim men and boys of Srebrenica, the Muslim women would face certain misery, extreme hardship and would have to struggle to survive.

**BOROVČANIN's participation in the separation and forcible transfer of able-bodied Muslim men in Potočari evidence his intent to commit genocide**

2057. **BOROVČANIN's** genocidal intent came to fruition at the time he became heavily involved in the separation of the Muslim men, women and children in Potočari.<sup>4662</sup>

2058. "The fact that the forcible transfer does not constitute in and of itself a genocidal act does not preclude a Trial Chamber from relying on it as evidence of the intentions of members of the VRS."<sup>4663</sup> As described in detail in paras. 1902 through 1923, **BOROVČANIN** assumed responsibility for the separations in Potočari, which led to the forcible transfer and ultimately, the execution of the able-bodied Muslim men of Srebrenica.

2059. **BOROVČANIN's** involvement in the separations and forcible transfer began on 11 July, when General Mladić ordered **BOROVČANIN** to take all available manpower to Potočari.<sup>4664</sup> **BOROVČANIN** thereafter learned about the infamous Hotel Fontana meetings, where it was announced that the Muslims had "agreed" to leave Potočari, but that there would be "check ups" on the Muslim men.<sup>4665</sup> It was on the evening of 11 July that **BOROVČANIN** learned of the large number of civilians gathered in Potočari.<sup>4666</sup>

2060. There is little doubt that **BOROVČANIN** was fully aware of VRS objectives as he advanced on Potočari with three MUP units under his command, took control of the UN Checkpoint at Yellow Bridge and secured the area around the UN base in Potočari where thousands of Muslim civilians had gathered.<sup>4667</sup> **BOROVČANIN** had two contacts with General Mladić on 12 July both before and after taking control of the Muslim population assembled in Potočari. **BOROVČANIN** and the forces under his command were heavily involved in the separation and evacuation of Muslim citizens and

<sup>4661</sup> See paras. 1893

<sup>4662</sup> See paras. 1902-1923.

<sup>4663</sup> *Krstić* Appeal Judgement, para. 33, citing *Stakić* Trial Judgement, para. 519 & nn. 1097 - 1098 (citing K. Kreß, *MünchKommZurStGB*, Rn 57, section 6 VStGB (2003); William A. Schabas, *Genocide in International Law* (2000), p. 200; BGH v. 21.2.2001 – 3 StR 244/00, NJW 2001, 2732 (2733)).

<sup>4664</sup> Exh. 4D00510, 5 September Report at ERN 4D05-1185.

<sup>4665</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 27:1-2.

<sup>4666</sup> See paras. 1872

<sup>4667</sup> See paras. 1879-1893.

must have been informed that the separated men would be killed.<sup>4668</sup> He would have been informed by his VRS superiors of this fact given that he was an integral part of the horror and abuse suffered by the Muslim victims in Potočari.

2061. The circumstances surrounding the separations and evacuation in Potočari leave little doubt that **BOROVČANIN** participated in this operation with the specific intent of destroying the Muslim population. Muslims were pushed, shoved, beaten, harassed and arbitrarily executed as men were forcibly separated from their families amid cries of panic and fear.<sup>4669</sup> By all reasonable standards, it was undeniable that Muslim men were separated and marked for death in a plan to commit genocide. Amid this scene of terror, the Petrović Video shows **BOROVČANIN**, instantly recognisable in a position of authority during these separations.<sup>4670</sup>

2062. **BOROVČANIN**'s genocidal intent is further evidenced in the deployment of his troops along the Bratunac – Konjević Polje road on 12, 13 and 14 July.<sup>4671</sup> Under **BOROVČANIN**'s command, the MUP forces used perfidious tactics to capture, detention, transfer and execution of fleeing Muslim men in furtherance of the plan for genocide. By 13 July, **BOROVČANIN** estimated that his troops had captured around 1,500 Muslim soldiers, but reported that “the number increases by the hour.”<sup>4672</sup> The sheer volume of Muslim detainees is evidence of an intent to commit acts exceeding the scope of murder. Not surprisingly, this increasing number of detainees was not again mentioned in a later report referring to 13 July, a sure sign that these Muslims were executed in furtherance of the genocidal plan.<sup>4673</sup>

**BOROVČANIN's participation in the executions at Sandići Meadow and the Kravica Warehouse evidence his intent to commit genocide**

2063. The most palpable evidence demonstrating **BOROVČANIN**'s intent to commit genocide is found in his involvement in the mass executions at Sandići Meadow and the Kravica Warehouse.

2064. On 13 July, **BOROVČANIN** commanded a group of MUP soldiers to systematically execute ten to fifteen prisoners at Sandići Meadow.<sup>4674</sup> As testified to at

<sup>4668</sup> See paras. 1879-1923

<sup>4669</sup> See paras.1902-1908.

<sup>4670</sup> See paras.1902-1908.

<sup>4671</sup> See paras. 1924-1977.

<sup>4672</sup> Exh. P03789, CJB Zvornik Dispatch No. 12-6/08-508/95, signed by Dragomir VASIĆ, dated 14 July 1995.

<sup>4673</sup> Exh. 4D00510, 5 September Report at ERN:4D05-1186.

<sup>4674</sup> See paras. 1978-1985.

trial, the order was “to get rid of them, shoot them.”<sup>4675</sup> This execution could not have been carried out without the authorization of commander **BOROVČANIN**, thereby evidencing his explicit intent to further the genocide of the Muslim men in Srebrenica.<sup>4676</sup>

2065. **BOROVČANIN**’s intent to commit genocide is clearly evidenced in the mass execution at the Kravica Warehouse. The facts surrounding this execution negate any uncertainty regarding **BOROVČANIN**’s intent to further the VRS’s plan to commit genocide. On 13 July, **BOROVČANIN** ordered the Bratunac-Konjevic Polje road closed in order to conceal the executions about to take place at the Kravica Warehouse.<sup>4677</sup> Shortly thereafter, an estimated 1,000 Muslim men were executed in a calculated operation designed to eliminate a substantial part of the Muslim population in the area.

2066. The substantial evidence placing **BOROVČANIN** at the Warehouse during the execution authenticates his intent to commit genocide. He witnessed dozens of dead bodies outside the Warehouse, the carnage of the execution he had ordered. His callous attitude toward the dead Muslims, as well as those still alive, reveals his own genocidal intent. When asked whether he witnessed or assisted any Muslims during his visit to Kravica, he responded, “...whether there were any wounded among the Muslims, I did not want to interfere in that matter.”<sup>4678</sup> This statement, so cavalier that it shocks the conscience, confirms that **BOROVČANIN** intended to participate in acts designed to wipe out the Muslim population in Srebrenica.

**(FF) LJUBOMIR BOROVČANIN’S DEFENCE CASE**

**(cxlvi) BOROVČANIN’s statements, lies and admissions.**

2067. **BOROVČANIN** was interviewed by the Prosecution in February and March 2002. **BOROVČANIN**’s two interviews with the OTP provide some accurate and self incriminating account of the events, units and individuals involved the critical days from 11 July to 14 July.

2068. However, in these two interviews, **BOROVČANIN** also made several significant false statements to the OTP. At the time of his interviews with the OTP in February and March 2002, **BOROVČANIN** was fully aware that he had been captured on videotape both in Potočari and along the Kravica-Konjević Polje road and had clearly studied the video tape of those events. As a result, in his interviews with the OTP, **BOROVČANIN**

<sup>4675</sup> [REDACTED] PW-100, T.14830, 14832-14833.

<sup>4676</sup> [REDACTED] PW-100, T.14833:18-24.

<sup>4677</sup> See para. 1988.

<sup>4678</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 72:16-19.

asserted several outright falsehoods in an attempt to explain what could be seen on the video in an attempt to disassociate himself from these crimes and his units that perpetrated these crimes.

2069. These statements, along with the testimony of **BOROVČANIN**'s subordinates, reveal his actual state of mind during the relevant time period and the extent of his knowledge of, and involvement in, the operations to forcibly transfer the Bosnian Muslim population of Srebrenica and murder the Muslim men and boys of Srebrenica. His lies constitute a pattern of self-serving fallacies deliberately designed to distance himself from the crimes. **BOROVČANIN**'s statements include the following lies:

- Mladić ordered **BOROVČANIN** to Zvornik on 12 July and his MUP units working in Potočari no longer fell under his command.
- After **BOROVČANIN** received Mladić's Order to proceed to Zvornik, the MUP ordered his units to secure the Bratunac-Konjević Polje Road on 12 July.
- Milan Lukić's units were present along the Bratunac-Konjević Road on 13 July and during the executions at Kravica Warehouse.
- The Kravica Warehouse executions occurred as a sudden reaction to a Muslim prisoner shooting Serb soldiers.
- **BOROVČANIN** was no longer under the command of General Krstić on the evening of 13 July.

(cxlix) **BOROVČANIN's Defence: He was ordered by Mladić to go Zvornik on 12 July and from that afternoon, the MUP units working in Potočari were not under his command.**

2070. In an attempt to free himself of all responsibility for the crimes committed in Potočari and along the Bratunac-Kravica road on 12 through 14 July, **BOROVČANIN** concocted an account for the OTP, wherein he alleged that on 12 July, two events occurred: (1) he was ordered by General Mladić to take half his forces to Zvornik; and (2) leaving the other half in Potočari under the command of Colonel Blagojević.

2071. It is critical for the Trial Chamber to understand that **BOROVČANIN**'s defence consists of two inextricably linked components. **BOROVČANIN** asserts that, first, he allegedly received an Order from Mladić to go to Zvornik which, second, this order resulted in him leaving his troops behind in Potočari no longer under his command. Once it is established that **BOROVČANIN** never received an Order from Mladić to proceed to Zvornik on 12 July, the second component of **BOROVČANIN**'s story has no support whatsoever and must be disregarded as a complete falsehood.



2072. **BOROVČANIN** first gave this fabricated account to the OTP in his interview in February 2002. In that interview, he stated that around 13:30 hours on 12 July, after he had been in Potočari for around 1 ½ hours, he met briefly with General Mladić along the road.<sup>4679</sup>

[Mladić] immediately demanded part of the people to stay in order to secure the traffic and **at least half of them to go urgently to Zvornik**, because of the information that a large number of armed people and armed groups from Srebrenica was moving through Cerska, Crni Vrh to Zvornik and that the city of Zvornik was in danger, because the Zvornik Brigade was not in that area, but in the area of Srebrenica and Žepa.<sup>4680</sup>

*And what were your particular orders? Where were you supposed to go? Zvornik is a big municipality?*

**I was supposed to go to the Command of the Zvornik Brigade** to take over my task or duty

*And who told you that?*

General Mladić.<sup>4681</sup>

2073. **BOROVČANIN** repeated this story during his second interview with the OTP in March,<sup>4682</sup> however, this time, **BOROVČANIN** told the OTP that he met with General Mladić twice in Potočari. According to **BOROVČANIN**, the first meeting with Mladić occurred as **BOROVČANIN** was entering Potočari on the morning of 12 July, before he reached the UN compound.<sup>4683</sup> General Mladić told **BOROVČANIN** that part of **BOROVČANIN**'s forces would be required to perform traffic security for the transport of the Bosnian Muslim civilians out of Potočari.<sup>4684</sup> **BOROVČANIN** then stated that after he (**BOROVČANIN**) had spent some time in the Potočari area, around 13:30 hours "General Mladić appeared again".<sup>4685</sup> During this encounter, General Mladić ordered **BOROVČANIN** to take part of his units to Zvornik:

**My order was to go to Zvornik and report to the Commander of the Zvornik Brigade** and be at this disposal for the defense of Zvornik, because the members of the Zvornik Brigade moved towards Žepa and the town of Zvornik was not protected.<sup>4686</sup>

2074. **BOROVČANIN** explicitly stated that after receiving the Order from Mladić to go to Zvornik, the police forces from the Jahorina Training Centre commanded by Duško Jević and Mendeljev Đurić ceased to fall under **BOROVČANIN**'s command:

*And what did they do with the men of fighting age?*

I don't know. And I will tell why I don't know, because I left that area very quickly. There was a unit, part of the unit under command of Duško Jević and they were working on issues and tasks

<sup>4679</sup> Exh. P02852, **BOROVČANIN** February Interview, pp. 69-70.

<sup>4680</sup> Exh. P02852, **BOROVČANIN** February Interview, p. 70:15-20 (emphasis added).

<sup>4681</sup> Exh. P02852, **BOROVČANIN** February Interview, p. 73:5-10 (emphasis added).

<sup>4682</sup> Exh. P02853, **BOROVČANIN** March Interview, pp. 38-39.

<sup>4683</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 7.

<sup>4684</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 9.

<sup>4685</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 13:12.

<sup>4686</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 39:11-13 (emphasis added).

given to them by Bratunac Brigade. **And from that moment Duško Jević and his unit was no longer under my command, but they were under command of Blagojević, who was Commander of the Bratunac Brigade.**<sup>4687</sup>

.....

I would like to explain something. So, he [Mladić] asked me to leave part of my forces there in order to regulate traffic. So, Duško Jević stayed and he, so he was there and the people from the training centre, because they were not members of the police. And they were not trained for combat. **And that unit stayed under command of the Bratunac Brigade until the end of operation.**<sup>4688</sup>

*What did Nikolić tell you?*

**He told me that that part of personnel will remain under command of the Bratunac Brigade.** And that can be confirmed by later written orders that were part of the Bratunac Brigade documents.<sup>4689</sup>

.....

Yes, the same I said before. **So, on 12<sup>th</sup> he ŠMendeljev Đurić became, he moved to jurisdiction, so to speak, or he moved under command of Lieutenant Blagojević.** And his Commander was Jević who acted quite independently, even in comparison to the Army.<sup>4690</sup>

2075. Both of **BOROVČANIN**'s statements are clearly false and may be easily exposed as such by **BOROVČANIN**'s own official reports, by the testimony of members of his command and by significant other evidence adduced at trial.

### **13 July 1995 Report**

2076. **BOROVČANIN** stated the following in his 13 July Report, when describing the events which occurred on the afternoon of 12 July:<sup>4691</sup>

As we had received information that all able-bodied Muslims from Srebrenica had set out on a breakthrough toward Konjević Polje and further toward Tuzla, **I urgently dispatched our forces, with the support of hardware, to seal off the Kravica-Konjević Polje road,** where they spent the night.<sup>4692</sup>

2077. In this report, **BOROVČANIN** unequivocally stated that on 12 July he ordered his forces to the area of the Kravica-Konjević Polje Road, some 10 to 15 kilometres west of Bratunac. Notably, **BOROVČANIN** makes no mention of Zvornik nor of the Headquarters of the Zvornik Brigade, which lay approximately 23 kilometres north of Konjević Polje. In fact, it is clear from this dispatch, as it was from trial testimony, that **BOROVČANIN**'s troops were deployed along the Kravica-Konjević Polje Road from 12 July through 14 July, and did not proceed to Zvornik until 15 July.

<sup>4687</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 21:9-14 (emphasis added).

<sup>4688</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 24:19-23 (emphasis added).

<sup>4689</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 25:19-22 (emphasis added).

<sup>4690</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 88:1-3.

<sup>4691</sup> Exh. P03789, 13 July Report (We can tell from this report that it was drafted during the day of 13 July as it is dated 13 July and states that 1500 prisoners were captured or surrendered and the number was increasing by the hour. The only day where thousands of prisoners were surrendered or were captured was 13 July and most of these prisoners were taken in the morning and early afternoon hours.)

<sup>4692</sup> Exh. P03789, 13 July Report (emphasis added).

**5 September 1995 Report**

2078. Similarly, in his 5 September 1995 Report, **BOROVČANIN** reported to his superiors much the same information as he had reported to them in his 13 July dispatch, concerning the events of 12 July.<sup>4693</sup>

In the afternoon hours, we received information from state security employees that 12,000 to 15,000 able-bodied mostly armed Muslims were moving from Srebrenica towards Konjević Polje, Cerska and Tuzla.

I received an order from General Mladić to send half of my men and the available technical equipment to that axis so as to block the area and fight the aforementioned formation.

The 2<sup>nd</sup> Special Police Detachment, the 1<sup>st</sup> Company of the Zvornik PJP with two tanks, a BOV(20/3), a praga and a mortar platoon were deployed along the road from Kravica-Sandići-Pervani up to Hričići.<sup>4694</sup>

2079. In his 5 September Report, **BOROVČANIN** went on to describe the fighting which occurred along the road during the late evening hours of 12/13 July.<sup>4695</sup> He also reported that on 13 July, reinforcements arrived along the road and the army regrouped to go to Žepa.<sup>4696</sup>

2080. **BOROVČANIN** described the combat action that occurred along the road with his forces on 14 July, where, for the first time in either report, **BOROVČANIN** stated that “a new problem arose. Zvornik was threatened by forces coming from Cerska. The town needed to be protected.”<sup>4697</sup> This comment in his 5 September Report contradicts **BOROVČANIN**’s statement to the Prosecution that Zvornik was threatened two days earlier, on the afternoon of 12 July. **BOROVČANIN**’s 5 September Report provides a more truthful and accurate account of the actual situation on the ground at the time and clearly contradicts the story he told the Prosecution.

2081. Despite the fact that the area of Zvornik was under threat on 14 July, **BOROVČANIN** and his units remained in their positions along the road on 14 July and instead, Zvornik was reinforced by MUP units from Bijelina and Janja.<sup>4698</sup> It is not until 15 July that **BOROVČANIN** and his units travelled to Zvornik to engage in the combat there.<sup>4699</sup>

2082. **BOROVČANIN**’s reports completely contradict his false statements to the OTP made during his interviews. **BOROVČANIN**’s reports accurately reflect the situation on

<sup>4693</sup> Exh. 4D00510, 5 September Report at ERN:4D05-1185-4D05-1186.

<sup>4694</sup> Exh. 4D00510, 5 September Report at ERN:4D05-1185.

<sup>4695</sup> Exh. 4D00510, 5 September Report at ERN:4D05-1185.

<sup>4696</sup> Exh. 4D00510, 5 September Report at ERN:4D05-1185.

<sup>4697</sup> Exh. 4D00510, 5 September Report at ERN:4D05-1186.

<sup>4698</sup> Exh. 4D00510, 5 September Report at ERN:4D05-1186.

<sup>4699</sup> Exh. 4D00510, 5 September Report at ERN:4D05-1186-4D06-1187.

the ground on 12 and 13 July, and are corroborated by the vast amount of evidence the Trial Chamber has heard concerning events which occurred and orders issued in this area on 12 and 13 July. It was on 12 July that the VRS and MUP became aware that the 28<sup>th</sup> Division of the ABiH was moving along the Jagličići-Ravni Buljim-Konjević Polje-Cerska axis. Consequently, the VRS and MUP surmised that the asphalt road running from Kravica-Konjević Polje-Nova Kasaba was the natural barrier along which it was crucial to deploy Serb forces to block the column of Bosnian Muslim men. All of this information became known to the Serb forces on 12 July, as **BOROVČANIN** himself acknowledges in his 13 July Report.<sup>4700</sup>

2083. It would have made no military sense to send **BOROVČANIN**, with his troops, his tanks and his Praga and his BOV, to Zvornik on 12 July while thousands of Bosnian Muslim men were still trapped behind the road. Moreover, there were insufficient forces deployed along that road on 12 July.<sup>4701</sup> In fact, on 12 July, the Zvornik Brigade itself sent a Praga and crew to the Bratunac-Konjević Polje Road to do the very same work as **BOROVČANIN**'s units were doing late on the day of 12 July.<sup>4702</sup> The deployment of the Zvornik Praga along the Bratunac Konjević Polje road highlights the VRS's and MUP's thinking at the time that the most effective way to protect Zvornik was to intercept the column of Bosnian Muslim men before it reached the Zvornik area.

2084. On 12 July, Dragomir Vasić, Chief of the Zvornik CSB, reported to his superiors from Bratunac,<sup>4703</sup> that "Muslim groups were spotted fleeing along this axis," Ravni Buljim, and that a platoon from the 2<sup>nd</sup> PJP Company from Zvornik had been deployed to that area to "lie in ambush".<sup>4704</sup> Vasić also reported on the unit under the command of **BOROVČANIN**, the 1<sup>st</sup> Zvornik PJP Company, and noted "[t]he 1<sup>st</sup> Company is

<sup>4700</sup> Exh. P03789, 13 July Report; *See also* Exh. P00147, Drina Corps Command Intelligence Report No. 17/895, type-signed Pavle GOLJIĆ, dated 12 July 1995; Exh. 4D00695, SJB Milići, Dispatch str.conf.no. 13-3/01-96/95; [REDACTED]; Exh. P01100, Intercept dated 12 July at 6:30 hours.

<sup>4701</sup> Exh. P02852, **BOROVČANIN** February Interview, pp. 78-85.

<sup>4702</sup> D.STANOJEVIĆ, T.12882 (Stanojević saw a tank, a Praga and a three-barrelled combat vehicle deployed there); [REDACTED] PW-100, T.14822-23 ([REDACTED] PW-100 testified that there was also a tank and a three-barrelled anti-aircraft vehicle near the Meadow). *See* Exh. P00377, Zvornik Brigade Duty Operations Officer Notebook (unofficial), for period 29 May 1995 through 27 July 1995 at ERN:0293-5735, "19.55 hrs Turks are close to the village of Kamenica above Lolići – Praga is working already. (Troops from Šekovići and civilian police have not arrived yet)." [REDACTED].

<sup>4703</sup> Exh. P03040, Zvornik CJB dispatch No. 278/95, re meeting at Hotel Fontana, dated 12 July 1995.

<sup>4704</sup> Exh. P03040, Zvornik CJB dispatch No. 278/95, re meeting at Hotel Fontana, dated 12 July 1995. para. 5.

successfully carrying out given tasks”.<sup>4705</sup> There is no mention by Vasić of an Order to send the 1<sup>st</sup> Company back to Zvornik that day, as **BOROVČANIN** has asserted.<sup>4706</sup>

2085. Vasić reported later that day that around 300 Muslims led by Zulfo Tursunović had managed to cross over towards Zvornik municipality and that “[t]he Zvornik Brigade has the responsibility of blocking them on Crni Vrh.”<sup>4707</sup> Vasić reported that the 1<sup>st</sup> PJP Company and the 2<sup>nd</sup> Šekovići Detachment were in the Sandići sector “blocking this section with the goal of destroying” the Muslim forces.<sup>4708</sup> Vasić went on to note that he had received this information from Muslim prisoners at about 16:30 hours.<sup>4709</sup> Vasić’s report is entirely accurate on the location and actions of the 1<sup>st</sup> PJP unit and the 2<sup>nd</sup> Šekovići Detachment, who were operating under the command of **BOROVČANIN**. Again, Vasić’s reports of 12 July, clearly contradict **BOROVČANIN**’s statements to the OTP that he was ordered to Zvornik on 12 July.

2086. The **BOROVČANIN** Defence made little effort to support **BOROVČANIN**’s claim that he was ordered to go to Zvornik on 12 July. As a result, there is no credible evidence to support **BOROVČANIN**’s assertion that he and his units were sent to Zvornik on 12 July 1995. The sole suggestion of any MUP member at trial, that **BOROVČANIN** and his units were to go to Zvornik on 12 July is from the testimony of 1<sup>st</sup> Company Zvornik PJP member, Dobrisav Stanojević.

2087. While Stanojević had the status of a Prosecution witness, he was an adverse witness who lacked credibility with regard to his testimony addressing **BOROVČANIN** going to Zvornik on 12 July. Notably, Stanojević also acknowledged that he had been working as a police officer for **BOROVČANIN** during **BOROVČANIN**’s tenure as Police Commander in Bratunac.<sup>4710</sup>

2088. Stanojević testified that following his unit’s deployment to Potočari on 12 July, they returned to Bratunac and awaited further orders.<sup>4711</sup> According to Stanojević, the unit members discussed an imminent attack on Zvornik and they stated that they should go to

<sup>4705</sup> Exh. P03040, Zvornik CJB dispatch No. 278/95, re meeting at Hotel Fontana, dated 12 July 1995, para. 6.

<sup>4706</sup> See Exh. P03040, Zvornik CJB dispatch No. 278/95, re meeting at Hotel Fontana, dated 12 July 1995.

<sup>4707</sup> Exh. P00060, CJB Zvornik Report No. 281/95, re transport of the civilian population of Srebrenica, type-signed Dragomir VASIĆ, dated 12 July 1995.

<sup>4708</sup> Exh. P00060, CJB Zvornik Report No. 281/95, re transport of the civilian population of Srebrenica, type-signed Dragomir VASIĆ, dated 12 July 1995.

<sup>4709</sup> Exh. P00060, CJB Zvornik Report No. 281/95, re transport of the civilian population of Srebrenica, type-signed Dragomir VASIĆ, dated 12 July 1995. (The Bratuna Brigade Daily Combat Report of 12 July sent out at about 16:30 hours also reported on the break out of the Muslim forces from Jagličić in the direction of Tuzla).

<sup>4710</sup> D.STANOJEVIĆ, T.12920.

<sup>4711</sup> D.STANOJEVIĆ, T.12880.

Zvornik to assist.<sup>4712</sup> However, Stanojević testified that he did not receive any further information from anyone concerning a potential redeployment to Zvornik.<sup>4713</sup> However, the imminent threat at the time was not in Zvornik, but in the areas around Kravica, Konjević Polje and Cerska. Indeed, as noted above, on 12 July a Zvornik Brigade Praga<sup>4714</sup> was sent from Zvornik to assist in combat operations along the road. It is clear from the evidence adduced at trial that on the afternoon/evening hours of 12 July, the VRS did not yet know that thousands of Bosnian Muslim men from the enclave had already crossed the Bratunac-Konjević Polje Road. In **BOROVČANIN**'s report of 5 September, he states unequivocally that it was 14 July (not 12 July) when Zvornik came under threat:

In addition to the fighting along the aforementioned axis, a new problem arose. **Zvornik was threatened** by forces coming from Cerska. The town needed to be protected...<sup>4715</sup>

2089. Stanojević affirmed, both on direct and cross-examination, that his unit drove *towards* Zvornik.<sup>4716</sup> He never testified that Zvornik was the intended destination on 12 July. Stanojević's testimony as to his unit's discussion concerning the threat to Zvornik, and the need to go to Zvornik to assist, was almost certainly the result of learning that these statements could assist in **BOROVČANIN**'s defence.

2090. Stanojević's testimony that his PJP unit went towards Zvornik on 12 July is clearly contradicted by evidence from police officers Zarko Zarić and Nenad Filipović from the 1<sup>st</sup> Zvornik PJP Company,<sup>4717</sup> Milenko Pepić and Predrag Čelić from the 2<sup>nd</sup> Šekovići Detachment,<sup>4718</sup> [REDACTED] PW-160 and Mane Đurić from the Jahorina Training Centre,<sup>4719</sup> and [REDACTED] PW-100, another member of the Jahorina unit.<sup>4720</sup> All of these individuals testified that they were redeployed directly to positions on the road around Kravica and Sandići. Not one of these witnesses testified that they were ordered to go to Zvornik on 12 July.

<sup>4712</sup> D.STANOJEVIĆ, T.12880 ("We talked about Zvornik, that it was threatened, that an attack was imminent, that we should go to Zvornik.")

<sup>4713</sup> D.STANOJEVIĆ, T.12880-12881.

<sup>4714</sup> D.STANOJEVIĆ, T.12882 (Stanojević saw a tank, a Praga and a three-barrelled combat vehicle deployed there); [REDACTED] PW-100, T.14822-23 ([REDACTED] PW-100 testified that there was also a tank and a three-barrelled anti-aircraft vehicle near the Meadow); [REDACTED].

<sup>4715</sup> Exh. 4D00510, 5 September Report at ERN:4D05-1186.

<sup>4716</sup> D.STANOJEVIĆ, T.12880, 12917 (emphasis added).

<sup>4717</sup> ZARIĆ, T.26930-26931; FILIPOVIĆ, T.26998-26999. Pepić and Čelić also confirmed that the 1st PJP Company from the Zvornik Public Security Centre were deployed along the road, in the area from Sandići to Konjević Polje (ČELIĆ, T.13471-13472; PEPIĆ, T.13552).

<sup>4718</sup> PEPIĆ, T.13549-13550; ČELIĆ, T.13468-13469, 13501. The deployment of the Second Šekovići Detachment along the road is corroborated by [REDACTED] PW-160 ([REDACTED] PW-160, T.859-8600, 8603).

<sup>4719</sup> [REDACTED] PW-160, T.8581, 8585, 8684; ĐURIĆ, T.10806.

<sup>4720</sup> [REDACTED] PW-100, T.14812.

2091. Similarly, the testimony of defence witness Dragoslav Trisić is equally unfounded and manufactured. Trisić was the only witness adduced by the **BOROVČANIN** defence team to suggest that **BOROVČANIN** had been ordered to go to Zvornik on 12 July. Trisić was in Bratunac as Chief of Staff of the Territorial Defence from April 1992 while **BOROVČANIN** was in Bratunac as Commander of the police station. It is the position of the Prosecution that Trisić's evidence in relation to this part of his testimony is completely fabricated.

2092. Trisić testified that in the late afternoon of 12 July, he and **BOROVČANIN** "bumped into each other and had a conversation"<sup>4721</sup> in the town centre, near Trisić's and **BOROVČANIN**'s homes. Trisić stated that during this conversation, which lasted just a few minutes, he "learned from Mr. **BOROVČANIN** that his **ŠBOROVČANIN**'sĆ unit was summoned to go back urgently to Zvornik to be further engaged in a different task."<sup>4722</sup>

2093. Trisić's evidence that **BOROVČANIN** was summoned to return urgently to Zvornik on the afternoon of 12 July is completely contradicted by reliable evidence from police officers under **BOROVČANIN**'s command at this time. It is evident that Trisić's transparent account of "bumping into" **BOROVČANIN** in the afternoon of 12 July was a complete fabrication concocted for the benefit of **BOROVČANIN**'s defence.

2094. Further, it is telling that neither of the two **BOROVČANIN** defence witnesses from Stanojević's unit, the 1<sup>st</sup> Zvornik PJP Company, Zarko Zarić and Nenad Filipović, testified that they went *to*, or even *towards*, Zvornik on 12 July. Instead, they both testified that they were redeployed directly to the road.<sup>4723</sup> In fact, when specifically asked during cross-examination "[d]id you ever receive an order to go on to Zvornik, or was your order only to be deployed on that road in the area of Sandići?" Filipović replied, "[j]ust to deploy along the road at Sandići."<sup>4724</sup> Further, these witnesses testified that their entire unit was present in Sandići.<sup>4725</sup>

***BOROVČANIN's false claim that he then received MUP orders for his units to secure the road***

2095. In his statements to the OTP, **BOROVČANIN** compounded his original lie that he was ordered to go to Zvornik on 12 July by telling the OTP that the reason his troops

<sup>4721</sup> TRIŠIĆ, T. 27075-76.

<sup>4722</sup> TRIŠIĆ, T. 27075-76.

<sup>4723</sup> ZARIĆ, T.26930; FILIPOVIĆ, T.26998-99.

<sup>4724</sup> FILIPOVIĆ, T.27015:22-24.

<sup>4725</sup> ZARIĆ, T.26971.

were deployed along the Kravica-Sandići road was because after he had received the Order from Mladić to proceed to Zvornik, he received MUP orders that his forces should secure the road:

When the units moved towards Zvornik, a MUP order arrived and also an order, not only from the MUP, but also from the Ministry for Traffic, that the traffic would be stopped between Zvornik and Han Pijesak. **And the order was that all the police forces at disposal, should secure this communication**, this route, because the Muslim forces had already cut off some of these communications and there was a danger that there could be possible victims.<sup>4726</sup>

*So what information did you get from Vasić?*

I got the information on that **order that we should secure this route**. And that additional police forces arrived in the Zvornik area, from the area of Bijeljina, Doboj. So some additional police forces have arrived.

*So when your troops went up towards Zvornik, it was their job to secure that route?*

First task was to go to Zvornik. But that **order to secure the communication changed the way how we were supposed to be engaged**. On head was the 1<sup>st</sup> Zvornik PJP Company and they arrived some 3 or 4 kilometres away from the village of Kravica, but on this regional road towards Konjevic Polje. And they told us that **they got the information that the road ahead of them was cut off by Muslim forces**. And then in the evening hours they took their positions along that communication on that road and they took over this role of securing the communication.<sup>4727</sup>

2096. In his March interview with the OTP, **BOROVČANIN** repeated a similar story, adding that at around 16:00 hours, his forces left from Bratunac towards Zvornik:<sup>4728</sup>

**I was informed that this line of people, they cannot go towards Zvornik**. Could not go and I was informed that the **Minister Interior ordered that all communications in that area should be secured**...I received that information through the communication centre in the Bratunac police station. That was an order that was given to all police forces in the region.<sup>4729</sup>

The unit that was on the move, they were going towards Zvornik, **half way between Bratunac and Konjević Polje, they received information that the road was cut off a little bit in front of them. As it was getting dark, they stayed where they were and they placed themselves along the road.**<sup>4730</sup>

2097. **BOROVČANIN** went on to explain that there were two such orders from the Ministry of Interior and the Ministry of Transportation and a third order from the Ministry of Defence, on the same subject.<sup>4731</sup>

2098. Thus, **BOROVČANIN** first stated that the road was blocked by Muslim forces and second, he stated that he received an order from the Ministry of Interior to secure that road.<sup>4732</sup> There is no evidence, documentary or otherwise of either of these claims. In fact, **BOROVČANIN** never mentioned any order to proceed to Zvornik, nor that his troops were blocked on the road, in either of his official reports to his superiors of 13 July

<sup>4726</sup> Exh. P02852, **BOROVČANIN** March Interview, p. 78:3-9 (emphasis added).

<sup>4727</sup> Exh. P02852, **BOROVČANIN** March Interview, p. 78:19-79:5 (emphasis added).

<sup>4728</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 28:16-18.

<sup>4729</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 29:8-13 (emphasis added).

<sup>4730</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 32:9-12 (emphasis added).

<sup>4731</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 29:16-21.

<sup>4732</sup> Exh. P02852, **BOROVČANIN** February Interview, pp. 78-80.



and 5 September.<sup>4733</sup> In **BOROVČANIN**'s 13 July Report, he states that he ordered the deployment of his troops along the road, though he does not mention that the deployment was pursuant to an order from Mladić.<sup>4734</sup> However, he does mention that this order originated from Mladić in his 5 September Report.<sup>4735</sup> At the time, **BOROVČANIN** and his forces were under the command of the VRS. Accordingly, any significant orders originating from the MUP would have been both in contravention of the law and extremely disruptive to the VRS's ongoing operations and to the VRS chain of command. Notably, there is no evidence that any such disruption occurred.

2099. **BOROVČANIN**'s claim that his forces were stopped along the Kravica-Konjević Polje Road and prevented from moving forward, for the reason that the road had been cut off by Muslim forces, is absolutely absurd and totally unsupported by any evidence adduced in this case. In his interview, **BOROVČANIN** acknowledged that his units were travelling with their armour which comprised two tanks, one Praga and one BOV,<sup>4736</sup> and around 200 men armed with automatic rifles.<sup>4737</sup> **BOROVČANIN** stated that his unit departed from Bratunac around 16:00 hours. During this time the Bosnian Muslim women and children were being bussed along that same road, throughout the afternoon and evening of 12 July, until around 20:00 hours.<sup>4738</sup> The road from Bratunac to Konjević Polje was never closed to military traffic on 12 July. The Konjević Polje-Zvornik road was closed to public traffic on 12 July; however, it is ridiculous to suggest that for safety reasons, **BOROVČANIN**'s heavily armed and well equipped troops could not travel the few kilometres from Konjević Polje to the Drina River along the road to Zvornik. If, as **BOROVČANIN** told the OTP, Zvornik was thought to be under threat of an imminent attack on 12 July, placing heavily armed troops with armoured vehicles and anti-aircraft guns in possible danger for a few kilometres along the road would certainly have been worth the risk in order to protect the civilians of Zvornik.

2100. In addition, **BOROVČANIN** claimed that his forces departed Bratunac for Zvornik at 16:00 hours on 12 July. However, **BOROVČANIN**'s story does not make any sense from a timing perspective as darkness does not begin to fall in Bosnia until after 21:00 hours in July. Had **BOROVČANIN**'s troops really set off for Zvornik at 16:00

<sup>4733</sup> See Exh. P03789, 13 July Report; Exh. 4D00510, 5 September Report.

<sup>4734</sup> Exh. P03789, 13 July Report, pp. 1-2.

<sup>4735</sup> Exh. 4D00510, 5 September Report, p. 3.

<sup>4736</sup> While moving tanks along any road is a slow process, the Praga and BOV were wheeled vehicles and could move along any road at a reasonable speed.

<sup>4737</sup> Exh. P02852, **BOROVČANIN** February Interview, pp. 71:7, 73, 74:15, 75.

<sup>4738</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 81-83.

hours, in the four hours of light remaining that day, they could have easily made it to the safety in the southern part of the Zvornik municipality before dark.

2101. Moreover, there was absolutely nothing that would have prevented **BOROVČANIN**'s troops from progressing along the Kravica-Konjević Polje road on the afternoon of 12 July, as buses transporting Bosnian Muslim women and children travelled along that road all afternoon and evening, until 20:00 hours.

2102. Even in the highly unlikely event that the Konjević Polje-Zvornik road was thought to be too dangerous for **BOROVČANIN**'s units, his forces could have travelled to Zvornik via an alternative route from Bratunac along dirt roads next to the Drina River. This route would have completely bypassed the area threatened by the column of Bosnian Muslim men on the afternoon of 12 July. Had **BOROVČANIN**'s unit genuinely been prevented from continuing because of the danger present along the road running northwards from Konjević Polje toward Zvornik, they would have stopped and deployed in the Konjević Polje area, and not the Kravica to Sandići-Pervani area, where they were in fact deployed.

**BOROVČANIN's false claim that he was relieved of command of the Jahorina troops led by Duško Jević and Mendeljev Đurić from the afternoon of 12 July**

2103. **BOROVČANIN**'s defence that he was relieved of his command over the Jahorina troops from the afternoon of 12 July is based upon his assertion that he received an order to proceed to Zvornik on 12 July and to leave his Jahorina troops behind in Potočari under the command of the Bratunac Brigade. Since it is absolutely clear that **BOROVČANIN**'s statement that Mladić ordered him to Zvornik is false, it goes without saying that he did not have to separate his three units and leave the Jahorina unit in Potočari under another commander. **BOROVČANIN**'s claim that from the afternoon of 12 July he no longer commanded the Jahorina unit was concocted to cover his responsibility and involvement in the operations to move out the civilian population and murder the men and boys of Srebrenica.

**The 10 July Order Kovač placed the Jahorina unit under the command of BOROVČANIN and placed BOROVČANIN and his units under the command of the VRS.**

2104. As discussed previously, the 10 July Order placed **BOROVČANIN** in command of the 1st company from the Jahorina Training Centre, along with the 2<sup>nd</sup> Šekovići Detachment and the 1<sup>st</sup> PJP Company from the Zvornik CJB, for the Srebrenica 95

operation.<sup>4739</sup> It is uncontested that this order was promulgated pursuant to the RS Law on the Implementation of the Law on Internal Affairs During an Imminent Threat of War or a State of War of 29 November 1994,<sup>4740</sup> wherein MUP units participating in combat with VRS units fell under the command of the VRS whilst remaining under the direct command of their own commander, in this case, **BOROVČANIN**.<sup>4741</sup> In his OTP interview, **BOROVČANIN** referred to this law and acknowledged its application to the 10 July Order.<sup>4742</sup> He also identified the three units which fell under his command pursuant to the Order,<sup>4743</sup> and acknowledged that on 11 July, when he went to Pribičevac to report to General Krstić, he was under the command of the VRS.<sup>4744</sup>

2105. **BOROVČANIN** explained that from the time of his arrival in Bratunac on 11 July, he received information and orders from various VRS officers. **BOROVČANIN** recalled that upon his arrival in Bratunac, he called the Bratunac Brigade to report to General Krstić and received an order from the Brigade Duty Officer to go to the forward command post where Krstić was.<sup>4745</sup> **BOROVČANIN** then travelled to Pribičevac where he received an Order from General Mladić to take his units from Bratunac to Yellow Bridge and on towards Potočari and Milačevići.<sup>4746</sup> At about 19:00 hours, **BOROVČANIN** learned that General Mladić wanted to see him at the Hotel Fontana so **BOROVČANIN** went to the Hotel Fontana where he reported to General Mladić that all of his forces had not yet arrived. General Mladić ordered **BOROVČANIN** to leave.<sup>4747</sup> Later that evening, **BOROVČANIN** received information that large numbers of Bosnian Muslims were gathering in Potočari. Additionally, Momir Nikolić passed on an order for **BOROVČANIN** to go to Yellow Bridge and strengthen his lines.<sup>4748</sup> **BOROVČANIN**

<sup>4739</sup> Exh. P00094, RS Ministerial Order 64/95 to MUP units, type-signed by Tomislav KOVAČ, dated 10 July 1995.

<sup>4740</sup> Exh. 4DP00725, RS Law on the Implementation of the Law on Internal Affairs During an Imminent Threat of War or a State of War of 29 November 1994.

<sup>4741</sup> Kovač's order designated **BOROVČANIN** commander of the mixed unit and directed him to report to establish contact with Gen. Krstić. (Exh. P00094, 10 July Order). See also BUTLER, T.19817. **BOROVČANIN** had the task of commanding and leading MUP units, and those MUP units were resubordinated through him to the Chief of Staff of the Drina Corps, Gen. Krstić, through whom **BOROVČANIN** would receive orders from the Drina Corps Command. ([REDACTED] PW-160, T.8670-8671). **BOROVČANIN** would then forward those orders through the MUP chain of command to [REDACTED] PW-160 and the subordinate MUP units. ([REDACTED] PW-160, T.8671). The MUP units could be used to perform tasks through **BOROVČANIN**, to be given a task from him at the level of the Drina Corps, and to carry out such specified tasks; **BOROVČANIN** would be the person relaying that order into the MUP line of command from the military. ([REDACTED] PW-160, T.8696).

<sup>4742</sup> Exh. P02852, **BOROVČANIN** February Interview, pp. 13-15.

<sup>4743</sup> Exh. P02852, **BOROVČANIN** February Interview, pp. 44-45.

<sup>4744</sup> Exh. P02852, **BOROVČANIN** February Interview, pp. 32-33, 35-36.

<sup>4745</sup> Exh. P02852, **BOROVČANIN** February Interview, pp. 27-31.

<sup>4746</sup> Exh. P02852, **BOROVČANIN** February Interview, p. 32:19-24.

<sup>4747</sup> Exh. P02852, **BOROVČANIN** February Interview, pp. 45-46.

<sup>4748</sup> Exh. P02852, **BOROVČANIN** February Interview, pp. 45-46, 55-56, 59.

and his units moved towards Potočari on the morning of 12 July and met briefly with General Mladić, who told **BOROVČANIN** that his troops would be needed to regulate traffic and to assist in the evacuation of the Bosnian Muslim civilians from Potočari.<sup>4749</sup>

**BOROVČANIN** witnessed Momir Nikolić arrive in Potočari around 12:00 noon and saw Momir Nikolić co-ordinating Bratunac MPs in their review or “checking” of Muslim men in Potočari who were of “fighting age.”<sup>4750</sup> When asked by the Prosecution what the Bratunac Brigade MPs were doing with the men of fighting age, **BOROVČANIN** stated:

I don't know. And I will tell why I don't know, because I left that area very quickly. There was a unit, part of the unit under command of Duško Jević and they were working on issues and tasks given to them by Bratunac Brigade. And from that moment Duško Jević and his unit was no longer under my command but they were under the command of Blagojević, who was Commander of the Bratunac Brigade.<sup>4751</sup>

2106. Thus, in his March OTP interview, **BOROVČANIN** acknowledges that while he was in Potočari, he was aware that the Jahorina forces led by Duško Jević were working with the Bratunac Brigade MPs to “check” the men of fighting age.<sup>4752</sup> **BOROVČANIN** emphasised to the Prosecution that he “left the area very quickly” and was no longer in command of those forces. However, **BOROVČANIN** fails to provide any explanation of the manner in which the Bratunac Brigade was working with the Jahorina unit in Potočari or of how the Bratunac Brigade took over command of the Jahorina unit while their commander, **BOROVČANIN**, was still in Potočari. Even under **BOROVČANIN**'s fabricated story, **BOROVČANIN** would still have been in command over the Jahorina unit while he remained in Potočari.

2107. There is nothing in either of **BOROVČANIN**'s official reports on 13 July or 5 September that give even the slightest indication that he was relieved of command of any of his units on 12 July. Notably, in his 5 September Report, **BOROVČANIN** stated:

I received an order from General Mladić to send half of my men and the available technical equipment to that axis so as to block the area and fight the aforementioned formation.<sup>4753</sup>

2108. **BOROVČANIN**'s reference in his report<sup>4754</sup> to “half my men” being sent to the road between Kravica “up to Hričići” can only mean the other half of *his* men remained in Potočari. In his report, there is absolutely no suggestion or inference whatsoever that

<sup>4749</sup> Exh. P02852, **BOROVČANIN** February Interview, pp. 68-69

<sup>4750</sup> Exh. P02853, **BOROVČANIN** March Interview, pp. 10-12, 21.

<sup>4751</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 21.

<sup>4752</sup> Exh. P02853, **BOROVČANIN** March Interview, pp. 10-12, 21.

<sup>4753</sup> Exh. 4D00510, 5 September Report at ERN:4D05-1186.

<sup>4754</sup> Note Hričići is a misspelling of Hrnčići.

**BOROVČANIN**'s forces in Potočari were placed under the command of someone else.<sup>4755</sup>

2109. At the end of his 5 September Report, **BOROVČANIN** names each of the commanding officers of the various MUP units under his command during the period from 10 July until 21 July. **BOROVČANIN** stated that "[t]he forces of the Training Centre on Jahorina (two companies) were commanded by Duško Jević, while the company commanders were Mane [Mendeljev] Đurić and Nedo Ikonić."<sup>4756</sup> As in the preceding section of his 5 September Report, **BOROVČANIN** makes no mention of these forces ceasing to fall under **BOROVČANIN**'s command nor of these forces falling under the command of anyone else. If **BOROVČANIN** had been relieved of the command of Duško Jević's forces, this would have been noted in the official reports.

2110. Interestingly, after noting the precise deployment location of his three units in both of his official reports, **BOROVČANIN** failed to mention the deployment of the Jahorina unit to that very same road where the 2<sup>nd</sup> Šekovići Detachment and the 1<sup>st</sup> PJP Company had been deployed that same day on 12 July. However, it cannot be reasonably inferred that **BOROVČANIN**'s failure to mention the deployment of the Jahorina unit to the road on the evening of 12 July suggests that the Jahorina unit was no longer under **BOROVČANIN**'s command. It is not clear why **BOROVČANIN** omitted to report on the deployment of the Jahorina unit to the road, for elements of the Jahorina unit were undoubtedly sent to the road that evening.<sup>4757</sup> Moreover, it would have been inconceivable to deploy the Jahorina unit to the road alongside **BOROVČANIN**'s two other units under a separate command. Such a deployment under two different commands would neither have been practical, nor in accordance with the law regulating such deployments. All three of **BOROVČANIN**'s units were already under the overall command of the VRS, with **BOROVČANIN** remaining their direct commander. Accordingly, there was no requirement or logical reason to deploy the Jahorina unit along the road under a separate command.

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<sup>4755</sup> In addition to the three units noted in the 10 July Order under **BOROVČANIN**'s command, namely the 2<sup>nd</sup> Šeković Special Police, Zvornik 1<sup>st</sup> PJP Company, 1st Company from the Jahorina Training Centre, other MUP forces were employed in the area on 12 July — A 2<sup>nd</sup> Company from the Jahorina Training Centre, deployed along the road from Konjević Polje towards Bratunac, the Zvornik 2<sup>nd</sup> PJP Company, deployed in Srebrenica to form a police station there and the Zvornik 5<sup>th</sup> PJP Company. From **BOROVČANIN**'s reports of 13 July and 5 September it appears he is commanding all the forces deployed along the road and in Potočari, however, it is likely the 2<sup>nd</sup> PJP Company assigned to set up a police station in Srebrenica was not under his command and was being commanded directly by Chief of the Zvornik CSB Dragomir Vasić, see Vasić 12 July report).

<sup>4756</sup> Exh. 4D00510, 5 September Report at ERN:4D05-1188.

<sup>4757</sup> [REDACTED] PW-160, T.8604, 8607.

2111. The witness testimony and video evidence provide further proof that the Jahorina forces, and the other two units, were under **BOROVČANIN**'s command on 12 and 13 July.

2112. [REDACTED].<sup>4758</sup> At the end of the day on 12 July, [REDACTED] PW-160 returned to his billeted quarters where he reported to **BOROVČANIN**. **BOROVČANIN** told [REDACTED] PW-160 to get some rest as the evacuation would continue the next morning. The following day, [REDACTED] PW-160 returned to Potočari where he and his unit continued to evacuate the Muslim civilians. There was no suggestion by [REDACTED] PW-160 at trial that he was ever removed from the command of **BOROVČANIN**.

2113. In his Prosecution interview, **BOROVČANIN** stated that a Bratunac Brigade Order<sup>4759</sup> demonstrated that the Bratunac Brigade was in direct command of the 1<sup>st</sup> Company from the Jahorina Training Centre led by Duško Jević.<sup>4760</sup> However, no such document has ever been found or produced to support this contention. It was not until 16 July that Colonel Blagojević was placed in overall command of the various units, including MUP units in his zone.<sup>4761</sup>

2114. The Petrović Video shows **BOROVČANIN** in Potočari amongst the Muslim population and his units on 13 July, clearly still in command of all three of his MUP units, including the 1<sup>st</sup> Company from the Jahorina Training Centre. The Petrović Video also shows **BOROVČANIN**, Tomo Kovač and others touring the Zelani Jadar factory area on 14 July with no apparent urgency.<sup>4762</sup> This provides further support for the position that **BOROVČANIN** was in the Bratunac/Srebrenica area on 14 July with no intention of travelling to Zvornik that day. Moreover, while in the Bratunac/Srebrenica area, **BOROVČANIN** was fully capable of commanding the Jahorina unit which was still deployed along the Kravica-Konjević Polje Road on 14 July.

### **Conclusion**

2115. The evidence is overwhelming that on 12 to 14 July, **BOROVČANIN** was in command of Duško Jević and the Jahorina Company, the 1<sup>st</sup> PJP Company from Zvornik and the 2<sup>nd</sup> Šekovići Detachment of the Special Police Brigade. It is equally clear that

<sup>4758</sup> [REDACTED].

<sup>4759</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 25

<sup>4760</sup> Exh. P02853, **BOROVČANIN** March Interview, pp. 24-25.

<sup>4761</sup> Exh. 4DP00255, Daily combat report from Command of the 1st Bratunac Light Infantry Brigade to Command of the Drina Corps, dated 16 July 1995.

<sup>4762</sup> Exh. P02000, Video footage shot by Zoran PETROVIĆ during July 1995 – provided by the BBC, at 0:43:25-0:46:50.

**BOROVČANIN** purposefully constructed a false scenario in an attempt to mislead the Prosecution that he was relieved of command of the Jahorina forces on the afternoon of 12 July. The sole reason **BOROVČANIN** would have for deliberately lying to the Prosecution about his command function was because he was aware of the crimes committed by his troops against the Muslim population in Potočari. Specifically, **BOROVČANIN**'s units assisted the VRS in the separation, detention and transportation of the Muslim men and boys of Potočari with the knowledge that they would be summarily executed, and assisted to transport the women, children and elderly out of Potočari with the knowledge that the population was being forcibly removed from the Srebrenica area.

(cl) **BOROVČANIN's Defence: Units under his command did not take part in the summary execution of at least 1,000 Muslim men and boys at the Kravica Warehouse on 13 July 1995**

**BOROVČANIN's Defence: It was not his units deployed along the Bratunac – Konjević Polje Road on the afternoon of 13 July, as shown on the Petrović Video.**

2116. **BOROVČANIN** sought to portray the killings at the Kravica Warehouse as “other people’s matters”<sup>4763</sup> and repeatedly denied recognising members of his units or his units’ equipment when shown footage from the Petrović Video of the Konjević Polje – Bratunac Road on the afternoon of 13 July. **BOROVČANIN**'s failure to identify members of his units present along the Konjević Polje – Bratunac Road was a blatant attempt to distance himself from the crimes committed against the Muslims captured on 13 July.

2117. Sixteen soldiers seen along the road in the Petrović Video have been identified as members of **BOROVČANIN**'s units.<sup>4764</sup> However, **BOROVČANIN** identified only two of these 16 soldiers as being under his command<sup>4765</sup> in admissions which were unavoidable since the Special Police Brigade insignia can clearly be seen on one man's uniform, and they call him by his nickname “Bor.” **BOROVČANIN** also acknowledged

<sup>4763</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 69.

<sup>4764</sup> [REDACTED]. Note, 15 men were identified as men under **BOROVČANIN**'s command and the Special Police Brigade insignia can clearly be seen on the 16th man's uniform [REDACTED].

<sup>4765</sup> Exh. P02853, **BOROVČANIN** March Interview, p.129. Exh. P03246, **BOROVČANIN** Interview book of Still Images with stipulations at ERN:0619-9550; Exh. P02000, Video footage shot by Zoran PETROVIĆ during July 1995 – provided by the BBC at 11'40”.

that two other soldiers were familiar but he did not know who they were<sup>4766</sup> and said that one other man “may” belong to the police.<sup>4767</sup>

2118. Most tellingly, **BOROVČANIN** failed to identify Skelani Platoon Commander Milenko “Čop” Trifunović,<sup>4768</sup> or even identify him as a Special Police Brigade member. This failure is significant for two reasons. First, the Special Police Brigade’s insignia is clearly visible on his arm. And second, because **BOROVČANIN** admitted in his interviews to meeting, among others, the 2<sup>nd</sup> Šekovići Detachment Platoon Commanders when he went to the Sandići Meadow around noon.<sup>4769</sup> The fact that the 2<sup>nd</sup> Šekovići Detachment member killed at the Kravica Warehouse was a member of Čop’s Skelani Platoon, and that men from Skelani were guarding the prisoners at the warehouse when the killings started, shows that **BOROVČANIN**’s failure to recognise Čop was a lie. Considering that **BOROVČANIN** had a copy of the Petrović Video,<sup>4770</sup> and must have viewed it and studied it prior to his OTP interview, his answer was clearly rehearsed in an effort to distance himself from Čop and his men.

2119. At 20’32” – 20’53” on the Petrović Video,<sup>4771</sup> **BOROVČANIN** is with a group of soldiers on the road. **BOROVČANIN** stated that he recognised one of the men (wearing a purple t-shirt), but he did not know he was. He also suggested that a soldier wearing a bandana was not from the police.<sup>4772</sup> In fact, this is Dragutin Vesić of the 1<sup>st</sup> Company, Zvornik PJP, while the man in the purple t-shirt is Ristan Ikonić, of the same unit.<sup>4773</sup> As with Čop (who also wore a bandana), **BOROVČANIN** sought to suggest that anyone of non-standard appearance was not a police officer. This is clearly contradicted by the identifications of Čop and Dragutin Vesić. These denials show that **BOROVČANIN** sought to distance himself from troops who he knew to have been involved in committing crimes at Sandići and the Kravica Warehouse.

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<sup>4766</sup> Exh. P03246, **BOROVČANIN** Interview book of Still Images with stipulations at ERN:0619-9566, 0619-9584.

<sup>4767</sup> Exh. P03246, **BOROVČANIN** Interview book of Still Images with stipulations at ERN:0619-9586.

<sup>4768</sup> Exh. P03246, **BOROVČANIN** Interview book of Still Images with stipulations, at ERN:0619-9546. Exh. P02853, **BOROVČANIN** March Interview, p. 128. *See also*, [REDACTED] Exh. P02000, Petrović Video, 09’45” – 09’46”.

<sup>4769</sup> Exh. P02853, **BOROVČANIN** March Interview, pp.56-57.

<sup>4770</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 118.

<sup>4771</sup> Exh. P02000.

<sup>4772</sup> Exh. P03246, **BOROVČANIN** Interview book of Still Images with stipulations, at ERN:0619-9565; Exh. P02853, **BOROVČANIN** March Interview, p. 135.

<sup>4773</sup> [REDACTED]; Exh. P03246, **BOROVČANIN** Interview book of Still Images with stipulations, at ERN:0619-9564-0619-9566.



2120. At 21'29" – 21'38" on the Petrović Video,<sup>4774</sup> a soldier wearing a blue UNPROFOR helmet is seen shaking hands and talking with **BOROVČANIN**. **BOROVČANIN** did admit to talking with him, but was extremely evasive about his identity or the unit he belonged to:

*Did you talk with this person with the helmet?*

Yes.

...

*Was this guy a Serb wearing this helmet?*

It's difficult for me to tell you whether he is a Serb.

*Was he a member of, either the police forces or the Army of the VRS or the MUP.*

It's difficult to say. From this position it is difficult to say. And it's a strange uniform.

...

*So, you're having a conversation with the person in the blue helmet: did you clarify who he was?*

No.

*So what did you walk about? Surely, one of the first things you do is you confirm whom you're talking to... You didn't clarify whether he was a member of the military or a paramilitary or who he was and what he was doing there.*

He's not a police officer.

*But you didn't clarify who he was when you had a conversation with him?*

I don't remember.<sup>4775</sup>

2121. **BOROVČANIN** clearly knew the soldier wearing the UN helmet, who is identifiable as belonging to the Special Police Brigade by the insignia worn on his left arm. Indeed, **BOROVČANIN** is seen shaking hands with him when he walks up to him. As explained at paras 1970 through 1975 above, on 13 July Muslims were tricked into surrendering by Serbs dressed as UNPROFOR troops and driving UNPROFOR APCs along the road. **BOROVČANIN** was in control of the road and must have ordered or authorised this tactic; however, in his OTP interview he clearly was lying in order to avoid responsibility for such a crime.

2122. When Petrović filmed Muslim prisoners at Sandići meadow (21'38" – 24'35" on the Petrović Video<sup>4776</sup>), **BOROVČANIN** clearly sought to distance himself from the soldiers seen there. In particular, as discussed below in the separate section concerning **BOROVČANIN**'s Milan Lukić allegation, **BOROVČANIN** claimed that soldiers were from Lukić's Višegrad unit when in fact they were members of the 1<sup>st</sup> Company, Zvornik PJP. Of the other soldiers seen in this section of the video, **BOROVČANIN** failed to

<sup>4774</sup> Exh. P02000.

<sup>4775</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 136-7. **BOROVČANIN** Interview book of Still Images with stipulations, at ERN:0619-9570-0619-9572.

<sup>4776</sup> Exh. 02000.

identify 1<sup>st</sup> Company, Zvornik PJP members Mile Savić and Milisav Prodanović, although he did concede that Prodanović might be wearing a police patch on his arm.<sup>4777</sup>

2123. Finally, **BOROVČANIN** was reluctant to identify the tank(s) seen at Sandići Meadow at 9'53" – 9'54" and 22'01" – 22'04"<sup>4778</sup> and the Praga and BOV anti-aircraft guns seen at Pervani (12'56" *et seq.*) as belonging to the Special police, although he did acknowledge that the Special Police had a tank in Sandići that day<sup>4779</sup> and that the anti-aircraft guns might have belonged to the 2<sup>nd</sup> Šekovići Detachment.<sup>4780</sup>

2124. **BOROVČANIN**'s answers, when asked to identify the men and equipment in the video, belie his desire to distance himself from these men and Special police equipment. The chief reason **BOROVČANIN** would deny that the men seen in the video were under his command is that he was aware that they were responsible for the Muslims captured along the road, including their eventual murder either at the Kravica Warehouse or elsewhere.

**BOROVČANIN's Defence: Other units, not under BOROVČANIN's command, were present along the Konjević Polje – Bratunac Road and at the Kravica Warehouse during the executions on 13 July**

2125. In order to distance himself from the crimes which occurred along the Konjević Polje – Bratunac Road, Sandići Meadow and the Kravica Warehouse on the afternoon of 13 July, **BOROVČANIN** concocted elaborate lies in his OTP interview, including claims that additional MUP units were deployed along the Road not under **BOROVČANIN**'s command; that VRS officers were within 300 metres of the Kravica Warehouse during the executions; and a strong suggestion that "Lukić's unit" was responsible.<sup>4781</sup>

2126. First, **BOROVČANIN** told the OTP that there were additional MUP forces deployed to the road on 13 July under a separate chain of command:<sup>4782</sup>

I don't know exactly, because they were not under my command, but I would say that there were **at least ten companies of separate police units** from the areas from Doboј to Sarajevo. And there was an additional company from the training centre in Jahorina led by Nedo Ikonić, and they were

<sup>4777</sup> Exh. P02853, **BOROVČANIN** March Interview, pp.138-142. **BOROVČANIN** Interview book of Still Images with stipulations, at ERN:0619-9576-0619-9586.

<sup>4778</sup> Exh. 02000.

<sup>4779</sup> For the first time a tank is shown at Sandići meadow, *see* Exh. P02853, **BOROVČANIN** March Interview, p. 128:13-19. **BOROVČANIN** Interview book of Still Images with stipulations, at ERN:0619-9548. For the second time a tank is shown at the meadow, *see* Exh. P02853, **BOROVČANIN** March Interview, pp. 138-39. **BOROVČANIN** Interview book of Still Images with stipulations, at ERN:0619-9574. [REDACTED].

<sup>4780</sup> Exh. P02853, **BOROVČANIN** March Interview, pp.121; 131; Exh. P03246, **BOROVČANIN** Interview book of Still Images with stipulations, at ERN:0619-9554. Exh. P02000, Petrović Video.

<sup>4781</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 64.

<sup>4782</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 57. *See also* p. 60: "they all arrived in Zvornik and then they were deployed to certain places. And I learned that fact later."

also placed along the road. But personally I was not present when they were deployed. **They had their own chain of command.**<sup>4783</sup>

2127. Next, **BOROVČANIN** told the OTP that along the Road on 13 July, he saw the following:

[A] military unit under command of Milan Lukić.

*Did you actually see Milan Lukić?*

Yes.

*And roughly, how many men did he have with him?*

I don't know exactly how many people he had, but my estimate was about fifty.

...

*Were the men with Milan Lukić part of the VRS?*

I suppose they were.<sup>4784</sup>

2128. Further, in order to avoid responsibility for the prisoners seen under guard in the Sandići Meadow, not only did **BOROVČANIN** claim that the guards were Milan Lukić's men, but he went so far as to say:

...my people were guarding the communication, so all men stayed on asphalt road. I cannot say that maybe someone else was elsewhere providing security.<sup>4785</sup>

2129. However, this claim is contradicted both by the video evidence, as explained above, and also by **BOROVČANIN**'s own admission that when he met his commanders at the Sandići Meadow at noon, they discussed prisoner-related issues. The fact that the commanders of the MUP units had these concerns confirms that they were indeed responsible for the detention of the captured Muslims:

*So, what was the nature of your conversations with your unit Commanders at this time?*

So, I inspected the situation what was going on and they were complaining about the increase of numbers, increasing numbers, of those who surrendered. And as it was already afternoon, they said it would be a problem if they stayed there during the night...<sup>4786</sup>

2130. **BOROVČANIN** also lied that men seen accompanying captured Muslims near the Sandići Meadow at around 17:00 hours were soldiers from Višegrad. Three soldiers in this sequence have been identified as Predrag Krstić, Svetlan Stanišić, Mile Stanišić, all Milići policemen and members of the 1<sup>st</sup> Company, Zvornik PJP.<sup>4787</sup>

*...Were you in the area when Piroćanac had this conversation with this man?*

Yeah, I was close.

*You know who those soldiers are standing behind this man?*

<sup>4783</sup> Exh. P02853, **BOROVČANIN** March Interview, p.58.

<sup>4784</sup> Exh. P02853, **BOROVČANIN** March Interview, pp. 55-58, 140.

<sup>4785</sup> Exh. P02853, **BOROVČANIN** March Interview, p.58.

<sup>4786</sup> Exh. P02853, **BOROVČANIN** March Interview, p.57.

<sup>4787</sup> [REDACTED].

I don't know.

*You don't know what unit they belonged to?*

No, I cannot see from...

*Now, we're at 1620, we've got a better picture of the soldier.*

Well, according to the uniform, it seems that this might be the unit from Višegrad that arrived.

*And what did you notice about the uniform that makes you think that?*

I saw them on that day in that uniform.<sup>4788</sup>

2131. The three soldiers appear on the video behind Ramo Mustafić, a Srebrenica Muslim who is telling Zoran Petrović that he is scared about what will happen to him; at the same time, shooting from the Kravica Warehouse can be heard on the Petrović Video soundtrack. It is clear that, having admitted he was nearby at the time, **BOROVČANIN** had to maintain his lie about the unit from Višegrad in order to bolster his story that Milan Lukić's unit was responsible for every step in the handling of the Muslim prisoners, from their capture and detention to their transfer and execution at the warehouse.

2132. Despite clear evidence that **BOROVČANIN** knew about and was involved in the prisoners' transfer from the Sandići Meadow to the Kravica Warehouse, he blatantly lied when questioned about this by the OTP, claiming that Stupar told him the following:

...a military unit brought this large number of prisoners from Sandići to that place<sup>4789</sup>... Stupar told me that Lukić's forces brought those, all those persons there.<sup>4790</sup>

2133. **BOROVČANIN** then suggested that he was not sure how the prisoners were brought to the Kravica Warehouse, saying:

I presume that they walked to that other place.<sup>4791</sup>

2134. Finally, he said that the decision to move the Muslims from the Sandići Meadow to the Kravica Warehouse was made by:

Many representatives of the Army were present or maybe 300 metres from that spot when this event occurred...[not] a military unit, but a group of officers ...that was present there during the speech<sup>4792</sup> [meaning, present at the Sandići Meadow during General Mladić's speech].

2135. It is apparent that **BOROVČANIN** lied about the presence of other MUP units, and VRS representatives, including Lukić's men, in order to distance himself and his units from the capture and detention of the Muslim men along the road, and the subsequent murder of those men at the Kravica warehouse. All of these answers were

<sup>4788</sup> Exh. P02853, **BOROVČANIN** March Interview, pp. 139-140.

<sup>4789</sup> Exh. P02853, **BOROVČANIN** March Interview, p.64.

<sup>4790</sup> Exh. P02853, **BOROVČANIN** March Interview, p.65.

<sup>4791</sup> Exh. P02853, **BOROVČANIN** March Interview, p.65.

<sup>4792</sup> Exh. P02853, **BOROVČANIN** March Interview, pp.71-72.

deliberate attempts by **BOROVČANIN** to distance himself from the crimes which were committed that day.

2136. It is not credible that another military unit could have established itself in the middle of **BOROVČANIN**'s line, moved 1,000 prisoners along a road over which **BOROVČANIN** had responsibility, established a new detention facility and then murdered the prisoners. **BOROVČANIN**'s units would have had to have been involved in this operation, and as the evidence shows, were present and involved at all stages.

2137. **BOROVČANIN**'s statement that additional MUP units not under his command were deployed to the Road is patently false and is yet another attempt by **BOROVČANIN** to dissociate himself, and the units under his command, from the capture and detention of prisoners along the Road and their subsequent murder at the Kravica Warehouse.

2138. The 2<sup>nd</sup> Company, Jahorina Training Centre, which was deployed to the road on 13 July, clearly fell under **BOROVČANIN**'s command, as did the senior Special Police Brigade officers in the area, with command authority over the Special Police Brigade forces already deployed on the road.

2139. The deployment of the 5<sup>th</sup> Company, Zvornik PJP, is specifically mentioned in Vasić's dispatches of 12 and 14 July<sup>4793</sup> and in **BOROVČANIN**'s 5 September Report.<sup>4794</sup> It is probable that this unit was deployed at some location in the wider area between Bratunac and Zvornik; however, there is no evidence that these troops were present on the Bratunac – Konjević Polje road between Kravica and Hrnčići. If the 5<sup>th</sup> Company was deployed along the road, however, it would also have fallen under **BOROVČANIN**'s command, for the same reasons as stated above.

2140. **BOROVČANIN**'s claim that additional MUP units were present along the road and deployed under a separate chain of command<sup>4795</sup> is clearly disproved by their absence in the Petrović Video. If these forces were deployed on 13 July, they would have appeared on the Petrović Video footage of the road between Kravica and Hrnčići, or with the men who were captured at the Sandići Meadow and later killed at the Kravica Warehouse. Such forces did not appear on the Petrović Video. Moreover, had such units been present, they would have featured in the detailed dispatches being sent daily or even

<sup>4793</sup> Exh. P00060, CJB Zvornik Report No. 281/95, type-signed Dragomir VASIĆ, dated 12 July 1995; Exh. P03112, CJB Zvornik Dispatch No. 12-6/08-508/95, signed Dragomir VASIĆ, dated 14 July 1995..

<sup>4794</sup> Exh. 4D00510, 5 September Report, at ERN:4D05-1186.

<sup>4795</sup> Exh. P02853, **BOROVČANIN** March Interview, pp. 58, 60.

more frequently by Dragomir Vasić, as well as featured in **BOROVČANIN**'s 5 September Report. The fact that there is no mention of these additional units in the area under **BOROVČANIN**'s control demonstrates that there was no deployment there.<sup>4796</sup>

2141. **BOROVČANIN**'s claim that he saw Milan Lukić's unit on 13 July along the road and at the warehouse<sup>4797</sup> is entirely refuted by evidence both that the road was under **BOROVČANIN**'s control on 13 July (see paras 1936 to 1950) and that Lukić's unit had not yet arrived in Srebrenica. An intercepted conversation at 19:19 hours on 13 July 1995 reveals that by the evening of 13 July, Lukić's unit from Višegrad, with its Commander, Boban Indžić, had not yet arrived in the Srebrenica area as "their vehicle broke down" on the way:

...X – Send it. Send that bus towards Višegrad, Podromanija, Rogatica and further on. When he comes across a bus with a group of soldiers, those are the ones from Višegrad. Boban is their commander.

Y - Say again?

X – Boban Indžić, and then bring them on to the command in Bratunac.

Y - ....

X – Go ahead and send that driver immediately. Their vehicle broke down. They should have been here already.

Y – I'm sending the bus, immediately.

X – Please, send it right away...<sup>4798</sup>

2142. Finally, given **BOROVČANIN**'s admission that he had been present while General Mladić was speaking to the prisoners, and would have known who else was there, **BOROVČANIN**'s story about the unknown VRS officers is without merit.

2143. In sum, **BOROVČANIN** clearly lied about the presence of additional units along the Road and at the Kravica Warehouse in order to distance himself from the capture, detention and transportation of the Muslim prisoners along the Road to the Kravica Warehouse where they were murdered.

**BOROVČANIN admitted he was at the Kravica Warehouse with 2<sup>nd</sup> Šekovići Detachment Commander Miloš Stupar.**

2144. **BOROVČANIN** told the Prosecution that, upon his arrival at the Kravica Warehouse, he asked Miloš Stupar what role the police officers at the Kravica Warehouse played in the shooting. According to **BOROVČANIN**, Stupar responded that "the police

<sup>4796</sup> The disposition of MUP units described in Vasić's 14 July report (Exh. P03112) indicates that other units were assigned to duties elsewhere, while the only MUP units positioned between Kravica and Konjević Polje were the 1<sup>st</sup> Company, Zvornik PJP, 2<sup>nd</sup> Šekovići Detachment, and Jahorina Training Centre troops.

<sup>4797</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 65.

<sup>4798</sup> Exh. P01147(a), Intercept dated 13 July 1995 at 19:19 hours.

officers did not participate in the shooting.”<sup>4799</sup> At that point, according to **BOROVČANIN**, he “placed Čturić, who was injured, in the car” and took him to the Bratunac Health Centre.<sup>4800</sup>

2145. **BOROVČANIN** admitted that when he arrived at the Kravica Warehouse he saw “police officers that were previously placed along the road...gathered there.”<sup>4801</sup> More specifically, he admitted that 2<sup>nd</sup> Šekovići Detachment members were present at or near the Kravica Warehouse around the time he arrived, including 2<sup>nd</sup> Šekovići Detachment Commander Miloš Stupar, Deputy Commander Rade Čturić (“Oficir”),<sup>4802</sup> and approximately thirty or more “others.”<sup>4803</sup>

2146. **BOROVČANIN**’s statement during his OTP interview that members of his MUP forces were present at or near the Kravica Warehouse when he arrived, but that his forces had nothing to do with the killings which allegedly started to avenge 2<sup>nd</sup> Šekovići Detachment member Krsto Dragičević’s death, is fabricated. The colleagues of the dead police officer would be those most likely seek revenge; their vengeful attitude and reaction to Dragičević’s death is described in the article that Zoran Petrović published on 21 July 1995:

...The one who killed the policeman died on the spot, but that is small consolation for these combatants. The special unit members do the job the Israeli way: with a minimum of casualties, each death being an immense loss to them.<sup>4804</sup>

2147. While **BOROVČANIN** admitted that certain Special Police Brigade members were present upon his arrival at the Kravica Warehouse, **BOROVČANIN**’s account of who he saw at the warehouse was patently designed to hide the fact that the warehouse was guarded by his forces. However, as **BOROVČANIN** was captured on tape the Kravica Warehouse,<sup>4805</sup> he could not deny that he was there.

<sup>4799</sup> Exh. P02853, **BOROVČANIN** March Interview, pp. 64, 65:1

<sup>4800</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 65: 1-3. It is not possible to determine if **BOROVČANIN** actually took Čturić to the health centre as he told the Prosecution. It is possible he did so, leaving Miloš Stupar there to take care of any further security concerns related to the executions. The Bratunac Health Centre logs shows Čturić arriving at 17:40 hours which would be consistent with **BOROVČANIN** arriving at the warehouse between 17:15 and 17:20 hours, staying roughly ten minutes to provide direction to Stupar and then driving the ten minutes into Bratunac with Čturić.

<sup>4801</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 64.

<sup>4802</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 64.

<sup>4803</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 72. When asked who could identify the VRS officers he claimed were present near the Kravica Warehouse when he arrived, **BOROVČANIN** referred to “...police officers who were there, certainly can tell you their names. So, if you talk to Stupar, Pantić and others... that they would point out to other people, because I believe there is at least 30 people who can confirm that in a better way than I.”

<sup>4804</sup> Exh. P00469, p.5 in eCourt (English).

<sup>4805</sup> Z.PETROVIĆ, T.18800-18809.

**BOROVČANIN'S Defence: The Kravica massacre occurred as a sudden reaction to a prisoner shooting Serb soldiers, not pursuant to any orders**

2148. **BOROVČANIN** told the Prosecution that while he was driving with Petrović about two to three kilometres east of Konjević Polje,<sup>4806</sup> he heard shooting and detonations over the radio<sup>4807</sup> and contacted his subordinate commander Miloš Stupar. Miloš Stupar told him “something terrible is going on” and asked **BOROVČANIN** to come back.<sup>4808</sup> **BOROVČANIN** responded by telling Stupar that he would come back “straight away.”<sup>4809</sup>

2149. **BOROVČANIN** and Petrović turned their car around and headed back to the area of Sandići and Kravica, where he said that Stupar had been assigned.<sup>4810</sup> **BOROVČANIN** stated they drove past Sandići and stopped at the Kravica Warehouse because he saw a group of police officers gathered there with men from Milan Lukić's army unit and “a large number of bodies”.<sup>4811</sup>

2150. **BOROVČANIN** stated that he asked Stupar what happened. Stupar told him that Muslims prisoners were being brought from Sandići to the “backyard or yard” of the warehouse when a Muslim grabbed someone's gun and shot and killed a police officer,<sup>4812</sup> whereupon Rade Čturić grabbed the barrel of the gun used by the Muslim and burned his hand badly on the hot barrel.<sup>4813</sup> Following this, Milan Lukić's men responded by shooting the Muslim and “mass killings” occurred.<sup>4814</sup>

2151. The Prosecution does not contest that part way through the executions, a Muslim man took a rifle from a Serb and fatally shot Krsto Dragicević, a 2<sup>nd</sup> Sekovići Police Officer; shot Miroslav Stanojević, a member of the Bratunac Brigade's Red Beret unit through the elbow; and that Rade Čturić burned his hands when he grabbed the hot barrel of the gun used by the Muslim. This basic scenario is corroborated by the Bratunac Health Centre log that shows Čturić was treated for burned hands;<sup>4815</sup> that Stanojević suffered a gunshot wound through his elbow; and that Dragicević was brought to the

<sup>4806</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 63:15.

<sup>4807</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 63:3-9.

<sup>4808</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 63:17-20.

<sup>4809</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 64:1.

<sup>4810</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 63:23-24.

<sup>4811</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 64:8-12.

<sup>4812</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 64:12-18. Pepić does not recall seeing any dead member of his unit being transported to Bratunac. PEPIĆ, T. 13562, 13598.

<sup>4813</sup> CELIĆ, T. 13480-13482; DURIC, T. 10828-10829; [REDACTED], PEPIĆ, T. 13562, Exh. P02853, **BOROVČANIN** March Interview, at p. 64:22-23.

<sup>4814</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 64:24-26.

<sup>4815</sup> Exh. 4DP01892, Bratunac Health Centre Log.



health centre deceased. Several other witnesses attest to the basic story as well.<sup>4816</sup> However, **BOROVČANIN**'s claim that this incident started the mass execution of at least 1,000 Muslims is patently absurd and is, in any event, plainly contradicted by a strong body of credible and reliable evidence.

**It is not reasonable to conclude at least 1,000 prisoners were murdered as a spontaneous reaction in the presence of MUP Commanders**

2152. Serb soldiers could kill individual Muslim prisoners out of anger, revenge or under other "opportunistic" circumstances, such as we have seen in murders in Potočari and at the Vuk Karadžić School and surroundings. However, Serbs soldiers would not, acting on their own, without orders, suddenly strike out and kill at least 1,000 Muslims, detained in three separate rooms in a large warehouse. The time and resources required in terms of men, ammunition, clean up and burial could not have been a burden taken on by a few individuals acting on their own. Such an immense unauthorised killing spree undertaken during the midst of the forcible transfer operation would have seriously disrupted the transportation of Muslim women and children in convoys out of Potočari and exposed any perpetrators to the wrath of their commanders. The Kravica Warehouse mass execution could only have been carried out in an organised and systematic fashion, so as to be conducted in conjunction with the convoy transportation process. What is more, we can see from the accounts of the survivors and witnesses that these murders were carried out systematically, beginning first with the stopping of traffic;<sup>4817</sup> continuing with the summary executions of at least 500 victims in the West room of the warehouse; moving on to the Centre room of the warehouse; and concluding with the execution of another 500 Muslims in the East room of the warehouse. Furthermore, we know from **BOROVČANIN** that his unit commanders Miloš Stupar and Rade Čuturić, along with several other police officers, as well as **BOROVČANIN** himself, were present while the executions were being carried out.<sup>4818</sup> Such executions, occurring in the very presence of senior commanders, could never have been carried out without the authorisation and/or approval of those commanders.

<sup>4816</sup> PEPIĆ, T.13561-13562; [REDACTED] PW-161, T.9363; TRSIĆ, T.27080-27081; Exh. P02853, **BOROVČANIN** March Interview, p. 64.

<sup>4817</sup> PEPIĆ, T.13557-13560.

<sup>4818</sup> Exh. P02853, **BOROVČANIN** March Interview, pp. 63-65.

**The executions at the warehouse started immediately after the last Muslim prisoner from Sandići was placed inside the West room of the warehouse, not after the burned hands incident**

2153. As noted above, Kravica survivor [REDACTED] PW-156 testified with certainty that the executions started immediately after the last Muslim prisoner was placed in the West room of the warehouse:

When the warehouse was filled, when the last person came in, he had nowhere to sit. And that soldier kicked him in the lower back. He cursed the son and said, "Sit down." He said, "Well, you can see I don't have anywhere to sit." And he fired a burst of fire and that knocked him down and then there was a burst of fire, all kinds of weapons.<sup>4819</sup>

2154. [REDACTED] PW-156 is a credible and reliable witness with no reason whatsoever to testify untruthfully. Nothing in [REDACTED] PW-156's clear and concise account of how the killings at the Kravica Warehouse started is similar to anything in the "burned hands" incident. While the "burned hands" incident did occur, it could not have occurred prior to killings as described by **BOROVČANIN**. **BOROVČANIN**'s version of events cannot be reconciled with [REDACTED] PW-156's accurate account. There is no question that the murders began at the West room and the two versions cannot have both happened at the West room—in any sequence or by any stretch of the imagination. Moreover, there is no reason whatsoever to doubt [REDACTED] PW-156's account, nor was any reason elucidated during cross examination. Had the executions started as a result of the "burned hands" incident, there would have been no "last person" coming into the West side of the warehouse who was shot when he did not find a place to sit down, as per [REDACTED] PW-156's testimony. In addition, the account provided by [REDACTED] PW-156 makes logical sense—the murders began when the warehouse was full and were carried out in a logical and systematic sequence, first the West room, then the Centre room and lastly the East room.

**BOROVČANIN arrived at the warehouse when all the men in the West room and Centre room of the warehouse were dead or incapacitated and only a matter of a few minutes after the "burned hands" incident, therefore the "burned hands" incident could not have started the executions**

2155. At the time Petrović and **BOROVČANIN** drove by the warehouse a large number of Muslim bodies were piled up in front of the large opening of the warehouse and along side the front of the warehouse and in the Centre room. Moreover, two Serb soldiers can be seen in the video with their backs to the dead Muslims and the open door of the warehouse, provide a clear indication there were no longer any living Muslims in that

<sup>4819</sup> [REDACTED] PW-156, T.7094-7095.

side of the warehouse who needed to be guarded when **BOROVČANIN** and Petrović arrived.<sup>4820</sup>

2156. **BOROVČANIN**'s account blaming the massacre on the "burned hands" incident is patently false. Given the fact that **BOROVČANIN**, as he stated to the Prosecution, drove quickly to the warehouse after receiving a report from his commander at the scene, he must have arrived within a few minutes at most of the actual "burned hands" shooting incident.<sup>4821</sup> If the killing had suddenly started as a result of the "burned hands" incident there is no possible way the executioners would have been able to kill everyone in the West room and Centre room of the warehouse before **BOROVČANIN** and Petrović arrived. It is inconceivable that the VRS could have killed or incapacitated at least 500 Muslims within the three to five minutes it would have taken **BOROVČANIN** to drive to Kravica. Therefore, the "burned hands" incident must have taken place well after the executions had begun, and did not precipitate them.

2157. Moreover, **BOROVČANIN**'s claim that he was close to Konjević Polje at the time he received the urgent call for help is simply not credible. From the Petrović Video, prior to arriving at the warehouse, **BOROVČANIN** and Petrović can be seen returning towards Sandići and Kravica when the time 16:49 hours appeared on the screen. They were present in the video at the Sandići area at some time thereafter. For **BOROVČANIN** to have been two kilometres east of Konjević Polje when he received the call for help from Stupar, he and Petrović would have had to get in their car at Sandići and go back in the direction from which they had already come—which makes no logical sense, since **BOROVČANIN** had just come from that direction reviewing the troops.

2158. As Petrović was filming the Sandići area at this time, heavy, intense automatic gunfire can be heard in the background, and one of the vehicles at Sandići speeds away in the direction of Kravica.<sup>4822</sup> The intense gunfire, occurring while **BOROVČANIN** was present at Sandići, prior to his arrival at the murder scene of the Kravica Warehouse, supports the conclusion that the executions were taking place while **BOROVČANIN** was reviewing his troops in the Sandići area. It would have taken **BOROVČANIN** less than two minutes to drive from the Sandići Meadow area to the Kravica Warehouse, therefore

<sup>4820</sup> Exh. P02011, Video by Journalist Zoran Petrović, Studio B version.

<sup>4821</sup> Exh. P02853, **BOROVČANIN** March Interview, pp. 63-64.

<sup>4822</sup> Exh. P02000, Video footage shot by Zoran PETROVIĆ during July 1995 – provided by the BBC, at 24'00" – 24'15". The man in green boots who walks onto the road is seen to look up when the tyre-screach is heard, and then step back towards the side of the road. This indicates that the car was travelling towards him, *i.e.*, from Sandići meadow towards Kravica, and he moved out of the way.

he would have arrived at the warehouse less than five minutes after the “burned hands” incident occurred.

2159. Even under **BOROVČANIN**’s version that he was two kilometres east of Konjević Polje at the time, he would still have arrived at the warehouse within four to five minutes. Driving at 100 kilometres per hour, on a flat road and with an experienced driver, it would not have taken any longer than this to drive the six kilometres to the Kravica Warehouse.

2160. Accordingly, **BOROVČANIN** arrived at the warehouse when all the men in the West room and Centre room were dead or incapacitated and less than five minutes after the “burned hands” incident, occurred. Therefore the “burned hands” incident could not have started the executions.

2161. Had the Kravica Warehouse executions been a sudden and unplanned mass murder carried out in response to the “burned hands” incident, **BOROVČANIN** would have had to, in his own words, “interfere” in the matter, if only to protect his own troops both from possible assault at the hands of the Muslims and to avoid any possible blame for the mass killings. As noted above, such a large-scale execution so near to the Bratunac- Konjević Polje Road, unplanned, would have certainly disrupted the crucial forcible transfer operation of the Muslims from Potočari along this road. Moreover, there was the real risk that one of the many internationals in the area would have seen the executions which would have immediately opened up the RS to extreme international criticism.

2162. There is no question that the Kravica Warehouse executions were planned in advance with the involvement of **BOROVČANIN** and his units. **BOROVČANIN** had ensured the traffic along the Konjević Polje Road was stopped to facilitate the murders; the convoys were stopped at the Kravica village, 700 metres from the warehouse, where the people on the convoys could not have witnessed the mass executions, as opposed to stopping the convoys closer to the warehouse which would have sufficed if the only reason to stop the traffic was to allow the men to walk to the warehouse. He also had ensured the availability of buses to place strategically in front of the warehouse before the convoys resumed; hay was on hand to cover up the blood following the executions; and excavators arrived next morning to dig the mass graves and clear out the bodies from the warehouse. Notably, all of these actions occurred while **BOROVČANIN** and his units controlled the Kravica Warehouse and the surrounding area, demonstrating his responsibility for, and his involvement in, the murders there.

### Conclusion

2163. General Mladić and General Krstić were present with **BOROVČANIN** at the Sandići Meadow on the afternoon of 13 July when Mladić lied to the assembled masses of Muslim men. Mladić ordered their summary execution and those executions were carried out by **BOROVČANIN** and his men---beginning at approximately 17:00 hours, right after **BOROVČANIN** stopped the convoy traffic in the village of Kravica. The executions were mostly completed by nightfall, and the clean up along with additional killings began the next morning and went on throughout 14 July. **BOROVČANIN**'s various falsehoods and fabrications cannot be supported in light of the overwhelming evidence that he and his units were involved with the victims from the morning of 13 July through their removal on 14 July.

### (GG) INDIVIDUAL CRIMINAL RESPONSIBILITY OF BOROVČANIN UNDER ARTICLE 7(3) OF THE STATUTE.

#### (cli) Superior-Subordinate Relationship.

2164. During the period relevant to the Indictment, Ljubomir **BOROVČANIN** was Deputy Commander of the RS MUP Special Police Brigade.<sup>4823</sup> On 10 July 1995, **BOROVČANIN** was appointed Commander of a joint force of MUP units for the Srebrenica operation and ordered to proceed to Bratunac to report to General Krstić. The joint force of MUP units included elements of the 2<sup>nd</sup> Šekovići Detachment of the RS Special Police, elements of the 1<sup>st</sup> PJP Company of the Zvornik Municipality Police and the 1<sup>st</sup> Company from the Jahorina Training Centre.

2165. Pursuant to the 10 July Order, the three MUP units were resubordinated to the Chief of Staff of the VRS Drina Corps, General Krstić, whilst remaining under the direct command of their own commander, Ljubomir **BOROVČANIN**.<sup>4824</sup> **BOROVČANIN** remained as Commander of these MUP units until at least 15 July 1995.

<sup>4823</sup> Exh. P02852, **BOROVČANIN** February Interview, p. 6; Exh. P02857, Document brought by **BOROVČANIN** to the interview on 20 February 2002 and marked Document 3: Official Memo assigning Ljubomir **BOROVČANIN** - Former Deputy Cdr RS Special Police Brigade - as temporary Deputy Cdr RS Special Police Brigade in 1994, dated 24 February 1994.

<sup>4824</sup> Exh. 4DP00725, RS Law on the Implementation of the Law on Internal Affairs During an Imminent Threat of War or a State of War of 29 November 1994. Kovač's order designated **BOROVČANIN** commander of the mixed unit and directed him to report to establish contact with Gen. Krstić. (Exh. P00094, 10 July Order). See also BUTLER, T.19817. **BOROVČANIN** had the task of commanding and leading MUP units, and those MUP units were resubordinated through him to the Chief of Staff of the Drina Corps, Gen. Krstić, through whom **BOROVČANIN** would receive orders from the Drina Corps Command. ([REDACTED] PW-160, T.8670-8671). **BOROVČANIN** would then forward those orders through the MUP chain of command to [REDACTED] PW-160 and the subordinate MUP units. ([REDACTED] PW-160, T.8671). The MUP units could be used to perform tasks through

2166. **BOROVČANIN** had a superior/subordinate relationship with all members of the joint police forces of MUP units under his command, including with the Commander and Assistant Commander of the 1<sup>st</sup> Company from the Jahorina Training Centre, Duško Jević and Mendeljev Đurić. As the Commander of these MUP units, **BOROVČANIN** had the ability to prevent and punish the crimes of his subordinates.

2167. The only suggestion that **BOROVČANIN** was relieved of his command over any of his troops during the period from 11 through 14 July came from **BOROVČANIN** himself. **BOROVČANIN** falsely claimed that on the afternoon of 12 July, General Mladić ordered **BOROVČANIN** to Zvornik and, as a result, from that afternoon, **BOROVČANIN** was relieved of his command over the Jahorina Training Centre's 1<sup>st</sup> Company which he left behind in Potočari under the command of the Bratunac Brigade. However, the evidence clearly supports the opposite conclusion; that indeed, **BOROVČANIN** was in command of the Jahorina troops, and the other MUP units designated to be under his command in the 10 July Order, from 11 July until at least 14 July.<sup>4825</sup>

2168. The sole reason **BOROVČANIN** would have for deliberately lying to the Prosecution about his command function was because he was fully aware of the crimes committed by his troops against the Srebrenica Muslims. Specifically, **BOROVČANIN**'s units assisted the VRS to separate, detain and transport the Muslim men and boys in Potočari, with the knowledge that they would be summarily executed, and assisted in the transport of the women, children and elderly out of Potočari with the knowledge that the population was being forcibly removed from the Srebrenica area.

(cli) **Knew or had reason to know about commission of crimes.**

2169. The evidence in this case clearly shows that **BOROVČANIN** was fully aware of the commission of the crimes by his subordinates in locations in and around Potočari, Sandići and the Kravica Warehouse from 11 until 15 July 1995. In fact, **BOROVČANIN** was physically present during the commission of a number of heinous crimes by MUP

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**BOROVČANIN**, to be given a task from him at the level of the Drina Corps, and to carry out such specified tasks; **BOROVČANIN** would be the person relaying that order into the MUP line of command from the military. ([REDACTED] PW-160, T.8696).

<sup>4825</sup> **BOROVČANIN**'s false defence is nullified by evidence including **BOROVČANIN**'s own reports to his superiors of 13 July and 5 September 1995; witness testimony, including from **BOROVČANIN**'s subordinate [REDACTED] PW-160, [REDACTED]; footage from the Petrović Video; and, tellingly, the lack of evidence adduced by the **BOROVČANIN** Defence in their own case to support that he was ordered by Mladić to Zvornik and that from then the Jahorina troops were no longer under **BOROVČANIN**'s command.

units under his command including: the forcible transfer of the Muslim women and children in Potočari on 12 and 13 July; the separation of the men in Potočari on 12 and 13 July and their subsequent detention and abuse; the capture of Muslim men by his troops along the Bratunac-Konjević Polje Road and their detention, abuse and murder in the Sandići Meadow on 13 July; and his units' participation in the transfer, guarding and murder of at least 1,000 Muslim men at the Kravica Warehouse on 13 July.

2170. First, from **BOROVČANIN**'s own 5 September Report and his admissions, and from the admissions of his subordinates, it is clear that he was present in Potočari while MUP units under his full command and control took part in the initial separations and transportation of the Muslim population on 12 and 13 July. As such, he would have witnessed first-hand the horrendous nature of the boarding process and the separation of the Muslim men from their families. In addition, **BOROVČANIN** would have received reports from his subordinates concerning everything of significance that his units were involved in that day.

2171. Second, **BOROVČANIN**'s own statements to the OTP, documentary evidence, witness testimony and the Petrović Video establish that **BOROVČANIN** was present with his MUP forces during their deployment along the Bratunac-Konjević Polje Road from 12 through 14 July while his forces were taking part in capturing and detaining Muslim men attempting to cross the road. The evidence shows that **BOROVČANIN** was present in the Sandići Meadow, in the place where his troops detained the Muslim prisoners before they were transported to other detention or execution sites. Significantly, these prisoners were mistreated, abused, and some were killed, while they were detained in the Sandići Meadow.

2172. Third, the evidence in this case demonstrates that **BOROVČANIN** was present at the Kravica Warehouse on the afternoon of 13 July while MUP units under his command took part in the guarding and execution of at least 1,000 Bosnian Muslim prisoners who had been transported by **BOROVČANIN**'s troops from the Sandići Meadow to the Kravica Warehouse for execution.

2173. Nevertheless, despite having knowledge of, and even having witnessed first-hand, his subordinates' involvement in the above crimes, **BOROVČANIN** did not take any steps to prevent his subordinates from committing these crimes, nor to investigate or punish the commission of these crimes by his subordinates.

2174. As one of the most senior commanders in the most elite armed force in the RS, **BOROVČANIN** was undoubtedly fully aware of his duty to ensure his subordinates reported on crimes such as the Kravica Warehouse killings, as well as of his own duty to report and investigate such killings. Tellingly, in an intercepted conversation at 20:40 hours on 13 July, merely hours after the Kravica Warehouse executions, **BOROVČANIN** was presented with the opportunity to report these killings to his commander, General Krstić. However, **BOROVČANIN** was silent about the killings and his units' involvement; simply reporting "It's going well."

2175. Moreover, **BOROVČANIN** did not report on, and admitted to the Prosecution that he never asked nor ordered any of his subordinates to write a report on, the Kravica killings.<sup>4826</sup> Indeed, he was never interviewed by anyone in relation to the killings prior to his interview with the Prosecution in 2002.<sup>4827</sup>

2176. **BOROVČANIN** personally witnessed, and as such was clearly on notice, that crimes of enormous magnitude had occurred in his area of responsibility, with the involvement of MUP units under his command, and it was his legal duty to make further inquiries and investigations about all of these crimes.

(cliii) **Failed to prevent or punish.**

2177. The final requirement under Article 7(3) is that the superior failed to take "necessary and reasonable measures" to satisfy his obligation to prevent offences or punish the perpetrators.<sup>4828</sup> There is no evidence in this case to indicate that **BOROVČANIN** tried to prevent or punish subordinates under his command for their involvement in crimes committed against Muslims at any time relevant to the Indictment.

2178. In fact, **BOROVČANIN** was present during the commission of several horrendous crimes by his subordinates, which he witnessed, yet did nothing to prevent. In fact, **BOROVČANIN**'s mere presence during the commission of these crimes by forces under his command signalled his tacit approval and encouragement of these crimes by his subordinates, without **BOROVČANIN** even having to express or articulate such approval or encouragement. Finally, as commander of a force of MUP units, **BOROVČANIN** had the responsibility to ensure the safety and welfare of Bosnian Muslim prisoners within the area under his custody or control, including from harm by **BOROVČANIN**'s subordinates or any armed persons. He failed to do so.

<sup>4826</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 69:20-21.

<sup>4827</sup> Exh. P02853, **BOROVČANIN** March Interview, p. 70:14.

<sup>4828</sup> *Čelebići* TJ, para. 394; *Krnjelac* TJ, para. 95.



(X) **INDIVIDUAL CRIMINAL RESPONSIBILITY OF LJUBIŠA BEARA UNDER ART. 7(1) OF THE STATUTE**

(HH) **INTRODUCTION**

2179. Col. Ljubiša **BEARA** graduated from the Yugoslav Military and Naval Academy in 1962. In 1964, he worked in Brioni, in the residence of President Tito, as Commander of the Guards. He joined the JNA Security Services, transferring to Split in 1971, and Kumbor in 1979.<sup>4829</sup> **BEARA** was promoted to Naval Captain and in 1985 served as the Assistant Chief of the Security Department and Deputy Chief of the 8<sup>th</sup> Naval Military District.<sup>4830</sup> In late 1991, after the outbreak of hostilities in Croatia, **BEARA** continued to serve in the JNA, in the security organ of the naval military district, whose command had relocated from Split to Kumbor. **BEARA** was Gen. Tolimir's superior at this time.<sup>4831</sup>

(cliv) **Role and responsibilities of Ljubiša BEARA.**

2180. In September 1992, **BEARA** was appointed as the Chief of the Security Administration of the VRS Main Staff, in the rank of Colonel.<sup>4832</sup> He remained in this position at all times relevant to the events described in the Indictment.<sup>4833</sup> As Chief of the Security Administration, **BEARA** was under the direct command of General Mladić.<sup>4834</sup> **BEARA**'s immediate professional superior was Gen. Tolimir, the Main Staff Assistant Commander for Intelligence and Security.<sup>4835</sup>

2181. As Chief of the Main Staff Security Administration, **BEARA** was responsible for the professional management of the security organs of the VRS and of the military police.<sup>4836</sup> He was also responsible for counter-intelligence activities.<sup>4837</sup> He was directly responsible for the professional management of the military police elements of the units under Main Staff command, including the Military Police Battalion of the 65<sup>th</sup> Motorized Protection Regiment.<sup>4838</sup> **BEARA** was the professional superior of the security officers in the subordinate VRS formations including **POPOVIĆ** (Drina Corps), Momir Nikolić (Bratunac Brigade) and Drago **NIKOLIĆ** and Milorad Trbić (Zvornik Brigade).

<sup>4829</sup> Exh. 2D00664 (92bis witness statement of Nada **BEARA**).

<sup>4830</sup> MITROVIĆ, T.25040-25041.

<sup>4831</sup> MITROVIĆ, T.25044-25046.

<sup>4832</sup> MILOVANOVIĆ, T.12153. See also MRKOVIĆ, T.24279, who gives the date as sometime in November or December 1992.

<sup>4833</sup> M. NIKOLIĆ, T.32903.

<sup>4834</sup> VUGA, T.23328.

<sup>4835</sup> VUGA, T.23328.

<sup>4836</sup> VUGA, T.23327-23329.

<sup>4837</sup> VUGA, T.23327-23329.

<sup>4838</sup> SAVČIĆ, T.15227, 15271-15272.

2182. The VRS Security Administration adopted the JNA's rules and regulations.<sup>4839</sup> **BEARA** had served as a JNA Security Officer for over 20 years before the war and would have been familiar with these rules.<sup>4840</sup> The VRS Main Staff Security Administration also issued detailed instructions to subordinate security organs. These instructions set out the procedures to be followed when handling prisoners of war. **BEARA** would have known about the substance of these instructions and likely took part in their development and implementation. The instructions provide:

“All prisoners, members of the enemy army are to be handcuffed or their hands tied with anything available immediately after their capture. They are to be searched and all items are to be seized apart from their clothing and footwear. *An official record is to be compiled.*”<sup>4841</sup>

2183. **BEARA** was part of the close-knit group of former JNA officers, including Generals Tolimir and Mladić, who formed the core of the VRS Main Staff from the early months of the war. **BEARA** had a good personal relationship with Mladić, having known him since his JNA service.<sup>4842</sup> Mladić valued **BEARA**'s work and their relationship was marked by a high degree of mutual trust.<sup>4843</sup> **BEARA** regularly attended morning meetings of the Main Staff with Mladić and his assistants.<sup>4844</sup>

2184. Gen. Tolimir also held **BEARA** in high professional regard<sup>4845</sup> and had a close personal relationship with him.<sup>4846</sup> [REDACTED].<sup>4847</sup>

<sup>4839</sup> See Exh. P02764, Report titled, VRS Main Staff Command Responsibility Report, by Richard BUTLER, dated 9 June 2006.

<sup>4840</sup> M.MITROVIĆ, T.25046-25048.

<sup>4841</sup> Exh. P00196, Drina Corps Security Section instruction No. 17/450, re handling of war prisoners and other persons, signed by Maj Vujadin **POPOVIĆ**, Chief of Security, dated 15 April 1995 (emphasis added.). See also Exh. P00684 (BUTLER's VRS Brigade Command Responsibility Report) at 3.19: "...the Security organ, managing the military police branch, secures and escorts prisoners of war as required."

<sup>4842</sup> M.MITROVIĆ, T.25107-25108.

<sup>4843</sup> M. MITROVIĆ, T.25127-25128.

<sup>4844</sup> MILOVANOVIĆ, T.12188-12189: "Every morning at 7.00, there is a meeting of the Main Staff. Usually it is the inner circle which means General Mladić with all his assistants and regularly these morning meetings were attended by the chief of the operations administration, the chief of the intelligence administration, and the security administration, in addition to the assistant commanders. And it would usually be the commander, General Mladić, who would call the meeting to order and he would give the floor to the General Miletić standing in for the Chief of Staff, and then we – either me or him would inform all the present about the problems in the theatre of war and we would draw each sector's chief to what they had to pay attention" (emphasis added).

<sup>4845</sup> See also MITROVIĆ, T.25123-25124.

<sup>4846</sup> Exh. P03603/Exh. 2D00556, Audio recordings of intercepted conversation between Lj. **BEARA** and Z. Tolimir and thereafter Lj. Mrkovic and Z. Tolimir, dated 6 June 1995 (in which **BEARA** addresses Tolimir by his nickname "Tošo", and further calls him "bro"). Defence expert Slobodan Remetić stated that this term would be used as a term of familiarity. REMETIĆ, T.24660.

<sup>4847</sup> [REDACTED].

(clv) **Overview of the case against Ljubiša BEARA.**

2185. Ljubiša **BEARA** is individually criminally responsible under Article 7(1) of the Statute for the crimes with which he is charged in the Indictment as a member of two Joint Criminal Enterprises: (a) to forcibly remove the Muslim populations of Srebrenica and Žepa;<sup>4848</sup> and (b) to murder the able-bodied men of Srebrenica.<sup>4849</sup>

2186. As outlined below, Ljubiša **BEARA** made significant contributions to the execution of the common purpose of both JCEs and shared the intent with the other JCE members to commit the crimes which fell within the common purpose of the JCEs. Ljubiša **BEARA** is also responsible for ordering, planning, instigating and otherwise aiding and abetting the commission of crimes charged in the Indictment.

2187. On 10 or 11 July 1995, **BEARA** arrived in Bratunac. On 11 July, **BEARA** and **POPOVIĆ** met with Gen. Krstić at the Pribićevac IKM.<sup>4850</sup>

2188. By the morning of 13 July, **BEARA** was actively coordinating the detention of Muslim men captured at Nova Kasaba.<sup>4851</sup> On the afternoon of 13 July, **BEARA** started to procure engineering equipment for the mass burials that were about to occur.<sup>4852</sup>

2189. On the evening of 13 July, **BEARA** walked through Bratunac and surveyed the security situation at the various detention sites where thousands of Muslim men were detained.<sup>4853</sup> Later that night, **BEARA** instructed Momir Nikolić to go to Zvornik and pass on an order to Drago **NIKOLIĆ** to prepare for the transfer of these prisoners to the Zvornik area where they were to be murdered.<sup>4854</sup>

2190. In the early hours of 14 July, **BEARA** organised the burial of the Muslim men murdered at the Kravica Warehouse on the afternoon and evening of 13 July.<sup>4855</sup>

2191. On the morning of 14 July, **BEARA** met with **POPOVIĆ** and Drago **NIKOLIĆ** at the Zvornik Brigade HQ to plan the logistics of the murder operation.<sup>4856</sup> Also on 14 July, **BEARA** met with the Zvornik civilian authorities and told them that he expected assistance in burying the bodies of the murdered prisoners.<sup>4857</sup>

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<sup>4848</sup> See para. 78 of the Indictment.

<sup>4849</sup> See para. 40 of the Indictment.

<sup>4850</sup> See paras. 2203-2205.

<sup>4851</sup> See paras. 2211-2219.

<sup>4852</sup> See paras. 2220-2221.

<sup>4853</sup> See para. 2222.

<sup>4854</sup> See paras. 2223-2224.

<sup>4855</sup> See paras. 2225-2228.

<sup>4856</sup> See paras. 2229-2231.

<sup>4857</sup> See paras. 2238-2242.

2192. Later that morning, **BEARA** returned to Bratunac where he met with the civilian authorities and continued to arrange for engineering equipment to bury the bodies of the Muslim men murdered at the Kravica Warehouse the previous day.<sup>4858</sup>

2193. During the afternoon hours on 14 July, **BEARA** was present with **NIKOLIĆ** at the Petkovci School, from where Muslim prisoners were taken and murdered that night. **BEARA** coordinated and oversaw the murders of these prisoners.<sup>4859</sup>

2194. At 10:00 hours on the morning of 15 July, **BEARA** spoke with Gen. Krstić and asked for additional resources for the murder operation. **BEARA** told Krstić that “there are still 3,500 parcels that I have to distribute.”<sup>4860</sup> The 3,500 “parcels” were the Muslim men detained at the Ročević School, the Kula School, and the Pilica Dom. These Muslim men were murdered on 15 and 16 July. **BEARA** coordinated and oversaw these murders.

2195. On 16 July, **BEARA** was again at the Zvornik Brigade HQ. At 11:15 hours, **BEARA** received an order from the Main Staff, passed on by Drina Corps officer Col. Cerović, to perform “triage” on the prisoners.<sup>4861</sup> “Triage” was a codeword for murder.

2196. Later that morning, **BEARA** was in Pilica with **POPOVIĆ**, overseeing the transport and execution of the prisoners there.<sup>4862</sup> **BEARA** and **POPOVIĆ** organised the vehicles and the execution squad that murdered the prisoners at the Branjevo Farm and the Pilica Dom that day.

2197. In August 1995, **BEARA** led the VRS’s attempts to have the Serbian authorities hand over the Muslim men from Žepa who had fled across the Drina River to Serbia.<sup>4863</sup>

2198. In September and October 1995, **BEARA** supervised the work of security officers including **POPOVIĆ**, Drago **NIKOLIĆ**, Milorad Trbić and Momir Nikolić, in the reburial operation intended to conceal evidence of the July murders.<sup>4864</sup>

2199. Evidence including witness testimony, intercepts and the Zvornik Brigade Duty Operations Officer Notebook proves that **BEARA** worked closely with **POPOVIĆ**, Drago **NIKOLIĆ** and Momir Nikolić during this period in furtherance of the JCEs to murder the able-bodied men of Srebrenica and to forcibly remove the Muslim populations of Srebrenica and Žepa. Nonetheless, in the face of extensive evidence to the contrary,

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<sup>4858</sup> See paras. 2232.

<sup>4859</sup> See paras. 2243-2248.

<sup>4860</sup> See paras. 2253-2272.

<sup>4861</sup> See paras. 2275-2279.

<sup>4862</sup> See paras. 2280-2281.

<sup>4863</sup> See paras. 2288-2297.

<sup>4864</sup> See para. 2283.

**BEARA** claimed that he was not in the Bratunac or Zvornik areas during this period. This false alibi constitutes strong evidence of **BEARA**'s consciousness of wrongdoing and further supports the evidence that **BEARA** performed a pivotal role in the organisation, coordination and oversight of the JCE's charged in the Indictment.

**(II) BEARA KNEW OF, SIGNIFICANTLY CONTRIBUTED TO, AND SHARED THE INTENT WITH THE OTHER JCE MEMBERS TO PARTICIPATE IN THE JCE TO MURDER THE MUSLIM MEN FROM SREBRENICA.**

**(clvi) BEARA knew of the RS and VRS leadership's goal to remove the Muslim population from parts of eastern Bosnia and was informed about the military and security situation in that region.**

2200. **BEARA**'s duties included professional management of security organs and of the military police, as well as counter-intelligence activities.<sup>4865</sup> In the course of this work, and through his regular attendance at the VRS Main Staff's daily meetings,<sup>4866</sup> **BEARA** was provided with information about the security situation and the conduct of the VRS's military operations throughout Bosnia. In addition, his regular attendance at the Main Staff's daily meetings ensured that he knew about the RS and VRS leadership's intentions to remove the Muslim population from parts of Eastern Bosnia.

2201. During the war, **BEARA** frequently visited Corps and Brigade Security Organs<sup>4867</sup> He knew security officers Vujadin **POPOVIĆ**, Momir Nikolić and Drago **NIKOLIĆ**. **BEARA** frequently went to the Bratunac Brigade HQ, either to inspect the security organs, or to see Momir Nikolić.<sup>4868</sup> **BEARA** was also a frequent visitor to the Zvornik Brigade HQ before July 1995,<sup>4869</sup> and was familiar with Drago **NIKOLIĆ**. This is highlighted in an intercepted conversation wherein **BEARA** causally refers to **NIKOLIĆ** as simply "Drago."<sup>4870</sup>

2202. **BEARA** had first-hand knowledge of the military and security situation in the Drina Corps zone of responsibility and in particular, around the Srebrenica and Žepa enclaves.<sup>4871</sup> Major Pieter Boering<sup>4872</sup> testified that during the months before the VRS's

<sup>4865</sup> VUGA, T.23327-23328.

<sup>4866</sup> MILOVANOVIĆ, T.12188-12189.

<sup>4867</sup> See MRKOVIĆ, T.24279-27280.

<sup>4868</sup> ČELANOVIĆ, T.6629; MOMIR **NIKOLIĆ**, T.33192-33193.

<sup>4869</sup> Exh. 3D00511, Witness statement - Nada Stojanović, pp. 28-29; p.39.

<sup>4870</sup> Exh. P01179(c), Intercept dated 15 July 1995, 10:00 hours English translation of printout.

<sup>4871</sup> **BEARA** actively sought information about the situation on the ground, and was in close contact with his professional subordinates who were obliged to keep him fully informed. See P02741, Instruction on command and control over the Security and Intelligence organs of the VRS from the Main Staff of the VRS, No. 18/20-414/94, signed by Ratko Mladic, dated 24 October 1994, pp.2-3 (stating, at paragraph 4: "Security and intelligence organs at all levels must submit to the superior organ in the professional sense, in

attack on Srebrenica in 1995, **BEARA** sought information from him concerning the situation inside the enclave.<sup>4873</sup> During their first meeting, **BEARA** posed “very focused” questions about potential ABiH positions in the enclave.<sup>4874</sup> During their second meeting, **BEARA** was “extremely interested” in events relating to the Srebrenica enclave, and in particular, the leadership of Naser Orić.<sup>4875</sup>

**(clvii) On 11 July, BEARA and POPOVIĆ met Gen. Krstić at the Drina Corps IKM at Pribićeovac.**

2203. On 11 July 1995,<sup>4876</sup> **BEARA** and **POPOVIĆ** arrived at the Pribićeovac IKM with Miroslav Deronjić.<sup>4877</sup> Božo Momčilović<sup>4878</sup> heard from other people at the IKM who they were, and that they were security officers.<sup>4879</sup> He described **BEARA** as having grey hair, and being “a bigger man than **POPOVIĆ**”.<sup>4880</sup> When Momčilović later saw both **BEARA** and **POPOVIĆ** on television, he had no doubt that they were the same men as he had seen at the IKM.<sup>4881</sup>

2204. Gen. Krstić was present at the IKM when **BEARA** and **POPOVIĆ** arrived.<sup>4882</sup> Upon arriving, they would have spoken to Gen. Krstić.<sup>4883</sup> Given the developing situation, their discussion must have entailed prisoner issues as these were assigned to the Security Organs in the plans for the *Krivaja-95* operation.<sup>4884</sup>

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a timely fashion and the prescribed form, security and intelligence reports in accordance with the Rules of Services and the Instructions on Applying Work Methods and Means of the VRS OB...”, and at paragraph 6: “All security and intelligence organs and unit and institution command organs are obliged to provide every assistance in their operative work and tasks to the detached and deployed organs of the 410<sup>th</sup> ObC /Intelligence Centre/ and KOG /Counter-Intelligence Group/ of the VRS.”

<sup>4872</sup> Exh. 4D00025, OTP Witness statement by Witness Boering dated 3-6 February and 10 February 1998, p.2. Major Boering was responsible for civil and military liaison for DutchBat.

<sup>4873</sup> These meetings took place in late March (or early April) and late May (or early June) 1995. As regards the first meeting, Boering testified: “...we found Major Nikolić and Colonel **BEARA**, and *I was introduced to them*” (Emphasis added). BOERING, T.1876.

<sup>4874</sup> BOERING, T.1902-1904; 2121.

<sup>4875</sup> BOERING, T.1877; 2109-2111.

<sup>4876</sup> MOMČILOVIĆ, T.14088; 14110; 14114-14116.

<sup>4877</sup> MOMČILOVIĆ, T.14085.

<sup>4878</sup> Cpl. Momčilović was Bratunac Brigade desk officer for logistics. MOMČILOVIĆ, T.14072; 14112; TRIŠIĆ, T.27056-27057.

<sup>4879</sup> MOMČILOVIĆ, T.14086.

<sup>4880</sup> MOMČILOVIĆ, T.14110-14111; 14117-14118.

<sup>4881</sup> MOMČILOVIĆ, T.14085-14088.

<sup>4882</sup> MOMČILOVIĆ, T.14122. **BOROVČANIN** corroborated General Krstić’s presence at Pribićeovac at around 12:00 to 13:00 hours on 11 July. Exh. P02852, **BOROVČANIN** 20 February 2002 interview, at pp.27-28 in eCourt (English).

<sup>4883</sup> MOMČILOVIĆ, T.14122: “It was customary for everybody who arrived to report to General ŠKrstićĆ and then to proceed.”

<sup>4884</sup> See P00107, Drina Corps Command Order 04/156-2, Operations Order No.1 Krivaja -95, dated 2 July 1995, p.7 in eCourt: “...Security organs and military police will indicate the areas for gathering and securing prisoners of war and war booty. In dealing with prisoners of war and the civilian population behave in every way in accordance with the Geneva Conventions.”

2205. The fact that **BEARA** and **POPOVIĆ** met Gen. Krstić at the Pribićevac IKM on 11 July is consistent with their professional relationships and responsibilities as senior security officers. They would have to discuss and inform Krstić of prisoner- and other security-related matters and the whereabouts of the ABiH's 28<sup>th</sup> Division and the able-bodied men of Srebrenica would have been foremost in their minds.

**(clviii) Other evidence of BEARA's presence in Bratunac on 10 - 12 July.**

2206. On 10 or 11 July, Zlatan Čelanović saw **BEARA** and **POPOVIĆ** with other officers in front of the Bratunac Brigade HQ building on the evening of 10 or 11 July.<sup>4885</sup>

2207. On 11 or 12 July, [REDACTED] PW-161, [REDACTED], twice saw **BEARA** in Bratunac, once when passing by the Hotel Fontana, and again inside the hotel.<sup>4886</sup>

2208. **BOROVČANIN** saw **BEARA** with Miroslav Deronjić in the centre of Bratunac, discussing the Muslim column moving towards Zvornik.<sup>4887</sup> The encounter must have taken place on 12 July or later, when the VRS had learned the whereabouts of the column.

2209. [REDACTED].<sup>4888</sup>

**(clix) On the evening of 12 July or the morning of 13 July, BEARA knew that prisoners would be brought to Bratunac.**

2210. On 12 or 13 July, Zlatan Čelanović met **BEARA** at the Bratunac Brigade HQ.<sup>4889</sup> Čelanović knew **BEARA**, having seen him on various occasions in 1993 and 1994.<sup>4890</sup> **BEARA** asked Čelanović whether he had any information about anybody who had committed crimes against the Serbian people, and spoke to him about interviewing prisoners.<sup>4891</sup> Based both on Čelanović's testimony and on the other evidence that **BEARA** was in the Bratunac area on those dates, it is clear that **BEARA** knew that prisoners would be brought to Bratunac.<sup>4892</sup>

<sup>4885</sup> Bratunac Brigade officer for morale, religious and legal affairs Zlatan Čelanović recognised ČELANOVIĆ, T.6654-6655. Čelanović knew **BEARA** having seen him on various occasions in 1993 and 1994. ČELANOVIĆ, T.6629.

<sup>4886</sup> [REDACTED] PW-161, T.9362; 9419-9420; 9500.

<sup>4887</sup> Exh. P02852, Transcript of OTP Interview of Ljubomir **BOROVČANIN**, dated 20 February 2002, pp.76-77.

<sup>4888</sup> [REDACTED].

<sup>4889</sup> ČELANOVIĆ, T.6628-6631.

<sup>4890</sup> ČELANOVIĆ, T.6629.

<sup>4891</sup> ČELANOVIĆ, T.6628-6632.

<sup>4892</sup> ČELANOVIĆ, T.6699.

**(clx) On 13 July, BEARA exercised control over the MP Battalion of the 65<sup>th</sup> Protection Regiment in the detention and transfer of prisoners at Nova Kasaba.**

2211. As recorded in an intercept at 10:09 hours on 13 July,<sup>4893</sup> **BEARA** gave information and instructions regarding prisoners to Major Zoran “Zoka” Malinić, Commander of the Military Police Battalion of the VRS Main Staff’s 65<sup>th</sup> Protection Regiment,<sup>4894</sup> and his deputy, Aleksandar Lučić.<sup>4895</sup> **BEARA** had professional authority to give such instructions to Malinić<sup>4896</sup> and also knew him well.<sup>4897</sup>

2212. **BEARA** first spoke to Malinić’s deputy, Lučić, and told him, “400 Balijas have shown up in Konjević Polje.” **BEARA** instructed Lučić to “ŠsĆhove them all on the playground, who gives a fuck about them?” **BEARA** then asked, “Do you have enough room over there?”, and said, “Well, it’s not really detention there at your place, it’s just – like that.” **BEARA** instructed Lučić to line up the prisoners “in 4-5 rows.” Next, **BEARA** spoke to Major Malinić, who informed him, “Well, here it’s...they’re killing themselves...there are also plenty of wounded...” **BEARA** responded, “You mean they’re doing it amongst themselves?” and, “Well, excellent. Just let them continue, fuck it.”<sup>4898</sup> **BEARA**’s reference to “it” is a reference to the murder operation and as such, **BEARA** was happy to hear that the Muslims were killing themselves because it would mean less work for **BEARA** and the VRS.

2213. **BEARA**’s instructions to Lučić to “Shove them all on the playground” and “line them up in 4-5 rows,” refer to putting the prisoners on the Nova Kasaba football field. Aerial imagery<sup>4899</sup> as well as the testimony of Muslim survivor [REDACTED] PW-117<sup>4900</sup> confirms that prisoners were indeed lined up in rows on the football field on 13 July, in accordance with **BEARA**’s instructions.

<sup>4893</sup> Exh. P01130[REDACTED], Intercept dated 13 July 1995, 10:09 hours.

<sup>4894</sup> SAVČIĆ, T.15278; SUBOTIĆ, T.24971; 24975.

<sup>4895</sup> SAVČIĆ, T.15236.

<sup>4896</sup> Milenko Jevdjević, a member of the Military Police Battalion of the 65<sup>th</sup> Protection Regiment, testified that **BEARA** had authority to give orders or instructions to Malinić. See JEVDJEVIĆ, T.23836: “...we were also under the intelligence and security administration, and it was quite logical for Colonel **BEARA** to send Major Malinić to deal with this, to carry out this task.”

<sup>4897</sup> JEVDJEVIĆ, T.23845: “I mostly saw [**BEARA**] around the Main Staff or in the Main Staff itself. We would go there quite often. We were mostly engaged in providing security for the Main Staff.”

<sup>4898</sup> The reliability of this intercept is confirmed by independent evidence that Malinić and Lučić were both at Nova Kasaba on 13 July. SUBOTIĆ, T.25014-25016; EGBERS, T.2757; SAVČIĆ, 15249. In the context of this conversation and the events then taking place at Nova Kasaba, these two officers were the participants with whom **BEARA** spoke and gave instructions.

<sup>4899</sup> Exh. P02103, Aerial image P02103 page 7 marked by M. Rutten, p. 28 (showing rows of men on the football field at around 14:00 hours on 13 July).

<sup>4900</sup> [REDACTED] PW-117 testified that he was at the football field in Nova Kasaba on the afternoon of 13 July, where there were around 1,500 – 2,000 captured Muslim men sitting in rows. Exh. P02207 (*Krstić* testimony of [REDACTED] PW-117), p. 3017-3022.



2214. The **BEARA** Defence contended that **BEARA** did not speak to Malinić during the second part of this conversation.<sup>4901</sup> They suggested that the intercept operator misattributed the participants and the conversation between **BEARA** and Malinić should in fact be attributed to Lučić and Malinić. However, as explained above, Lučić and Malinić were both at Nova Kasaba and had no need to speak to each other by telephone. Furthermore, the ABiH intercept operator who transcribed the intercept, explained:

There are two sides in each conversation. One -- you can hear one better, the other one not so well. In this case, one collocutor, **BEARA** in this case, could be heard very well. So I had no doubts that it was him. The other end where Lučić was, and this text, "Aha, daj mi ga," Zoka could [have] said that in the background, but he was at the other end of the line, the other end that could not be heard as well.<sup>4902</sup>

2215. In view of the content of the intercept and the operator's evidence, **BEARA** was clearly speaking to Malinić in the second part of the conversation, as described above.

2216. **BEARA**'s direct involvement in the detention and transfer of the prisoners captured in the Konjević Polje/Nova Kasaba area is also shown by an intercept obtained by Croatian authorities, timed at 11:25 hours on 13 July. This intercept states that "Colonel Ljubo **BEARA** (VRS Main Staff)" was sending four buses, two lorries and one trailer to Kasaba for transport of captured Muslims. According to the intercept, "They will be taken to the camp in the Batkovići village where there will be a "selection" into various criminals and ordinary soldiers."<sup>4903</sup> The reference to Batkovići was either a deliberate deception on the part of the speaker to maintain the secrecy of the operation or was said by a person who was not aware of the decision to kill all the prisoners.<sup>4904</sup> There is no evidence that any prisoners were transported to Batkovići on 13 July. The only known destinations for captured Muslim men and boys were other sites of temporary detention in the local area, or sites of execution.

2217. The intercept reflects **BEARA**'s knowledge concerning the number and location of the prisoners given his previous conversation with Maj. Malinić and his involvement in their transfer to sites of detention and execution. Further, **BEARA** must have possessed

<sup>4901</sup> [REDACTED] PW-124, T.5831.

<sup>4902</sup> [REDACTED] PW-124, T.5831-5832. "Aha, daj mi ga" is translated as "Uh-huh, let me talk to him."

<sup>4903</sup> **PANDUREVIĆ**, T.31881-31882 (*also* Exh. 7D2D00642, Intercept no 924 dated 13 July 1995).

<sup>4904</sup> The fact that not everyone knew of the planned murder operation is reflected in a further intercepted conversation at 18:29 hours on 13 July. The conversation is between "1" and "Žile", who discuss obtaining records of (Muslim) war criminals. Only one participant ("1") can be heard. He states, "Is it possible to make a list from Žepa, Srebrenica and Goražde, urgently?" He then says, "Let me explain what's happening. Call me in the morning. We'll fucking miss them and they'll get away scott-free." Exh. P01144(a)-(d), Intercept dated 13 July 1995, 18:29 hours. This intercept clearly shows that there were VRS members who were not informed about the murder operation, and who were therefore concerned about screening the captured Muslim men for possible war criminals, otherwise they would "get away scott-free," *i.e.*, be exchanged.

similar information concerning other groups Muslims prisoners being captured along the Bratunac – Konjević Polje road and assembled elsewhere.

**(clxi) On 13 July, BEARA exercised control over the MP Battalion of the 65<sup>th</sup> Protection Regiment, which blocked the road and prevented DutchBat personnel from returning to Potočari.**

2218. Lt. Egbers's testimony corroborates **BEARA**'s involvement in events at Nova Kasaba on 13 July, and confirms that **BEARA** exercised control over the Military Police Battalion of the 65<sup>th</sup> Protection Regiment. Lt. Egbers and other DutchBat soldiers were stopped on 13 July by armed 65<sup>th</sup> Protection Regiment MPs who had closed the road at Nova Kasaba.<sup>4905</sup> Major Malinić told Egbers that he was the commander of these soldiers, and **BEARA** was his commanding officer.<sup>4906</sup>

2219. **BEARA**'s authority over Malinić is confirmed by 65<sup>th</sup> Protection Regiment, Military Police Battalion member Marinko Jevdjević's testimony that **BEARA** could give orders and instructions to Malinić.<sup>4907</sup> Egbers confirmed that, "my impression at that time was that there was a relationship between **BEARA** and Major Zoran Malinić and that that's it."<sup>4908</sup> Malinić tried to contact **BEARA** on 13 July to speak about Egbers' complaint at his detention,<sup>4909</sup> and told Egbers that **BEARA** was the person who could decide about the Dutch soldiers' safety and arrange a safe passage for them to Potočari. Finally, Malinić told Lt. Egbers that **BEARA** would arrive soon.<sup>4910</sup> Together with the intercepts discussed above, this evidence shows that **BEARA** exercised control over Malinić and thus, over the movement of vehicles which had to pass along the road in Nova Kasaba which was blocked by 65<sup>th</sup> Protection Regiment MPs. Disabling and holding up DutchBat soldiers who had previously been escorting the first convoys, as well as controlling other traffic on this road, substantially contributed to the Serb forces' ability to take control of the Muslims; forcibly transfer the Muslim women, children and elderly to Kladanj; and later, forcibly transfer the Muslim men to detention sites in the Zvornik area.

<sup>4905</sup> EGBERS, T.2756-2757. Lt. Egbers did not identify the unit of the soldiers who stopped him and his men, but he was told by Major Zoran Malinić that they were his soldiers. EGBERS, T.2758-2759: "He identified himself as being in charge of the headquarters and the things happening on the road with his soldiers. I was stopped by his soldiers, yes."

<sup>4906</sup> EGBERS, T.2757-2759, 2819. See also Exh. 2D00024, Document, Dutch MOD Debriefing Statement, p.6 in eCourt (this document includes Lt. Egbers' 15 July 1995 official report, written on his return to Potočari, in which Egbers describes Colonel **BEARA** as "Major Zoran" [Malinić]'s commanding officer.

<sup>4907</sup> JEVDJEVIĆ, T.23836.

<sup>4908</sup> EGBERS, T.2854-2856.

<sup>4909</sup> EGBERS, T.2759-2760.

<sup>4910</sup> EGBERS, T.2759-2761; 2776, 2850-2851, 2855.

**(clxii) On the afternoon of 13 July, BEARA procured engineering equipment for burials.**

2220. An entry in the Zvornik Brigade Duty Operations Officer Notebook on 13 July (likely made some time after 16:00 hours) shows that **BEARA** was informed about the arrangements for the transport of a bulldozer.<sup>4911</sup>

President of the municipality MITROVIĆ called and asked that the flat-bed trailer (~~Colonel BEARA~~) be sent to Bratunac to bring bulldozer 1000. Colonel **BEARA** passed on the message.

2221. There is no military reason why **BEARA** would require information about the transport of engineering equipment. On 13 July, the only tasks for which such engineering equipment would have been required related to mass burials. As outline at paras. 2225-2228, **BEARA** directly organised these mass burials. During this time period, mass graves were excavated at Nova Kasaba, Cerska and Glogova.

**(clxiii) On the evening of 13 July, BEARA walked around Bratunac, surveying the security situation concerning Muslim prisoners being held in buildings and in vehicles parked on the street and at the Stadium.**

2222. On 13 July around dusk, Zlatan Čelanović again met **BEARA** at the Bratunac Brigade HQ. They discussed the large number of prisoners in Bratunac. **BEARA** then walked around the town with Čelanović and surveyed the locations where prisoners were being held.<sup>4912</sup> At the Vuk Karadžić school, Muslim prisoners could be seen through the classroom windows. Large numbers of buses and trucks carrying Muslim men were parked on the street leading to the School, and at the Bratunac stadium. **BEARA** was surveying the security situation concerning these prisoners. **BEARA** told Čelanović “that the transport had to be reorganised” and that “there were too few vehicles in order to transport them.”<sup>4913</sup> **BEARA**’s interest in ensuring that the prisoners were securely detained, together with his comment about the need to reorganise the transport, demonstrates his involvement in the plan to move the Muslim men and boys to the Zvornik area.

<sup>4911</sup> Exh. P00377, Zvornik Brigade Unofficial Duty Officer’s Logbook, p. 124 (ERN: 0293-5742). This entry must have been made after 14:45 hours, and probably after 16:00 hours on 13 July (*see* ERN: 0293-5740-0293-5741).

<sup>4912</sup> ČELANOVIĆ, T.6640.

<sup>4913</sup> ČELANOVIĆ, T.6637-6643; 6648-6653; PIC00060, Aerial image 272 from P02103 marked by the witness in court.

(clxiv) On the night of 13/14 July, BEARA sent Momir Nikolić to Zvornik to pass on an order to Drago NIKOLIĆ to prepare for the transfer of thousands of other prisoners to the Zvornik area where they were to be executed.

2223. As explained at paras. 2638-2643, Momir Nikolić was ordered to report to **BEARA** in the centre of Bratunac at around 20:30 hours on 13 July.<sup>4914</sup> **BEARA** ordered him to find **NIKOLIĆ** at the Zvornik Brigade and inform him of the details of the murder operation, including that thousands of Muslim men were to be transferred to the Zvornik area to be detained and killed. Momir Nikolić carried out this task, then reported back to **BEARA** at the Hotel Fontana around midnight. After that, he took **BEARA** to the SDS offices, where he saw Deronjić and Dragomir Vasić.<sup>4915</sup>

2224. **BOROVČANIN** also saw **BEARA** at the Bratunac Brigade HQ arguing with Miroslav Deronjić sometime after 20:00 hours on 13 July. According to **BOROVČANIN**, “**BEARA** was insistent that all captured to Ššić be brought to Bratunac and Deronjić was adamantly against it.”<sup>4916</sup>

(clxv) On the night of 13/14 July, BEARA was in Bratunac organising the burial of the Muslim men murdered at the Kravica Warehouse.

2225. [REDACTED] PW-161 testified that some time after 21:00 hours on 13 July,<sup>4917</sup> he was in his office when he received a telephone call from the Bratunac municipality, telling him to report to **BEARA** at the SDS offices.<sup>4918</sup> When he arrived there, [REDACTED] PW-161 first saw two military policemen in the secretary’s office. He then went into Miroslav Deronjić’s office. **BEARA** and two other VRS officers were there. [REDACTED] PW-161 knew **BEARA** to be a senior VRS officer, and as described above, had seen him around Bratunac during the preceding days.<sup>4919</sup> **BEARA** asked [REDACTED] PW-161 what kind of machinery he had, and also asked about available “manpower.” **BEARA** instructed [REDACTED] PW-161 to deliver the machinery to Milići because “a lot of dead” needed to be buried.<sup>4920</sup>

2226. At around 01:00 or 02:00 hours on 14 July, [REDACTED] PW-161 was called back to the SDS offices. Again, **BEARA** was there. The two military policemen he had

<sup>4914</sup> M. NIKOLIĆ, T.33174-33175.

<sup>4915</sup> Exh. C00001, Document titled - Statement of Facts and Acceptance of Responsibility, by Momir Nikolic, p.6. M. NIKOLIĆ, T.32937-32940; 33178; *see also* 33182-33184; 33192. [REDACTED].

<sup>4916</sup> Exh. P02853, Transcript of OTP Interview of Ljubomir **BOROVČANIN**, dated 11 and 12 March 2002, pp. 82-83.

<sup>4917</sup> [REDACTED] PW-161 confirmed that his meeting with Colonel **BEARA** in the evening took place on the same day as the killings at the Kravica warehouse - *see* T.9362-9364; 9433; 9446; 9449.

<sup>4918</sup> [REDACTED] PW-161, T.9362.

<sup>4919</sup> [REDACTED] PW-161, T.9362.

<sup>4920</sup> [REDACTED] PW-161, T.9362-9364; 9365-9370; 9432-9434; 9459-9461.

previously seen were also still in the secretary's office. **BEARA** directed [REDACTED] PW-161 to go with a military policeman to a location where a grave was to be dug. [REDACTED] PW-161 was then taken by a military policeman in a military vehicle to Glogova, before returning to Bratunac.<sup>4921</sup>

2227. At around 09:00 hours on 14 July, [REDACTED] PW-161 returned to Glogova with his crew and they started to dig three graves. Problems soon arose because they only had a ULT loader, rather than a backhoe excavator, and could not dig. [REDACTED] PW-161 explained the situation to **BEARA**, who promised that a backhoe excavator would be provided from the Zvornik Brigade. Indeed, a FAP-18 truck carrying a backhoe excavator on a trailer later arrived.<sup>4922</sup> **BEARA** was clearly overseeing the burial process in Glogova following the Kravica Warehouse executions and the killings of Muslims in detention throughout Bratunac on the 12 and 13 of July.<sup>4923</sup> His hands-on planning, participation, coordination and control of the burial process substantially contributed to the murder operation.

2228. [REDACTED].<sup>4924 4925</sup>

**(clxvi) On the morning of 14 July, BEARA met with POPOVIĆ and Drago NIKOLIĆ at the Zvornik Brigade HQ to coordinate the murder operation.**

2229. As described at paras. 654-660, on the morning of 14 July, **BEARA** attended a meeting with **POPOVIĆ** and **NIKOLIĆ** at the Zvornik Brigade HQ. Zvornik Brigade MP Milorad Birčaković testified about this meeting. At about 08:00 – 08:30 hours, he saw all three men at the Brigade HQ. Birčaković was familiar with **BEARA** in July 1995. He testified that he had seen **BEARA** on occasion and identified him as the Chief of Security of the Main Staff.<sup>4926</sup>

2230. **BEARA**'s presence in Zvornik is consistent with Zvornik Brigade unofficial Duty Officer's logbook entry made sometime during the morning of 14 July which reads, "Colonel SALAPURA called – Drago and **BEARA** are to report to GOLIC'."<sup>4927</sup> Colonel Petar Salapura was Chief of Intelligence Administration at the VRS Main Staff,<sup>4928</sup> while

<sup>4921</sup> [REDACTED] PW-161, T.9369-9370.

<sup>4922</sup> [REDACTED] PW-161, T.9370-9371; 9387. [REDACTED].

<sup>4923</sup> [REDACTED].

<sup>4924</sup> [REDACTED].

<sup>4925</sup> [REDACTED].

<sup>4926</sup> BIRČAKOVIĆ, T.11012.

<sup>4927</sup> Exh. P00377, Zvornik Brigade Unofficial Duty Officer's Logbook, 0293-5744.

<sup>4928</sup> BUTLER, T.20822-20823; MILOVANOVIĆ, T.12212-12213.

Major Pavle Golić was Assistant Chief of Intelligence at the Drina Corps.<sup>4929</sup> While the reason why Colonel Salapura required **BEARA** and **NIKOLIĆ** to contact Golić is unknown, the fact that Salapura sought both security officers through the Zvornik Brigade Command shows that **BEARA** was indeed in Zvornik, working with **NIKOLIĆ**. This fact clearly was known to the Commands both of the Main Staff and of the Drina Corps.

2231. At the time of the meeting, **BEARA**, **POPOVIĆ** and **NIKOLIĆ** all knew of the plan to murder the Muslim men from Srebrenica and already had significantly contributed to its implementation. Given the circumstances and the identities of the participants, this meeting was held to organise and coordinate the detention and execution of the prisoners.

**(clxvii) At about 09:30 hours on the morning of 14 July, BEARA was in Bratunac, arranging for more excavation equipment to be obtained to assist with burials.**

2232. Later that morning **BEARA** was in Bratunac, meeting with civilian authorities to obtain engineering equipment for the burials at Glogova. At about 9:30 hours, [REDACTED] PW-162, [REDACTED] received a call from [REDACTED],<sup>4930</sup> the secretary at the SDS offices in Bratunac. She told him there was a man there who was waiting there to see him, and asked him to come. [REDACTED] PW-162 went to the SDS offices and met **BEARA**. **BEARA** was wearing a uniform bearing the name “Colonel **BEARA**”, and he also introduced himself to [REDACTED] PW-162. After spending about 10 minutes talking with him in the secretary’s office, **BEARA** asked [REDACTED] PW-162 to go into Miroslav Deronjić’s office. There, [REDACTED] PW-162 met a Colonel and a Lt. Colonel. These two officers asked [REDACTED] PW-162 about companies in Bratunac which had construction equipment, and on these officers’ request, [REDACTED] PW-162 agreed to put construction equipment from the Bratunac brick factory at their disposal. When [REDACTED] PW-162 came out, **BEARA** was still in the SDS secretary’s office. [REDACTED] PW-162 testified that he thought the machinery was to be used to bury the bodies of the people at the Kravica warehouse.<sup>4931</sup>

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<sup>4929</sup> BUTLER, T.200083.

<sup>4930</sup> [REDACTED].

<sup>4931</sup> [REDACTED] PW-162, T.9230-9237; [REDACTED]; 9270-9271; 9276-9277.

**(clxviii) On the morning of 14 July, BEARA went to the brick factory in Bratunac, which had previously been identified as a possible detention/execution site.**

2233. [REDACTED].<sup>4932</sup> [REDACTED].<sup>4933</sup> [REDACTED] Momir Nikolić's testimony that when he first learned about the murder operation on 12 July from Lt. Colonels **POPOVIĆ** and Kosorić, he suggested the brick factory as a possible execution site.<sup>4934</sup> Furthermore, **BEARA**'s presence at the brick factory is consistent with [REDACTED] PW-162's testimony that he called Nedo Nikolić, the brick factory director, to put construction machinery from the factory at the disposal of **BEARA** and the two VRS officers who were with him at the SDS offices.<sup>4935</sup>

**(clxix) On the morning of 14 July, BEARA was in the Nova Kasaba area, where hundreds of Muslim prisoners had been captured the previous day.**

2234. Sometime during the morning, **BEARA** arrived at Nova Kasaba School in a luxurious car. Lt. Egbers spoke (through an interpreter) to **BEARA**, who introduced himself by name.<sup>4936</sup> Lt. Egbers, whose unit had been stopped and forced to remain in Nova Kasaba by the VRS, handed over to **BEARA** written complaints about the theft of DutchBat equipment, including an APC.<sup>4937</sup> Their conversation lasted no more than 15 minutes.<sup>4938</sup> **BEARA** then talked to Major Malinić. Lt. Egbers estimated that **BEARA** stayed for half an hour at the school in total.<sup>4939</sup>

2235. Lt. Egbers described his meeting with **BEARA** at Nova Kasaba in a 15 July report he wrote when he returned to Potočari. From his report and testimony, it is clear that Lt. Egbers' encounter with **BEARA** took place on 14 July. The report records that Lt. Egbers was stopped by the VRS on 13 July,<sup>4940</sup> and he testified that he spent the night at the school in Nova Kasaba and met **BEARA** the next morning.<sup>4941</sup> In the report, he described his encounter with **BEARA**:

(1) On 13 July transports were organized from Potočari in the direction of Kladanj. ...

(3) On the way back, in the direction of Bratunac, our vehicle was forced to stop in the rough area of map reference JNA 88229622. ...

<sup>4932</sup> [REDACTED].

<sup>4933</sup> [REDACTED].

<sup>4934</sup> Exh. C00001, Document titled - Statement of Facts and Acceptance of Responsibility, by Momir Nikolic, p. 2; M. NIKOLIĆ, T.32922; 33326.

<sup>4935</sup> [REDACTED] PW-162, T.9232.

<sup>4936</sup> EGBERS, T.2821.

<sup>4937</sup> EGBERS, T.2776.

<sup>4938</sup> EGBERS, T.2778; 2819.

<sup>4939</sup> EGBERS, T.2779.

<sup>4940</sup> Exh. 2D00024, Document, Dutch MOD Debriefing Statement, p. 6.

<sup>4941</sup> EGBERS, T.2760-2761; 2775-2776.

(5) I sought contact with the local commander in an old school building that was being used as temporary barracks, Major Malinić Zoran (born in 1961) and told him that the convoys were being escorted on the orders of General Mladić. ...

(8) As a large group of BiH fighters were assembling, several BSA units advanced. Our safety could not be guaranteed, because Major Zoran had no contact with them. His commanding officer, Colonel **BEARA**, would look into the matter.

(9) I made the acquaintance of the colonel. He wore the insignia of his rank and drove an expensive car.

(10) I gave an account of what happened to us, which was written down. Colonel **BEARA** has the original, and there is a copy in the possession of section 2/3.<sup>4942</sup>

2236. In addition, Lt. Egbers gave consistently accurate descriptions of **BEARA** during his interviews and subsequent testimony. In an interview in 2000, Lt. Egbers identified **BEARA** in a video<sup>4943</sup> where he is seen walking with Generals Mladić and Krstić at a Drina Wolves ceremony in late 1995.<sup>4944</sup> During his testimony, he described **BEARA**'s appearance as "a tall man with grey hair but with an atmosphere of a colonel. He was in a camouflage suit wearing a colonel's ranking. So that's how I remember him, as a big, giant colonel."<sup>4945</sup>

2237. On cross-examination by the **BEARA** defence, Lt. Egbers further testified that **BEARA** "looked an older man between 45 and 50" with grey or greying hair.<sup>4946</sup> He also reaffirmed his recollection that **BEARA** was a large man, comparing his size and stature to that of Defence Counsel, Mr. Ostojić.<sup>4947</sup>

**(clxx) On 14 July, BEARA held a meeting at the Zvornik Brigade HQ where he sought the assistance of the civilian authorities with burials.**

2238. On 14 July, **BEARA** summoned [REDACTED] PW-104, [REDACTED], to a meeting at the Zvornik Brigade HQ at which **BEARA** requested assistance with

<sup>4942</sup> Exh. 2D00024, Document, Dutch MOD Debriefing Statement, p. 6.

<sup>4943</sup> Exh. P03638/Exh. P02025, Video clip showing **BEARA**, **MLADIĆ** and **KRSTIĆ** at a military ceremony in Vlasenica.

<sup>4944</sup> **EGBERS**, T.2777-2778. See also Exh. 2D00021 (Lt. Egbers' 30 April 2000 witness statement), p.2: "After having watched this portion of the video 7-8 times, I am certain that the third man arriving at this ceremony, walking behind Mladić and Krstić, is the same person I spoke to for about 10 minutes at the school in Nova Kasaba in July 1995. He introduced himself as Colonel **BEARA** and my impression was that he was the commander of Major Zoran. When I say I am certain of my recognition of **BEARA** on the video, I base my conclusion on his height, size, his gray hair, and on the way he walks. I would like to add that he did not wear sunglasses when I met him in July 1995 and I did not describe his belly in my statement I gave in 1996. In July 1995 he did not wear a jacket and a sweater like on the video I have seen today because it was around 35 degrees Celsius at the time I met him."

<sup>4945</sup> **EGBERS**, T.2776; see also T.2824 and T.2831. See Exh. 2D00019 (Lt. Egbers' 24 October 1995 witness statement), p.7, where Lt. Egbers describes Colonel **BEARA** as follows: "...This man wore badges denoting that he was a Colonel. He wore camouflage uniform. He was about 45-50 years old. He was about 1.90m tall. His hair was graying. I saw that he drove in a luxurious car. I believe it was an Opel Omega. The interpreter told me his name..."

<sup>4946</sup> **EGBERS**, T.2822-2823.

<sup>4947</sup> **EGBERS**, T.2831.



burials.<sup>4948</sup> **BEARA** met [REDACTED] PW-104 at the command building and introduced himself by name and rank.<sup>4949</sup> He told [REDACTED] PW-104 that he expected help from the civilian authorities to “get rid” of prisoners held at various locations in the municipality.<sup>4950</sup> [REDACTED].<sup>4951</sup>

2239. [REDACTED].<sup>4952</sup>

2240. [REDACTED] PW-104’s identification of **BEARA** is reliable. In addition to the fact that **BEARA** introduced himself to [REDACTED] PW-104 by name, [REDACTED] PW-104 gave an accurate description of **BEARA**: “Tall, camouflage uniform, well-built... Grey hair, age around 50, 55...” However, when questioned about seeing **BEARA** on television at the time of his arrest and transfer to The Hague, [REDACTED] PW-104 stated, “I said that the person on TV did not resemble the person who introduced himself as such and who held that briefing at the Zvornik Brigade barracks.”<sup>4953</sup>

2241. **BEARA** was arrested nearly 9 years following the Srebrenica events, in October 2004. The broadcast of his arrest, showed **BEARA** in civilian clothes and substantially older than when he met [REDACTED] PW-104. This presented both contextual and physical dissimilarities that explain why [REDACTED] PW-104 did not recognise **BEARA** on television. In these circumstances, [REDACTED] PW-104’s prior identification of **BEARA** remains uncontradicted.

2242. Although [REDACTED] PW-104 was not clear about the date of his meeting with **BEARA**, it must have taken place on 14 July. [REDACTED].<sup>4954</sup> [REDACTED].<sup>4955</sup> Second, [REDACTED] PW-104’s visit to the Zvornik Brigade HQ was on a day when **PANDUREVIĆ** was not present,<sup>4956</sup> and prisoners were being held at various locations throughout the Zvornik municipality.<sup>4957</sup> Third, **BEARA**’s presence in and around Zornik on 14 July is confirmed by the other evidence discussed in this section of the

<sup>4948</sup> [REDACTED] PW-104, T.7940-7941.

<sup>4949</sup> [REDACTED] PW-104, T.7941-7942.

<sup>4950</sup> **BEARA** told [REDACTED] PW-104: “We have a lot of prisoners and it is very hard for us to control them. They are at various locations in the Zvornik municipality. We have to get rid of them. I expect assistance from the municipality.” [REDACTED] PW-104, T.7941-7942. [REDACTED].

<sup>4951</sup> [REDACTED].

<sup>4952</sup> [REDACTED].

<sup>4953</sup> [REDACTED] PW-104, T.8015.

<sup>4954</sup> [REDACTED].

<sup>4955</sup> [REDACTED].

<sup>4956</sup> [REDACTED] PW-104, T.7941.

<sup>4957</sup> [REDACTED] PW-104, T.7942.

brief.<sup>4958</sup> Irrespective of the date of the meeting, [REDACTED] PW-104's evidence shows that **BEARA** was instrumental in organising and procuring the necessary machinery to carry out the ongoing mass burials.

**(clxxi) On the afternoon of 14 July, BEARA was present outside the Petkovci School with Drago NIKOLIĆ.**

2243. A 14 July entry in the Zvornik Brigade unofficial Duty Officer's logbook reads:

15.00 Colonel **BEARA** is coming in order to Orovoc Petkovci Ročević Pilica.<sup>4959</sup>

2244. "Orovoc" is clearly a misspelling of Orahovac. This logbook entry established that **BEARA** was due to arrive in the Zvornik area and further, establishes that his anticipated arrival related to Orahovac, Petkovci, Ročević and Pilica, where Muslim prisoners were being detained on 14 July.

2245. Consistent with the 15:00 hours logbook entry described above, **BEARA** was at the Petkovci School with **NIKOLIĆ** on the afternoon of 14 July, as discussed at paras. 779-786. Sometime between 16:00 and 17:00 hours,<sup>4960</sup> Ostoja Stanišić sent Marko Milošević to find **BEARA** at the Petkovci School in order to pass on a message for him to contact his command.<sup>4961</sup> At the crossroads around 70-80 metres from the Petkovci School,<sup>4962</sup> Milošević met **NIKOLIĆ**, whom he knew since he "had been his assistant, i.e., the security officer in his battalion."<sup>4963</sup> Milošević asked **NIKOLIĆ** whether anybody named **BEARA** was there. **NIKOLIĆ** then pointed **BEARA** out. Milošević testified:

...I approached the man. We greeted each other. And I conveyed the message to him and the message was that he should contact the brigade...<sup>4964</sup>

2246. Milošević testified that he was with **BEARA** for a short time,<sup>4965</sup> and described him as around 60 years old with grey hair.<sup>4966</sup>

<sup>4958</sup> Including the evidence of the meeting at the Zvornik Brigade HQ with **POPOVIĆ** and **NIKOLIĆ** that morning; **BEARA**'s presence in Orahovac and Petkovci in the afternoon; and the fact that the VRS Main Staff was looking for him at the Zvornik Brigade HQ in the evening. [REDACTED].

<sup>4959</sup> Exh. P00377, Zvornik Brigade Unofficial Duty Officer's Logbook, p. 128 (ERN:0293-5746).

<sup>4960</sup> M. Milošević testified that he received instructions from his commander "around 4.00 or 5.00 in the afternoon" – T.13302. O. Stanišić testified that "it may have been between 1800 and 1900 hours, thereabouts" that he sent Milošević to look for **BEARA** (T.11604), however, given that it was Milošević who actually went to look for **BEARA**, his recollection of the time he went is more reliable than Captain Stanišić's recollection.

<sup>4961</sup> M.MILOŠEVIĆ, T.13302-3. Milošević testified that Captain Stanišić did not mention **BEARA**'s rank when he gave Milošević the order to look for him. See also STANIŠIĆ, T.11604.

<sup>4962</sup> Exhs. PIC00110, Aerial image P2815 marked by the witness, and Exh. 3DIC00134, Aerial image of Petkovci 3D152 marked by the witness.

<sup>4963</sup> M.MILOŠEVIĆ, T.13303.

<sup>4964</sup> M.MILOŠEVIĆ, T.13303.

2247. At the time Milošević met **BEARA** there were four or five MPs with him whom Milošević did not recognise. However, he was able to identify them as MPs by their white belts.<sup>4967</sup> In addition, other troops in camouflage uniforms and olive-drab uniforms were positioned around the school.<sup>4968</sup> Milošević also saw a few lorries and buses parked down the road, as well as a blue Golf III car.<sup>4969</sup>

2248. Following his meeting at the Zvornik Brigade HQ that morning with **POPOVIĆ** and **NIKOLIĆ** that morning to discuss the murder operation, **BEARA**'s presence in the vicinity of the Petkovci School, near MPs and other troops, can only have been to coordinate the detention, transport, execution and burial of the prisoners detained there. **BEARA** was tasked with ensuring that the plan to murder the Muslim men was successfully carried out, and his presence shows that he was taking a hands-on approach to fulfilling this task.

**(clxxii) At 21:02 hours on 14 July, the Zvornik Brigade Duty Operations Officer contacted BEARA at the Bratunac Brigade HQ and informed him to call "155."**

2249. **BEARA** maintained contact with the VRS Main Staff Headquarters throughout the murder operation. The Zvornik Brigade unofficial Duty Officer's logbook contains an entry by the Duty Officer Major Jokić<sup>4970</sup> stating, "**BEARA** to call 155."<sup>4971</sup> Extension 155 was the VRS Main Staff telephone extension used by Gen. **MILETIĆ** and the Main Staff Administration for Operations and Training.<sup>4972</sup> The Main Staff was aware that **BEARA** was in the Zvornik area. Other than supervising the murder operation, **BEARA** had no reason to be there.<sup>4973</sup> Consequently, his contacts with the Main Staff must have related to that operation.

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<sup>4965</sup> M.MILOŠEVIĆ, T.13319.

<sup>4966</sup> M.MILOŠEVIĆ, T.13319.

<sup>4967</sup> M.MILOŠEVIĆ, T.13304-13305.

<sup>4968</sup> M.MILOŠEVIĆ, T.13304.

<sup>4969</sup> M.MILOŠEVIĆ, T.13305.

<sup>4970</sup> Exh. P02846, Katherine Barr's report from 16 July 1993, at ERN 0297-9313-9314 (concluded that entries for 14 July starting at ERN 0293-5744 - the last six lines from "Muslimani" (excluding the pencil date and name) through 0293-5753 - the first four lines of writing were written by Dragan Jokic, except at ERN 0293-5745 the pencil date and the numbers in brackets, and at ERN 0293-5747 the last four lines from "u1400" and the number 142); Exh. P02847, Katherine Barr's report from 22 August 2003, at ERN 0335-6723 (concluded that there is strong but not conclusive evidence that Dragan Jokic was the writer, but Dr. Barr considers it unlikely that another person was responsible.) See also P02848, at ERN 0349-5569 for the same conclusion as in Exh. P02847. See also [REDACTED] PANDUREVIC, T. 31502.

<sup>4971</sup> Exh. P00377, Zvornik Brigade Unofficial Duty Officer's Logbook, p. 133 (ERN: 0293-5751). Based on entries on the preceding pages, this entry must have been made after 20:00 hours on 14 July.

<sup>4972</sup> Exh. P03176, Telephone Directory from Main Staff of the Republika Srpska Army from August 1995; [REDACTED]; BUTLER, T.19971; MILOVANOVIĆ, T.12215, 12273-12274; V. Pajić, T.28860-28861.

<sup>4973</sup> BUTLER, T.20137 (as regards Lt. Colonel **POPOVIĆ**'s presence in the Zvornik area, Butler was asked: "In view of the function held by Vujadin **POPOVIĆ** at the time, do you find his - that his stay in Zvornik may have been related to the affairs that fell within his purview under the rules? ... A: I'm not

2250. An intercepted conversation between Major Jokić, Zvornik Brigade Duty Officer, and **BEARA** shows that **BEARA** was at the Bratunac Brigade HQ (codenamed “Badem”) at 21:02 hours. As noted above, sometime after 20.00 hours, Major Jokić had written “**BEARA** to call 155” in the Zvornik Brigade unofficial Duty Officer's logbook. It is clear that shortly after receiving the message that **BEARA** had to call the Main Staff, Major Jokić called the Bratunac Brigade, trying to find **BEARA**.

2251. The conversation begins with a request to speak to **BEARA**. Once **BEARA** is engaged, Major Jokić tells him, “...Number 155 called you and asked you to call him urgently... Number 155. That’s, I mean, the higher house, you go ahead and call them, you have, so I don’t speak like this.” Major Jokić then tells **BEARA**, “Yes. Hey. We have huge problems over here... There are big problems. Well with the people, I mean, with the parcel... Who? Drago is nowhere around. I don’t know where the others are all day.”<sup>4974</sup> “Drago” refers to **NIKOLIĆ**, who was at that time working closely with **BEARA** and **POPOVIĆ** to organise the detention and killing of the Muslim prisoners. Major Jokić also inadvertently revealed that the term “parcel” was being used as a code-word for the Muslim prisoners.<sup>4975</sup>

2252. This conversation also shows that **BEARA** and **NIKOLIĆ** were both closely involved in the management of the murder operation, and when there were problems with the operation, others looked to them to solve them.

**(clxxiii) On the morning of 15 July, BEARA was at the Zvornik Brigade HQ coordinating the murder of the 3,500 remaining Muslim prisoners.**

2253. By the morning of 15 July, at least 1,400 prisoners remained alive in the Ročević School; up to 1,000 in the Kula School, and up to 500 more arrived at the Pilica Cultural Centre that day. **BEARA** was working out of the Zvornik Brigade HQ that morning, looking for personnel to execute the prisoners being detained at Ročević and Pilica.

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aware of any other matters that he might be conducting, you know, within the context of the legal prosecution of his rules, you know, his purpose being there was to facilitate the murder operation...” The same analysis applies to Colonel **BEARA**’s presence in the Zvornik area at this time).

<sup>4974</sup> Exh. P01164a, Intercept dated 14 July 1995, 21:02 hours.

<sup>4975</sup> The fact that “parcel” was used to refer to a prisoner or prisoners is also revealed in Exh. P01392, an intercepted conversation at 12:40 hours on 2 August 1995, between Lt. Colonel **POPOVIĆ** and General Krstić, in which Lt. Colonel **POPOVIĆ** talks about Lt. Colonel Svetozar Kosorić, Drina Corps Chief of Intelligence, going “up there because we had some parcels, *to check what they know.*” (Emphasis added.) See also BUTLER, T.19971; FREASE, T.8273-8274.

**Logbook and 09:52 hours intercept.**

2254. **BEARA**'s presence at the Zvornik Brigade HQ on the morning of 15 July is confirmed by two pieces of evidence. First, the entry in the Zvornik Brigade Duty Operations Officer Notebook late on 14 July stating, "0900 **BEARA** is coming."<sup>4976</sup> Second, a summary intercepted conversation at 09:52 hours on 15 July states that **BEARA** was looking for General Živanović and that he should call him at ext. 139.<sup>4977</sup> Extension 139 is the Zvornik Brigade HQ extension for Drago **NIKOLIĆ**.<sup>4978</sup>

2255. As noted at paras. 2763-2769, **NIKOLIĆ** had been attempting to secure resources for the execution of prisoners at Ročević / Kozluk that day. **BEARA** met with **NIKOLIĆ** during his visit to the Zvornik Brigade HQ and, as outlined below, spoke with Gen. Krstić in order to secure resources for those executions.

**09:54 hours intercept between BEARA and General Živanović.**

2256. **BEARA** and Gen. Živanović spoke just two minutes after **BEARA** left the message saying that Živanović could reach him at extension 139.

2257. In this conversation,<sup>4979</sup> **BEARA** complained to Živanović about his problems in obtaining troops, in particular the fact that Radomir Furtula<sup>4980</sup> had not sent an intervention platoon commanded by Milan Lukić, an officer from Višegrad.<sup>4981</sup> They discussed Lukić's whereabouts, with **BEARA** saying, "Lukić is here with me and his driver." **BEARA** stated that he needed at least half of those men, but General Živanović, [REDACTED],<sup>4982</sup> told **BEARA** that he could no longer provide those troops. Živanović referred **BEARA** to extension 385 at Zlatar. Extension 385 was the number for the Commander of the Drina Corps,<sup>4983</sup> who by this time was Gen. Krstić. The only need **BEARA** had for troops on 15 July was to carry out further executions in the Zvornik area.

<sup>4976</sup> Exh. P00377, Zvornik Brigade Unofficial Duty Officer's Logbook, p. 134 (ERN: 0293-5752).

<sup>4977</sup> Exh. P01177, Intercept dated 15 July 1995, 09:52 hours.

<sup>4978</sup> Exh. P01036, Provisional Telephone Directory of the Zvornik Brigade, Zvornik Garrison Command, p. 7 (English)/p. 5 (BCS); Exh. P02923, Pages of Telephone Directory of Zvornik Infantry Brigade Units. BUTLER, T.19983.

<sup>4979</sup> Exh. P01178, Intercept dated 15 July 1995, 09:54 hours.

<sup>4980</sup> Lt. Col. Furtula was Commander of the 5<sup>th</sup> Podrinje Light Infantry Brigade. He was identified by **PANDUREVIĆ** in footage of General Mladić's "victory parade" through Srebrenica on 11 July. **PANDUREVIĆ**, T.30876-30882; Exh. P02047, Srebrenica trial video, at 28'00" to 31'12".

<sup>4981</sup> BUTLER, T.19984.

<sup>4982</sup> [REDACTED].

<sup>4983</sup> BUTLER, T.19985; **PANDUREVIĆ**, T.32188; JEVDJEVIĆ, T.29894-29895.

**10:00 hours intercept between BEARA and General Krstić.**

2258. At 10:00 hours, **BEARA** requested troops from Gen. Krstić. This important conversation was recorded by three separate intercept operators, each of whom identified both participants.<sup>4984</sup> The three intercepts must be read in conjunction with each other in order to obtain a comprehensive understanding of the conversation.

2259. In one recording,<sup>4985</sup> the intercept operator heard **BEARA** and General Krstić introduce themselves to each other. In another recording,<sup>4986</sup> the intercept operator heard **BEARA** introduce himself and ask if General Krstić was there. For the entirety of the conversation, only **BEARA** was heard. In the third recording of the conversation,<sup>4987</sup> the intercept operator did not hear the beginning of the conversation but appears to hear what was subsequently said much more clearly than the other intercept operators. This intercept reads as follows (N.B., B = **BEARA** / K = **KRSTIĆ**):

B: General, FURTULA didn't carry out the boss's order.  
 K: Listen, he ordered him to lead out a tank, not a train.  
 B: But I need 30 men just like it was ordered.  
 K: Take them from NASTIĆ or BLAGOJEVIĆ, I can't pull anybody out of here for you.  
 B: But I don't have any here. I need them today and I'll give them back tonight.  
     Krlle, you have to understand. I can't explain it like this to you.  
 K: I'll disturb everything on this axis if I pull them out, and a lot depends on him.  
 B: But I can't do anything without 15 to 30 men with Boban INDIĆ.  
 K: Ljubo, this /line/ is not secure.  
 B: I know, I know.  
 K: I'll see what I can do, but I'll disturb a lot. Check down with NASTIĆ and BLAGOJEVIĆ.  
 B: But I don't have any. If I did, I wouldn't still be asking for the third day.  
 K: Check with BLAGOJEVIĆ, take his Red Berets.  
 B: They're not there, only four of them are still there. They took off, fuck 'em, they're not there anymore.  
 K: I'll see what I can do.  
 B: Check it out and have them go to Drago's.  
 K: I can't guarantee anything.  
 B: Krlle, I don't know what to do anymore.  
 K: Ljubo, then take those MUP /Ministry of Interior/ guys from up there.  
 B: No, they won't do anything. I talked to them and there's no other solution but for those 15-30 men with INDIĆ. That were supposed to arrive on the 13<sup>th</sup> but didn't.  
 K: Ljubo, you have to understand me, you guys fucked me up so much.  
 B: I understand, but you have to understand me too, had this been done then, we wouldn't be arguing over it now.  
 K: Fuck it, now I'll be to one to blame.  
 B: I don't know what to do. I mean it Krlle. There are still 3,500 "parcels" that I have to distribute and I have no solution.

<sup>4984</sup> P01179(b), Intercept dated 15 July 1995, 10:00 hours, was intercepted by [REDACTED] (PW-133); P01179(c) was intercepted by [REDACTED] (PW-136); and P01179 (h) was intercepted by [REDACTED] (PW-157).

<sup>4985</sup> Exh. P01179(b), Intercept dated 15 July 1995, 10:00 hours.

<sup>4986</sup> Exh. P01179(h), Intercept dated 15 July 1995, 10:00 hours.

<sup>4987</sup> Exh. P01179(c), Intercept dated 15 July 1995, 10:00 hours.

K: Fuck it, I'll see what I can do. (End of transcript).<sup>4988</sup>

2260. In this conversation, **BEARA** reiterated much of what he told Živanović in the previous conversation 09:54 hours.<sup>4989</sup> His reference to “the boss’s order” is a reference to Gen. Mladić (who was the only person in the command chain for the *Krivaja-95* operation who would be “the boss” for both Krstić and **BEARA**).

2261. From the text it can be seen that the order related to the provision of 30 men to **BEARA**<sup>4990</sup> from a Drina Corps subordinate unit of Furtula including Boban Indić, which failed to arrive on 13 July. **BEARA**’s task was designated as “distribute parcels” and that unit was ordered to do this.

2262. Krstić suggested that **BEARA** request troops from the Milići Brigade Commander, Nastić,<sup>4991</sup> or the Bratunac Brigade Commander, Blagojevic, because General Krstić “can’t pull anybody out of here”. Krstić was commanding the attack on Žepa at the time and did not have troops to spare to assist **BEARA**.

2263. **BEARA** responded, “I don’t have any here. I need them today and I’ll give them back tonight.” Krstić reiterated that it will “disturb everything on his axis” -- meaning the attack on Žepa -- if he pulls any men out from the area. **BEARA** responds that he cannot do anything without “those 15-30 men with Boban Indić.”<sup>4992</sup> Krstić then reminded **BEARA** that the line is not secure and **BEARA** indicated that he knew this.

2264. Despite Krstić’s reminder, **BEARA** and Krstić continued speaking. Krstić again told **BEARA** to check with Nastić (Milići Brigade) and Blagojević (Bratunac Brigade). **BEARA** responds that he does not “have any” and that if he did, he “wouldn’t still be asking for the 3<sup>rd</sup> day”, *i.e.*, since 13 July.

2265. Krstić again told **BEARA** to check with Blagojević and to take his Red Berets. **BEARA** responded that “They are not there, that only 4 of them are still there. They took off ...” Krstić responded that he will see what he can do, and **BEARA** stated, “Check it out and have them go to Drago’s.” The reference to “Drago’s” was a reference to Drago NIKOLIĆ. The message from **BEARA** was to sent the additional troops to the Zvornik Brigade HQ.

<sup>4988</sup> P01179(c), Intercept dated 15 July 1995, 10:00 hours.

<sup>4989</sup> Exh. P01178, Intercept dated 15 July 1995, 09:54 hours.

<sup>4990</sup> This is similar to **BEARA**’s statement in his previous conversation at 09:54 hours with General Živanović, where **BEARA** stated that he needed at least half of the men in Milan Lukić’s 60-strong intervention platoon.

<sup>4991</sup> Captain 1<sup>st</sup> Class or Major Milomir Nastić, Commander of the Milići Brigade. **PANDUREVIĆ**, T.32193; **BUTLER**, T.19988; **TRIVIĆ**, T.11803.

<sup>4992</sup> [REDACTED].

2266. Krstić responded that he cannot guarantee anything, at which point **BEARA** states “I don’t know what to do anymore.” Krstić suggested that he take MUP men from “up there,” meaning the Zvornik area. **BEARA** stated that he cannot because “they won’t do anything.” He then stated that he talked to the MUP and the only solution is the 15-30 men with Boban Indić who were scheduled to arrive on 13 July but did not. The non-arrival of Boban Indić’s troops is explained by an intercepted conversation at 19:19 hours on 13 July, in which a bus transporting men from Višegrad is reported as being broken.<sup>4993</sup>

2267. Krstić next told **BEARA** “you guys fucked me up so much.” As well as his involvement in the murder operation, General Krstić was involved in the ongoing operation to take Žepa, which involved competing demands on Krstić’s military resources. Krstić states in response, “now I’ll be the one to blame.”

2268. **BEARA** concluded the conversation by stating, “There are 3,500 parcels that I have to distribute and I have no solution”, referring to the Muslim prisoners being held at the Ročević School, the Kula School in Pilica and the Pilica Cultural Centre in Pilica, who were still to be executed.<sup>4994</sup> General Krstić responded by saying “Fuck it, I will see what I can do” and the conversation ended.

2269. **BEARA**’s reference to “3,500 parcels”<sup>4995</sup> is supported by the numbers of individuals identified in the primary and secondary graves linked to the Kozluk and Branjevo Farm mass executions. The remains of around 2,400 victims have to date been identified from those graves.<sup>4996</sup>

2270. This intercepted conversation shows that **BEARA** was organising troops to carry out the killing operation in the Pilica and Ročević areas and that he turned to General Krstić for assistance, as at the time of this intercept thousands of Muslim prisoners were still being held in the Ročević and Pilica Schools and at the Pilica Cultural Centre.

2271. As noted at para. 2254, **BEARA** was at extension 139 and was speaking from **NIKOLIĆ**’s office at the Zvornik Brigade HQ during this conversation. **BEARA**’s presence in Zvornik on 15 July is further confirmed by 10<sup>th</sup> Sabotage Detachment member Dragan Todorović’s testimony. That morning, Todorović heard Gen. Mladić’s

<sup>4993</sup> Exh. P01147, Intercept dated 13 July 1995, 19:19 hours.

<sup>4994</sup> **PANDUREVIĆ**, T.32202.

<sup>4995</sup> Major Jokić’s slip of the tongue in a previous intercept demonstrated that “parcel” was the code-word for prisoner(s). See paras. 2249-2252.

<sup>4996</sup> See paras. 1080-1104.



bodyguard Dragomir Pećanac order a squad of 10<sup>th</sup> Sabotage Detachment troops to be rounded up, and then say that he had a meeting in Zvornik with **BEARA**.<sup>4997</sup>

2272. [REDACTED].<sup>4998</sup>

**(clxxiv) On the evening of 15 July 1995, BEARA met with POPOVIĆ and the Zvornik Brigade Commander at the Zvornik Brigade HQ.**

2273. Zvornik Brigade MP [REDACTED] PW-165 returned to the Zvornik Brigade HQ after spending a day guarding prisoners at the Ročević School. [REDACTED] PW-165 testified that he was told that among the people he saw at the headquarters were **BEARA** and **POPOVIĆ**:

Q: Did you see any security officers at Standard, at the Zvornik Brigade headquarters that evening?

A: Well, that evening, when I arrived, when I arrived to the premises of our company, up the stairs there were a few people walking around, and they were wearing camouflage uniforms and I saw their backs and I asked who that was and one of them said, "Well, the commander has a meeting with **POPOVIĆ** and **BEARA**."<sup>4999</sup>

2274. As explained at paras. 865-867, this incident took place on the evening of 15 July. [REDACTED] PW-165's testimony further corroborates the other credible evidence that **BEARA** at that time was heavily involved in organising the execution of the remaining Muslim men still being held in the Zvornik area.

**(clxxv) Around 11:15 hours on 16 July, the Drina Corps Command passed on an order from the Main Staff to BEARA that the remaining prisoners and wounded were to be murdered.**

2275. In an intercepted conversation at 11:11 hours involving a participant "X", **BEARA** and Col. Cerović, Drina Corps Assistant Commander for Morale, Legal, and Religious Affairs,<sup>5000</sup> the subject of "triage" of prisoners is discussed.<sup>5001</sup> "X", who is Milorad Trbić,<sup>5002</sup> received the call from Col. Cerović and puts **BEARA** on the line. Cerović tells him that "Trkulja" "was here with me just now and he was looking for

<sup>4997</sup> TODOROVIĆ, T.14029.

<sup>4998</sup> [REDACTED].

<sup>4999</sup> [REDACTED] PW-165, T.9962.

<sup>5000</sup> BUTLER, T.20001-20002.

<sup>5001</sup> Exh. P01187(a) [REDACTED], Intercept dated 16 July 1995, 11:11 hours.

<sup>5002</sup> Participant X is Captain Milorad Trbić, 2<sup>nd</sup> Lt. **NIKOLIĆ**'s assistant in the Zvornik Brigade Security Organ. Trbić was the brigade Duty Officer that day, and entered the substance of the intercept in the Duty Officer's Logbook nearly simultaneously at 11:15 hours. Exh. P00377, Zvornik Brigade Unofficial Duty Officer's Logbook, p. 146 (ERN: 0293-5764).

you...he told me ...? ... he got instructions from above.” **BEARA** answers “Yes,” indicating he has heard and understood Cerović.<sup>5003</sup>

2276. The term “triage” was used in this conversation as a code word for the murder of the roughly 2,000 Muslim prisoners still being held on 16 July in the Pilica Cultural Centre and at the Kula School. The fact that “triage” was being used to mean something more sinister than a process of selection is shown when Col. Cerović said, “To do triage on those”, and he is interrupted by **BEARA**, who says, “I don’t want to talk about it on the phone.” There is no evidence in the case that any selection process was carried out amongst the prisoners still being held on 16 July.

2277. In view of the ongoing murder operation which was taking place in the Drina Corps’ area of responsibility, and in view of the involvement and knowledge of the VRS Main Staff, Colonel Trkulja must have conveyed an order from the Main Staff to proceed with the executions of the remaining Muslim prisoners in the Zvornik area.

2278. **BEARA**’s presence in the Zvornik area that morning is confirmed by an entry in the Zvornik Brigade unofficial Duty Officer’s logbook, timed at 09:30 hours, stating “**BEARA** to call PANORAMA 155.”<sup>5004</sup> As noted previously, Panorama 155 was the VRS Main Staff telephone extension used by General **MILETIĆ**.

2279. This conversation shows **BEARA**’s continued involvement in coordinating and overseeing the murder operation on 16 July. Shortly afterwards, **BEARA** and **POPOVIĆ** arrived in Pilica with soldiers and vehicles to transport the prisoners held in the Kula School to the Branjevo Farm and execute them.

**(clxxvi) Around 12:00 hours on 16 July, BEARA and POPOVIĆ were at the Kula School in Pilica, supervising the transport of prisoners to be executed.**

2280. As describe at paras. 931-937, Slavko Perić, Security Officer for the 1<sup>st</sup> Battalion of the Zvornik Brigade, testified that **BEARA** and **POPOVIĆ** arrived at the Kula School at around 12:00 hours, followed by a van carrying a squad of around a dozen soldiers, and then an empty bus.<sup>5005</sup> Immediately thereafter, the prisoners were taken out of the school,

<sup>5003</sup> “Trkulja” is a reference to Colonel Nedjo Trkulja, VRS Main Staff Chief of Armoured Mechanized Services, who had just been at the Drina Corps HQ in Vlasenica with Colonel Cerović. Colonel Bogdan Sladojević, who accompanied Colonel Trkulja on 17 July, testified that Colonel Trkulja had told him that he had been “out in the field” on 16 July. SLADOJEVIĆ, T.14369. Given the nature of Colonel Trkulja’s visit to the Drina Corps HQ in Vlasenica on 16 July, it is unsurprising that he denied that visit, claiming that he only went there on the morning of 17 July. TRKULJA, T.15110.

<sup>5004</sup> Exh. P00377, Zvornik Brigade Unofficial Duty Officer’s Logbook, p. 145 (ERN: 0293-5763).

<sup>5005</sup> S.PERIĆ, T.11409.

loaded onto the bus and driven away.<sup>5006</sup> The murder of those men is described in the section of this brief describing the Branjevo Farm executions.

2281. As explained at paras. 931-937, Perić's identifications of **BEARA** and **POPOVIĆ** were reliable. The presence of these officers in Pilica on 16 July is consistent with the intercept that morning in which **BEARA** had a coded discussion about the plan to kill the remaining prisoners.

**(clxxvii) In September - October 1995, BEARA was involved in the cover-up reburial operation.**

2282. As explained at paras. 297-300, the VRS Main Staff Security Administration took part in planning, coordinating and carrying-out the reburial operation that took place in September-October 1995. This operation was of huge importance in covering-up the crimes that had been committed. The Security Administration was charged with the reburials as a natural consequence of its involvement in the murder operation. They again dealt with the same logistical and security issues as had arisen in July 1995.

2283. [REDACTED].<sup>5007 5008</sup>

**(JJ) BEARA KNEW OF, SIGNIFICANTLY CONTRIBUTED TO, AND SHARED THE INTENT WITH THE OTHER JCE MEMBERS, TO PARTICIPATE IN THE JOINT CRIMINAL ENTERPRISE TO FORCIBLY REMOVE THE MUSLIM POPULATION FROM SREBRENICA AND ŽEPA.**

**(clxxviii) BEARA's actions following the fall of the Srebrenica enclave significantly contributed to the forcible removal JCE.**

2284. **BEARA** was fully informed about the separations and forcible removal of the population from Potočari on 12 and 13 July. On 13 July, **BEARA** gave instructions to Zoran Malinić and his deputy, Lučić, to detain captured Muslim men on the football field at Nova Kasaba. He was also responsible for blocking the road at Nova Kasaba and detaining UNPROFOR troops there.<sup>5009</sup> This allowed convoys to travel to Kladanj, and later (carrying Muslim men) to the Zvornik area, unhindered and unscrutinised.

2285. On the night of 13-14 July, **BEARA** also addressed the logistical problems caused by the presence of thousands of prisoners held in Bratunac. He planned and ordered (including the orders passed on by Momir Nikolić to **NIKOLIĆ**) to have those prisoners transferred to the Zvornik area for detention and execution.

<sup>5006</sup> S.PERIĆ, T.11415:9-10; S.PERIĆ, T.11410:16-17.

<sup>5007</sup> [REDACTED].

<sup>5008</sup> [REDACTED].

<sup>5009</sup> See para. 635.

2286. On 14 July **BEARA** was in the Zvornik area, where he supervised the transfer and detention of the prisoners brought from Bratunac who were taken to sites throughout the area. These men were the victims of forcible transfer.<sup>5010</sup> **BEARA**'s role is evidenced, in particular, by his meeting with **POPOVIĆ** and **NIKOLIĆ** on the morning of 14 July at the Zvornik Brigade HQ;<sup>5011</sup> his visit to the Petkovci School that afternoon;<sup>5012</sup> and the Zvornik Brigade Unofficial Duty Officer's Logbook entry stating, "Colonel **BEARA** is coming in order to Orovoc Petkovci Ročević Pilica."<sup>5013</sup>

2287. This evidence, taken as a whole, proves that **BEARA** knew of and was involved in the forcible transfer of the Muslims from Srebrenica.

**(clxxix) BEARA knew of, and was involved in, the VRS's efforts to forcibly remove the Muslim population of Žepa.**

2288. **BEARA** knew of the plan to remove the Muslim population of Žepa, as shown by the following intercepts and documentary evidence. **BEARA** played an active role in the VRS's pursuit of the men and boys fleeing across the Drina River to Serbia, not only seeking to keep them on the Bosnian side of the river, but also seeking the return of those taken into custody by the Serbian MUP.

**[REDACTED].**<sup>5014</sup>

2289. [REDACTED].

2290. [REDACTED].

**[REDACTED].**<sup>5015</sup>

2291. [REDACTED]:

[REDACTED]

2292. [REDACTED].

2293. [REDACTED].

**[REDACTED].**<sup>5016</sup>

2294. [REDACTED].

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<sup>5010</sup> See paras. 2904-2910

<sup>5011</sup> See paras. 638-639.

<sup>5012</sup> See paras. 643-644.

<sup>5013</sup> Exh. P00377, Zvornik Brigade Unofficial Duty Officer's Logbook, p. 128 (ERN 0293-5746).

<sup>5014</sup> [REDACTED].

<sup>5015</sup> [REDACTED].

<sup>5016</sup> [REDACTED].

**2 August, 12:40 hours and 13:00 hours intercepts between Krstić and POPOVIĆ.**

2295. In the first conversation, Gen. Krstić ordered **POPOVIĆ** to go with Kosorić, meaning Svetozar Kosorić, the Drina Corps Chief of Intelligence, to Bajina Bašta in Serbia.<sup>5017</sup> In the second conversation,<sup>5018</sup> **POPOVIĆ** told Krstić that **BEARA** just called and said that he (**BEARA**) had reported to **MILETIĆ**, that there were 500 to 600 Muslims in Serbia but that the authorities would not allow anyone to speak to them. Krstić said, “I want you to bring me Turks back here. Is that clear, man?” **POPOVIĆ** assented but asks what to do “if they won’t give them?” Krstić insisted “They’re our Turks, man!” **POPOVIĆ** reiterates that the (Serbian) MUP will not allow access to them. Finally, Krstić states that “I’ll turn the gun-barrels on them. Did you understand?”

**16 August communication to military courts and prosecutors.**

2296. **BEARA**’s efforts to recapture the Muslims from Serbia continued, as memorialised in a 16 August 1995 official communication that he sent to VRS military courts and prosecutors. In this document, **BEARA** described a plan to obtain proof of the commission of war crimes by the men held in Serbia. This was to be used as the basis for requesting the Serbian authorities to hand them over to the VRS:

All the POW’s from the former *Bališe* enclave of Žepa (members of the 285<sup>th</sup> Light Infantry Brigade of the so-called BH Army) will be sent to the Srebrenica Correctional Facility. An operative-investigative team has been formed of members of the VRS and RS MUP Security Organs, who will interrogate the captured *Bališe* in order to provide criminal justice documentation, documenting crimes against humanity and the international laws of war, and so that based on this documentation they can request the /?handover/ of former Žepa unit members, who are presently in the Republic of Serbia.

To do this, two investigating judges with typists and Deputy Prosecutor should be sent to the Srebrenica Correctional Facility, so that criminal law documentation can be formed immediately after the interrogation of the *Bališe*.<sup>5019</sup>

**Conclusion.**

2297. **BEARA**’s involvement in the hunt for the Muslim men from Žepa who had fled to Serbia over an extended period indicates its importance to the VRS Main Staff. It also demonstrates **BEARA**’s knowledge of the VRS’s pre-existing plans to forcibly remove the Muslim population from the Žepa enclave. By August 1995, the VRS was under intense scrutiny as the killings of the Muslim men from Srebrenica became known. **BEARA**’s statement that there were “no plans to kill them...but to exchange them”

<sup>5017</sup> Exh. P01392[REDACTED](c), Intercept dated 2 August 1995, at 12:40 hours.

<sup>5018</sup> Exh. P01395[REDACTED]-(f), Intercept dated 2 August 1995, 13:00 hours.

<sup>5019</sup> Exh. P00539, Main Staff document No. 12/46-575/95, to Bijeljina Military Court, type-signed Ljubisa **BEARA**, dated 16 August 1995.

reflects this scrutiny. It also shows that **BEARA** was fully aware of the Srebrenica murder operation.

**(KK) CONCLUSION OF THE TWO JOINT CRIMINAL ENTERPRISES.**

2298. Ljubiša **BEARA** is individually criminally responsible under Article 7(1) of the Statute for the crimes with which he is charged in the Indictment as a member of both Joint Criminal Enterprises: (a) to forcibly remove the Muslim populations of Srebrenica and Žepa;<sup>5020</sup> and (b) to murder the able-bodied men of Srebrenica.<sup>5021</sup>

2299. **BEARA** made voluntary and significant contributions to the execution of the common purpose of both JCEs and shared the intent with the other members of the JCE to commit the crimes which fell within the common purpose of the JCEs. **BEARA** is also responsible for ordering, planning, instigating and otherwise aiding and abetting the commission of crimes charged in the Indictment.

**(LL) OTHER FORMS OF LIABILITY UNDER ARTICLE 7(1) OF THE STATUTE.**

2300. In addition to his criminal liability for the crimes charged in the Indictment as a member of two Joint Criminal Enterprises, Ljubiša **BEARA** is criminally responsible for ordering, planning, instigating and otherwise aiding and abetting the commission of the crimes charged in the Indictment. **BEARA**'s criminal responsibility for ordering and planning the crimes charged is briefly outlined below.

2301. **BEARA** participated in the ongoing planning, as well as ordered the commission, of the crimes for which he is charged in the Indictment. Of particular importance in this respect is that a person knowingly relaying illegal orders from superiors to subordinates is also individually responsible for the crime ordered.<sup>5022</sup> Thus, when **BEARA** passed on orders from his superior officers Generals Mladić and Tolimir to his subordinate Security Officers, as well as to units they engaged to carry tasks associated with the removal and destruction of the Muslim population of the enclaves, while sharing the intent to remove the Muslim population of those areas, **BEARA** is individually responsible for the crimes committed by the individuals who implemented those orders.

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<sup>5020</sup> See para. 77 of the Indictment.

<sup>5021</sup> See para. 39 of the Indictment.

<sup>5022</sup> *Milutinović* TJ (Vol. 1), para. 87; *Kupreškić* TJ, para. 862; *Kupreškić* AJ, para. 451.

(MM) LJUBIŠA BEARA INTENDED TO COMMIT GENOCIDE.

(clxxx) BEARA's intent to commit genocide is evidenced by the existence of a genocidal plan and BEARA's central involvement in it.

2302. **BEARA** was a fully-informed and active participant in the two JCEs. His intent is clear from his actions. The Trial Chamber has seen ample additional evidence confirming that **BEARA** intended his actions to bring about the destruction of Bosnian Muslims of Eastern Bosnia.

2303. The genocidal plan evolved from a policy directive and subsequent decisions by members of the RS and VRS leadership, culminating in the forcible removal of the Muslim populations of Srebrenica and Žepa and the murder of Muslim men of Srebrenica. As Chief of the Security Administration of the VRS Main Staff, **BEARA** knew of this plan as it evolved. His deliberate and extensive participation in the murder operation with this knowledge proves his participation in the JCE with the necessary intent. In particular, **BEARA's** active participation in the murder operation to its completion, such as demonstrated by his conversation with General Krstić on 15 July and his presence in Pilica on 16 June to ensure that the final large group of captured Muslim men would be killed, underscores his genocidal, rather than simply, murderous, intent.

2304. The depth of **BEARA's** commitment to the goal of removing and destroying the Muslim populations of Srebrenica and Žepa is further demonstrated by his participation in the Žepa operation, where he was involved in the hunt for the Muslim men and boys who had escaped across the Drina River into Serbia as evidenced by the intercepts from 1 and 2 August 1995, continuing through 16 August when he sought to persuade the Serbian authorities to return the Žepa Muslims by providing the authorities with "evidence" that the men had committed crimes against humanity and war crimes. This ongoing involvement demonstrates **BEARA's** firm and ongoing commitment to achieving the complete destruction of those Muslim populations.

(clxxxi) BEARA demonstrated ethnic bias against Bosnian Muslims.

2305. A strong ethnic bias against the Bosnian Muslims pervaded the VRS Security Administration.<sup>5023</sup> **BEARA's** own ethnic bias is proven by his willing and ongoing participation in the operation to destroy the Muslim populations of Srebrenica and Žepa.

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<sup>5023</sup> Captain Momir Nikolić testified: "...in that period nearly all the officers, or let's say 95 per cent of them, used to call Muslims balija. Among those who were using these terms, whereas I used to use the term Turks which was also derogatory, so I was no different from others, was Mr. **POPOVIĆ** who referred to the Muslims as balijas." M. NIKOLIĆ, T.33032. [REDACTED].

2306. Furthermore, **BEARA** used ethnic slurs to refer to Muslims in both informal and formal communications. When speaking to 65<sup>th</sup> Protection Regiment MP Battalion Deputy Commander Aleksandar Lučić about the captured Muslim men at Nova Kasaba on 13 July,<sup>5024</sup> **BEARA** also used the term “balija,”<sup>5025</sup> and said, “who gives a fuck about them?” In addition, **BEARA** used the term “balijs” three times in the one-page official communication that he sent to the VRS military courts and prosecutors on 16 August 1995.<sup>5026</sup>

2307. The fact that such bias was widespread within the VRS<sup>5027</sup> does not detract from the conclusion that **BEARA** was ethnically biased against Muslims; indeed, the pervasiveness of such bias allowed for crimes to take place on such a scale as was seen in relation to the Muslim populations of Srebrenica and Žepa.

2308. Finally, evidence that **BEARA** did not display ethnic bias while serving in the JNA is of no relevance; as a multi-ethnic force, serving officers in the JNA would have to have concealed any bias in order to protect their careers,<sup>5028</sup> reinforced by the fact that “any display of ethnic hatred in the JNA... was considered a crime.”<sup>5029</sup>

**(NN) THE DEFENCE CASE OF LJUBIŠA BEARA**

**(clxxxii) BEARA’s alibi for 13-14 July.**

2309. **BEARA** ran an alibi defence.<sup>5030</sup> He called three family friends to testify that he was not present in or around the Bratunac and Zvornik areas on 13 and 14 July, but rather, was celebrating his birthday in Belgrade. This alibi was clearly a calculated invention and it is entirely disproven by credible documentary evidence and witness testimony that **BEARA** was in the Bratunac and Zvornik areas on 13-14 July.

<sup>5024</sup> Exh. P01130(a) [REDACTED] (e), Intercept dated 13 July 1995, 10:09 hours.

<sup>5025</sup> See FREASE, T.7796: “...Balija, which is a derogatory term for Muslims”; ALAČOV, T.23572 (confirming that “balija” is a derogatory term for Muslims).

<sup>5026</sup> Exh. P00539, Main Staff document No. 12/46-575/95, to Bijeljina Military Court, type-signed Ljubisa **BEARA**, dated 16 August 1995. N.B., “balijs” is the plural of “balija.” See also Exh. P03502, Main Staff Order No. 12/46-701/95, signed by Ljubisa **BEARA**, dated 27 November 1995 (in which **BEARA** specified that only “Serbs and not those from mixed marriages or those whose family members live in the territory controlled by the enemy” were to be appointed to the security details of VRS Main Staff Generals).

<sup>5027</sup> See, e.g., ALAČOV, T.23573 (“Maybe even I used some terms in different situations”); M. NIKOLIĆ, T.33032 (95 per cent of officers used to call Muslims “balija”).

<sup>5028</sup> See ALAČOV, T.23578: “At the beginning of my military career, there was a principle in place that to the extent possible, especially in managing positions, there should be a proportionate representation of people of different ethnic backgrounds. However, later on the principle was liberalized, relaxed, and especially for those other duties, the practice was to employ people who hailed from the area where the garrison was. However, for senior positions, the ethnic key was still used so that there wouldn’t be people of a single ethnicity occupying most of the senior positions.”

<sup>5029</sup> M. MITROVIĆ, T.25149-25150.

<sup>5030</sup> **BEARA** Defence opening statement, T.23523-23524. See also comments made by the **BEARA** Defence at T.2857-2858.



**Dinners in Belgrade on 13 and 14 July.**

2310. Miroslava Čekić testified that on the evening of 13 July, she and her husband went out to dinner with **BEARA** and his wife Nada at a restaurant in Belgrade.<sup>5031</sup> On 14 July, Nada **BEARA** held a lunch party for her husband at their house with their family members and children.<sup>5032</sup> Čekić was not invited to attend as they were seeing each other later on.<sup>5033</sup> That evening, she and her husband invited **BEARA**, his wife Nada, with Svetlana Gavrilović and her husband, to their house to celebrate **BEARA**'s birthday.<sup>5034</sup>

2311. Svetlana Gavrilović gave a very similar account to Čekić's concerning the alleged birthday party on the evening of 14 July.<sup>5035</sup>

**Čekić and Gavrilović's accounts as to why they are certain of the date(s) on which they met Colonel BEARA are not credible.**

2312. Čekić stated that the reason she remembers that **BEARA**'s birthday was 14 July, that "if someone tells her something, then she remembers things".<sup>5036</sup> This is simply not credible. Despite "remembering things," Čekić could not remember how many birthdays she had celebrated with the **BEARAs**,<sup>5037</sup> nor did she remember the date of her friend Nada **BEARA**'s birthday<sup>5038</sup> (who she has known since 1985 and with whom she has socialised since 1991).<sup>5039</sup>

2313. Gavrilović claimed that she remembered the date of **BEARA**'s birthday because her 25<sup>th</sup> wedding anniversary was on 4 January 1995 and on 14 July, they discussed plans to celebrate this anniversary by going on the Orient Express.<sup>5040</sup> However, there is clearly no logical association between these two dates.

**Other elements of Čekić's and Gavrilović's testimonies did not ring true.**

2314. Čekić's and Gavrilović's testimonies did not reflect genuine attempts to recount events as they actually occurred, but were constructed to provide elements which the witnesses thought necessary to provide an alibi. Their claims that the fall of Srebrenica (or any aspect of the war) was not a topic of conversation;<sup>5041</sup> the level of detail in

<sup>5031</sup> ČEKIĆ, T.24832; 24847.

<sup>5032</sup> ČEKIĆ, T.24851–24852.

<sup>5033</sup> ČEKIĆ, T.24852.

<sup>5034</sup> ČEKIĆ, T.24835.

<sup>5035</sup> GAVRILOVIĆ, T.24762-74763, 24770-24771.

<sup>5036</sup> ČEKIĆ, T.24886.

<sup>5037</sup> ČEKIĆ, T.24840–24841.

<sup>5038</sup> ČEKIĆ, T.24841.

<sup>5039</sup> ČEKIĆ, T.24827-24828.

<sup>5040</sup> GAVRILOVIĆ, T.24761, 24774, 24777, 24851.

<sup>5041</sup> ČEKIĆ, T.24850; GAVRILOVIĆ, T.24783.

Gavrilović's story;<sup>5042</sup> the supposed jokes that were made about the Orient Express (clearly serving to confirm Gavrilović's method of recalling the date);<sup>5043</sup> and Čekić's gratuitous statement that **BEARA** spoke in a Split dialect<sup>5044</sup> all indicate that the alibi was invented. These witnesses' at best confused and conflicting accounts of their contacts with each other and with the **BEARA** defence after Gavrilović first met with the defence demonstrate their complete unreliability.<sup>5045</sup>

**Milan Kerkez's story about meeting BEARA at his family apartment on 14 July is not credible.**

2315. Milan Kerkez testified that on the afternoon of 14 July, he visited Branko **BEARA** at his family's apartment in Belgrade to discuss the holiday they were going on the next day. When he arrived, he saw and greeted **BEARA**.<sup>5046</sup>

2316. Kerkez testified that he and his friends departed on holiday on the evening of 15 July 1995 and returned exactly two weeks later, setting off on a Saturday and arriving back on a Sunday (31 August),<sup>5047</sup> in order to start his handball training on a Monday (1 August 1995).<sup>5048</sup> 1 August 1995 was actually a Tuesday. This error clearly undermines Kerkez's ability to pinpoint 14 July 1995 as the day he saw **BEARA**. Furthermore, despite remembering the exact dates of his 1995 holiday, Kerkez was unable to recall the date of his 1996 holiday,<sup>5049</sup> nor was he able to recall the date or day of the week that Mr. Stanić of the **BEARA** defence team called him in April 2008, just a few months before his testimony in this case.<sup>5050</sup>

**Conclusion – BEARA's alibi is a fabrication.**

2317. Fourteen eyewitnesses place **BEARA** in the Bratunac and Zvornik areas from around 10/11 July through at least 16 July; ten of those eyewitnesses saw him on 13 and

<sup>5042</sup> GAVRILOVIĆ, T.24771; 24778–24779.

<sup>5043</sup> ČEKIĆ, T.24874; 24897; 24899. GAVRILOVIĆ, T.24787. Čekić testified that she did not mention these jokes to the defence when interviewed, or in proofing: "I thought I was supposed to say what we were talking about, what we were making jokes about, and it's probably for that reason why I didn't share that with the investigators." ČEKIĆ, T.24893; 24898.

<sup>5044</sup> ČEKIĆ, T.24901: 10 – 24902: 1. Čekić claimed that no-one told her that it was important to tell the Trial Chamber that Colonel **BEARA** spoke in a Split dialect and that it was just a spontaneous statement on her part. ČEKIĆ, T.24902.

<sup>5045</sup> Gavrilović stated that she called Čekić the day after her meeting with Mr. Stanić of the **BEARA** defence to discuss the meeting, and that they did not meet face to face for another 2-3 weeks. GAVRILOVIĆ, T.24787. Čekić stated that they met and talked a few days after Svetlana Gavrilović's meeting with Mr. Stanić. Čekić also stated that she told Gavrilović the date of the birthday party in 1995. ČEKIĆ, T.24886-24888; 24892; 24902-24903.

<sup>5046</sup> KERKEZ, T.24911-24914.

<sup>5047</sup> KERKEZ, T.24940-24941.

<sup>5048</sup> KERKEZ, T.24909, 24940, 24956.

<sup>5049</sup> KERKEZ, T.24940.

<sup>5050</sup> KERKEZ, T.24923.

14 July variously in Bratunac, Nova Kasaba, Zvornik and Petkovci.<sup>5051</sup> Their evidence, supported by overwhelming documentary evidence, intercepts, and other witness testimony, disproves **BEARA**'s claim that he was in Belgrade on 13 and 14 July. The Belgrade story is an unmitigated fabrication, using witnesses disposed to provide an alibi for **BEARA**. As such, the Trial Chamber should conclude that this purported alibi is false and does nothing more than confirm **BEARA**'s consciousness of guilt.

**(clxxxiii) Expert evidence concerning witnesses' identifications of BEARA.**

2318. Alongside the alibi defence, the **BEARA** Defence called expert evidence to challenge the reliability and value of the eyewitness evidence placing him in the Bratunac and Zvornik areas. The expert identification evidence presented by the **BEARA** Defence in no way casts doubt the multiple positive identifications or recognitions<sup>5052</sup> of Colonel **BEARA** made by witnesses in this case. As described above, there is extensive corroborating evidence from multiple independent sources confirming **BEARA**'s presence in and around Bratunac and Zvornik.<sup>5053</sup>

2319. Professor Willem Wagenaar, as an expert on identification and memory, testified that it is much easier for a witness to remember the name of a familiar person than to remember their face or outer appearance.<sup>5054</sup> Wagenaar conceded that it was also easier for witnesses to recall meeting an unfamiliar person, if they had come to know that person's name.<sup>5055</sup> As described in detail elsewhere in this brief, almost all of the

<sup>5051</sup> [REDACTED] PW-165, BIRČAKOVIĆ, BOROVČANIN, ČELANOVIĆ, [REDACTED] PW-162, DERONJIĆ, EGBERS, [REDACTED] PW-138, M.MILOŠEVIĆ, [REDACTED] PW-161, MOMČILOVIĆ, MOMIR NIKOLIĆ, PERIĆ and [REDACTED] PW-104) (the ten eyewitnesses who saw **BEARA** in Bratunac, Nova Kasaba, Zvornik or Petkovci on 13 or 14 July are underlined).

<sup>5052</sup> Wagenaar distinguished between "recognition" of a person the witness knew beforehand; and "identification" of a person the witness saw for the first time during the incident in question. WAGENAAR, T.25170-25171; 25308-25309.

<sup>5053</sup> In particular, there is corroboration from intercepted communications, as well as entries in the Zvornik Brigade Unofficial Duty Officer's Logbook.

<sup>5054</sup> WAGENAAR, T.25170: "Recognition is retained for a witness who states that he observed at a moment in history a person whom he knew well, and the witness states, I recognise that person because I knew who that was. The memory task for such a witness is only to remember that he saw a particular person. In fact, the witness only has to remember the name of the person he saw..." See also WAGENAAR, T.25396-25397: "...If you see a familiar person do something, you don't have to remember the face of that person because you already know the face of that person. You only have to remember the name of the person you saw. Whereas if you see an unfamiliar person who is not named by any name to you, you have to remember the outer appearance until the investigation and you are shown photographs or something. So the memory processes involved in remembering familiar and unfamiliar people are entirely different, and the influences during time that might change or distort your memories are also different in those two situations."

<sup>5055</sup> WAGENAAR, T.25437: "Q: ... So he's told that the person that's going to resolve the situation is Colonel **BEARA**. He is expecting to meet Colonel **BEARA**. The next day, he meets Colonel **BEARA**, has a short conversation. The day after that or that night, he writes down the name Colonel **BEARA**. And in October 1995, he gives a description. That's all – isn't it – at the beginning a decent way of – you tell me – processing and beginning to retain a memory of meeting a person? A: Yes. The conditions as they are

witnesses who saw **BEARA** in the Bratunac and Zvornik areas already knew him (Birčaković, Čelanović, **BOROVČANIN**, [REDACTED] PW-138, [REDACTED] PW-161, and Momir Nikolić) or testified that they were told his name ([REDACTED] PW-165, Boering, [REDACTED] PW-162, Egbers, Marko Milošević, Momčilović, and [REDACTED] PW-104). The reliability of these recognitions and identifications therefore is supported by Wagenaar's evidence that all these witnesses had to do was to "remember the name of the person ŠtheyĆ saw."

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described in this document allow an adequate representation of things in memory." T.25445: "Q: ... you have no criticism of [Egbers'] memory of the name and rank of the Colonel **BEARA** that he met and wrote down the next day, as a memory expert? A: no, although of course, I'm not aware of the particular circumstances in which he did that, but I did not report on that aspect of his testimony."

(XI) **INDIVIDUAL CRIMINAL RESPONSIBILITY OF VUJADIN POPOVIĆ UNDER ART. 7(1) OF THE STATUTE**

(OO) **INTRODUCTION**

2320. In 1992, Vujadin **POPOVIĆ** was a member of the Department for Security and Intelligence of the 2<sup>nd</sup> Krajina Corps in Drvar.<sup>5056</sup> He remained in this position until the establishment of the Drina Corps in November 1992.<sup>5057</sup> At this time, he was reassigned to the Drina Corps Command as the Chief of the Intelligence and Security Department.<sup>5058</sup> Following the reorganisation in 1993,<sup>5059</sup> **POPOVIĆ** remained as Chief of Security, while another officer assumed the role of Chief of Intelligence.<sup>5060</sup> **POPOVIĆ** was Chief of Security of the Drina Corps during the Indictment period.<sup>5061</sup>

(clxxxiv) **Role and responsibilities of Vujadin POPOVIĆ**

2321. As the Chief of Security, **POPOVIĆ** reported to the Commander of the Drina Corps.<sup>5062</sup> **BEARA** directed **POPOVIĆ**'s work as his immediate professional superior along the professional security line.<sup>5063</sup> Similarly, **POPOVIĆ** directed the work of Zvornik Brigade Assistant Commander for Security, Drago **NIKOLIĆ**<sup>5064</sup> and Bratunac Brigade Assistant Commander for Security and Intelligence, Momir Nikolić.<sup>5065</sup>

2322. The work of the Security Administration encompassed counter-intelligence activities on the one hand, and criminal-legal tasks and military police duties, on the other. These were apportioned roughly 80 and 20 percent, respectively.<sup>5066</sup>

2323. Within this broad framework, **POPOVIĆ** possessed a wide range of powers and duties. He controlled the security organs in subordinate formations of the Drina

<sup>5056</sup> MITROVIĆ, T.25066:7-10; *see also* MITROVIĆ, T.25046:25-25047:3.

<sup>5057</sup> Exh. P00459, Srpska Vojska Article entitled, "Two Years of the Drina Corps", dated 15 November 1994.

<sup>5058</sup> MITROVIĆ, T.25066:16-17.

<sup>5059</sup> MITROVIĆ, T.25104:13-16.

<sup>5060</sup> MITROVIĆ, T.25105:10-25106:6; *see also* Exh. P00686, Butler Revised Narrative, dated 1 November 2002, para. 2.4 (noting that in July 1995 the Drina Corps Chief of Intelligence was Lt. Col. Svetozar Kosorić); KOSORIĆ, T.33760.

<sup>5061</sup> Exh. P00686, Butler Revised Narrative, dated 1 November 2002, para. 2.4.

<sup>5062</sup> Exh. P00407, SFRY Rules of Service of Security Organs in the Armed Forces, dated 1 January 1984, at Ch.II, para. 16 ERN: 0092-0099-0092-0131; Exh. P00686, Butler Revised Narrative, dated 1 November 2002, para. 2.7 (noting that "the units or organs remain under the overall command of the Corps Commander."). During the Indictment period, the Commander of the Drina Corps was Gen. Milenko Živanović until 13 July 1995, and Gen. Radislav Krstić on 13 July 1995 forward.

<sup>5063</sup> BUTLER, T.19635:25-19635:18.

<sup>5064</sup> BUTLER, T.19647:11-13; *see* VUGA, T.23348:17-21; Exh. P03031, Drina Corps Command Order No. 02-214, dated 12 February 1995, item 2 (indicating the professional subordination of the Brigade Security Organs to the Drina Corps Security Department and the Main Staff Security Administration).

<sup>5065</sup> M.NIKOLIĆ, T.33037:5-10.

<sup>5066</sup> *See* Exh. P02741, VRS Main Staff Order 18/20-414/94, dated 24 October 1994, item 1 at ERN:0308-9290; Exh. 1D01175, Expert Report by Petar Vuga, dated 31 March 2008, para. 2.42-2.45.

Corps.<sup>5067</sup> He organised and managed counter-intelligence activities,<sup>5068</sup> which comprised, *inter alia*, the detection and prevention of secret organised activities of foreign intelligence services, activities and actions of reconnaissance, sabotage and terrorist forces, activities and actions of special units of the enemy, as well as the activities of enemy emigrants and internal enemies.<sup>5069</sup> Many of **POPOVIĆ**'s duties overlapped with the functions of the Drina Corps Intelligence Organ and the Military Police.<sup>5070</sup>

2324. **POPOVIĆ** was thus responsible for "organising and implementing security measures and undertaking other specialised work in the field of Security..."<sup>5071</sup> This included coordinating with the MUP situated in the Corps sector and controlling the Military Police.<sup>5072</sup> He maintained a technical or professional relationship with Military Police units,<sup>5073</sup> provided them with specialist management,<sup>5074</sup> and proposed ways in

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<sup>5067</sup> [REDACTED] Exh. 1D01175, Expert Report by Petar Vuga, dated 31 March 2008, para. 2.72 ("security organs of the superior command or unit of the VRS exercise specialist control over security organs in subordinate VRS commands or units, provide specialist assistance to these organs and organise, guide, coordinate and control their work").

<sup>5068</sup> Exh. 1D01175, Expert Report of Petar Vuga, dated 31 March 2008, para. 2.144 (noting, "the security organ is a specialist organ in the Command which organizes and implements measures and procedures of counter-intelligence support of the Corps, and participates in the organization and implementation of measures of security support") citing Exh. 7DP00412, SFRY Rules for Land Forces Corps, dated 11 April 1990, para.73.

<sup>5069</sup> VUGA, T.23142:17-23146:12.

<sup>5070</sup> Exh. P00683, VRS Corps Command Report, dated 5 April 2000, para. 3.1 ERN:0094-6764.

<sup>5071</sup> Exh. 7DP00410, Federal Secretariat for National Defence, General Staff of the SFRY, Regulations Regarding the Responsibility of Corps Command of the Ground Forces during Peacetime, dated 1 January 1990, Art.29 at ERN:0090-9994-0091-0027.

<sup>5072</sup> Exh. 7DP00412, General Staff of the Armed Forces, SFRY, Rules for Land Forces Corps (Provisional), dated 11 April 1990, para. 73; Exh. P00413, JNA 4th Corps, Instructions on how the 4th Corps Command is to Operate when carrying out Priority Assignments in Peacetime and Wartime, Doc. No. 01/15-62, dated 29 August 1991, at pp.21-22 ERN:0085-0000-0085-0057; *see also* R. BUTLER, T. 1637:2-8; *see also* M.SAVČIĆ, T.15241:8-10, 15271:7-16.

<sup>5073</sup> BUTLER, T.19650:22-19651:2; *see also* Exh. P03032, Document from the Drina Command to the BO Affairs Department, signed by Maj, **POPOVIĆ**, dated 7 February 1995 at ERN:0427-0305.

<sup>5074</sup> Exh. P00407, SFRY Rules of Service of Security Organs in the Armed Forces, dated 1 January 1984, Ch. II, para. 23; Exh. 1D01175, Expert Report by Petar Vuga, dated 31 March 2008, para. 2.93 (noting that "from a specialist standpoint, control over the military police is exercised by the officer of the security organ of the military unit in whose establishment the military police unit is placed or to which it is attached"). An example specialist control can be seen in Exh. 3D00436, Drina Corps Command - Security Organ Instruction No. 17/861, dated 6 July 1995, which provides "instructions for the work of the military police at checkpoints", forwarded by **POPOVIĆ** and setting forth the criteria to be applied in respect of various categories of persons, such as foreign citizens, journalists, Serbs living abroad, men fit for military service, etc. Notably, **POPOVIĆ** assigns the Chiefs of Security and Military Police Commanders in subordinate units responsibility for the implementation of the instructions).

which to use them to the Corps Commander.<sup>5075</sup> In turn, he was responsible to the Corps Commander for the state and activity of the unit.<sup>5076</sup>

2325. **POPOVIĆ** further assigned tasks to the Military Police as approved or ordered by the Corps Commander, as well as directed the Commander of the Military Police unit in accomplishing these tasks.<sup>5077</sup> These responsibilities included matters concerning prisoners.<sup>5078</sup>

2326. **POPOVIĆ**'s responsibility for POWs is illustrated by his 15 April 1995 instruction to the intelligence and security organs within the Drina Corps concerning arrest and detention procedures:

All prisoners, members of the enemy army are to be handcuffed or their hands tied with anything available immediately after their capture. They are to be searched and all items are to be seized apart from their clothing and footwear. *An official record is to be compiled ...*

...The location where POWs are collected must be such that the prisoners are fully secured, as well as the people from the *security organ*, from the intelligence organ and from the military police organ *that engages in the interrogation* and guards POWs ...<sup>5079</sup>

2327. **POPOVIĆ**'s 30 August 1995 order issued to the commands of the Drina Corps brigade formations and assigning tasks to the Military Police evidences his authority over the these units in acting pursuant to the orders of the Main Staff.<sup>5080</sup>

2328. **POPOVIĆ** further participated in organising and implementing security support<sup>5081</sup> based upon the Corps Commander's decision.<sup>5082</sup> For combat activities, this

<sup>5075</sup> Exh. 7DP00412, General Staff of the Armed Forces, SFRY, Rules for Land Forces Corps (Provisional), dated 11 April 1990, para. 73; Exh. P00413, JNA 4th Corps, Instructions on how the 4th Corps Command is to Operate when carrying out Priority Assignments in Peacetime and Wartime, Doc. No. 01/15-62, dated 29 August 1991, at pp.21-22 ERN:0085-0000-0085-0057; *see also* R. BUTLER, T. 1637:2-8; *see also* M.SAVČIĆ, T.15241:8-10, 15271:7-16.

<sup>5076</sup> Exh. P00407, SFRY Rules of Service of Security Organs in the Armed Forces, dated 1 January 1984, Ch. II, para. 23.

<sup>5077</sup> R.BUTLER, T.19683:7-15; *see also* Exh. P00684, VRS Brigade Command Responsibility Report dated 31 October 2002, para. 3.1.

<sup>5078</sup> R.BUTLER, T.19638:1, 19940:14-10; Exh. P01324(a), Intercept dated 24 July 1995, at 12:50 hours (ERN:0072-7931); Exh. P00196, Drina Corps Security Section instruction No. 17/450, re handling of war prisoners and other persons, signed by Maj. **POPOVIĆ**, Chief of Security, dated 15 April 1995, (ERN: 0425-8673-0425-8675); *see also* Exh. 7DP00412, SFRY Rules for Land Forces Corps, dated 11 April 1990, para. 468(3)-(4) (referencing security support in operations and combat actions and indicating dealing with POWs as a military police measure).

<sup>5079</sup> Exh. P00196, Drina Corps Security Section instruction No. 17/450, re handling of war prisoners and other persons, signed by Maj. **POPOVIĆ**, Chief of Security, dated 15 April 1995, p. 2, items 1 and 2 (emphasis added).

<sup>5080</sup> Exh. 7D00978, Drina Corps Command, Security Department Order No. 17/1048 to disarm members of UNPROFOR and other international organizations, type-signed Lt. Col. Vujadin **POPOVIĆ**, dated 30 August 1995 (providing, "Pursuant to the order of the Security Administration of the Main Staff of the Army of the Republika Srpska, and following the most recent developments, I hereby order: 1. The military police organs shall intensify checks on persons and vehicles at all military police checkpoints ...").

<sup>5081</sup> Exh. 7DP00412, SFRY Rules for Land Forces Corps, dated 11 April 1990, para.73 (indicating that the Security Organ participates in the organization and implementation of security support).

<sup>5082</sup> Exh. 7DP00412, SFRY Rules for Land Forces Corps, dated 11 April 1990, para.470.

type of support included counter-intelligence measures and military police measures, in which **POPOVIĆ** was involved.<sup>5083</sup> The SFRY Rules for Land Forces Corps provide that, as a component of security support, military police measures comprise:

...direct security of the Commander, command posts, communications centres, couriers, movement of columns, *POW's*; control and search of structures and terrain; *guidance and control of the movement of refugees*; regulation and control of military traffic; participation in the implementation of combat-offensive measures, etc.<sup>5084</sup>

2329. **POPOVIĆ** was thus directly involved with issues concerning both prisoners and refugees in the Srebrenica operation.

2330. The Security Administration reporting structure ensured fluid communication. The Rules of Service of Security Organs provide:

Security organs report on their work to their immediate superior, and the security organs of superior commands, units, institutions, or staffs in accordance with the provisions of these rules ...

2331. The Security Organs shared information with the Intelligence Organs of the VRS.<sup>5085</sup> **POPOVIĆ** received and conveyed all relevant intelligence information to superior and subordinate officers within the Security Administration.<sup>5086</sup>

2332. **POPOVIĆ** maintained a friendly and familiar relationship with Drago **NIKOLIĆ** during the Indictment period<sup>5087</sup> and often visited Capt. Momir Nikolić.<sup>5088</sup> **POPOVIĆ** also had ties to Gen. Tolimir.<sup>5089</sup>

<sup>5083</sup> Exh. 7DP00412, SFRY Rules for Land Forces Corps, dated 11 April 1990, para.468 (describing the nature and tasks concerning security support); *see also* 5D00989, Work plan of the Drina Corps for December 1994, signed by Radislav Krstic, dated 1 December 1994, p.7 (placing the Security and Intelligence Organ “in charge of” security and intelligence support tasks, including “control of the work of the 5<sup>th</sup> bVP (Military Police Battalion) and other companies and platoons according to brigades” as well as cooperation with similar services in the territory under DK (Drina Corps) control”);

<sup>5084</sup> Exh. 7DP00412, SFRY Rules for Land Forces Corps, dated 11 April 1990, para. 468(4) (emphasis added).

<sup>5085</sup> Exh. P00407, SFRY Rules of Service of Security Organs in the Armed Forces, dated 1 January 1984, Ch.I, para. 13 (providing, “[s]ecurity organs report to and *inform* commands, units, institutions and staffs of the armed forces, superior security organs and other self-protection entities about [*inter alia*] *important issues for the security of the armed forces*”) (emphasis added).

<sup>5086</sup> *See e.g.*, 3D00319, Drina Corps Command Security and Intelligence Report No. 17/789, dated 23 June 1995 (relaying to all Drina Corps Security and Intelligence Chiefs information concerning radio communications acquired through reconnaissance).

<sup>5087</sup> Exh. P02437[REDACTED], Intercept dated 19 January 1995 at 10:57 hours (a conversation between **POPOVIĆ** and **NIKOLIĆ**, referring to one another familiarly as “Pop” and “Nidžo” in which **POPOVIĆ** says, “Hi Nidžo old buddy”, indicating their closeness); *see also* Exh. P02391(a), Intercept dated 22 September 1995, at 18:44 hours (a conversation between **NIKOLIĆ** and **POPOVIĆ**, referring to one another as “Nidžo” and “Pop”)

<sup>5088</sup> **ČELANOVIĆ**, T.6652; **M.NIKOLIĆ**, T.33031 (stating that he had a “professional and correct relationship” with **POPOVIĆ** and that he respected him as a fellow officer and superior).

<sup>5089</sup> *See* P01299(a), Intercept dated 22 July 1995 at 09:28 (a conversation between **POPOVIĆ** and Gen. Tolimir in which **POPOVIĆ** requests information about his cousin, Djordjija Popović and demonstrating a familiarity with Gen. Tolimir insofar as he called him directly to assist in providing information to him of a personal nature).



(clxxxv) **Overview of the case against Vujadin POPOVIĆ**

2333. Vujadin **POPOVIĆ** is individually criminally responsible under Article 7(1) of the Statute for the crimes with which he is charged in the Indictment as a member of the two Joint Criminal Enterprises: (a) to forcibly remove the Muslim populations of Srebrenica and Žepa;<sup>5090</sup> and (b) to murder the able-bodied men of Srebrenica.<sup>5091</sup>

2334. As outlined below, **POPOVIĆ** made significant contributions to the execution of the common purpose of both JCEs and shared the intent with the other JCE members to commit the crimes which fell within the common purpose of the JCEs. **POPOVIĆ** is also responsible for ordering, planning, instigating and otherwise aiding and abetting the commission of crimes in the Indictment.

2335. **POPOVIĆ** played a pivotal role in planning, organising, executing and supporting the murders of thousands of Muslim men captured by the VRS following the fall of Srebrenica. **POPOVIĆ** coordinated logistical and security issues concerning the detention, transfer and murder of the captured Muslims. He ensured that the personnel, resources and facilities needed to detain, secure, transport and kill the captured Muslims were available and able to perform the tasks. **POPOVIĆ**'s hands-on role in the murder operation included directly coordinating and overseeing the killings. He was equally instrumental in forcibly removing the Muslim population of Srebrenica and Žepa.

*11 July*

2336. On 11 July, Mladić conducted his victory walk through Srebrenica. **POPOVIĆ** was with him, together with other members of the JCE including **PANDUREVIĆ** and Krstić. **POPOVIĆ** was also at the Drina Corps IKM in Pribičevac with **BEARA**, Krstić and Miroslav Deronjić. **POPOVIĆ** and **BEARA** were also together outside the Bratunac Brigade Headquarters building, either that evening or on the evening of 10 July.

*12 July*

2337. At about 10:00 hours on 12 July, **POPOVIĆ** attended the third and final meeting between the VRS, RS civilian authorities, DutchBat and Muslim representatives at the Hotel Fontana in Bratunac. He attended as a Serb "representative"<sup>5092</sup> and sat at a table with several other senior Drina Corps officers as well as Generals Mladić and Krstić.

<sup>5090</sup> See para. 80 of the Indictment.

<sup>5091</sup> See para. 42 of the Indictment.

<sup>5092</sup> Exh. P00453, Statement of the Civilian Authorities of the Srebrenica Enclave Concerning the Evacuation Agreement, dated 17 July 1995.

2338. Before the meeting, **POPOVIĆ** met Momir Nikolić and Svetozar Kosorić, the Drina Corps Chief of Intelligence, in front of the Hotel. **POPOVIĆ** informed Momir Nikolić of the command decision to murder all of the able-bodied Muslim men. **POPOVIĆ** stated: “all the balija have to be killed.”<sup>5093</sup> **POPOVIĆ** assigned Momir Nikolić to assist in coordinate and organise the separation of these Muslim men in Potočari and the transfer of the women and children.

2339. After the Hotel Fontana meeting, **POPOVIĆ** discussed logistical and security issues related to the transport of the Muslim women and children with Krstić, Kosorić and Rajko Krsmanović, Drina Corps Chief of Transportation. **POPOVIĆ** was later present in Potočari as VRS forces separated the Muslim men and boys from their families.

#### *13 July*

2340. On 13 July, **POPOVIĆ** spoke to various VRS soldiers outside the “White House” in Potočari as VRS soldiers abused the Muslim population and committed indiscriminate murders. Separated Muslim men in Potočari were detained at the “White House.” They were beaten, abused and then transported to other detention facilities in and around Bratunac. VRS soldiers also killed some of these men.

2341. At approximately 19:00 or 20:00 hours on 13 July, **POPOVIĆ** called Drago **NIKOLIĆ** at the Zvornik Brigade IKM. **POPOVIĆ** told **NIKOLIĆ** of the plan to bring a large number of prisoners to the Zvornik area to be executed. He said that he and **BEARA** would organise their transfer and that someone would be sent to provide **NIKOLIĆ** with further details concerning their arrival. **BEARA** later dispatched Momir Nikolić for this purpose.

#### *14 July*

2342. At around 08:00 hours on 14 July, **POPOVIĆ**, **BEARA** and **NIKOLIĆ** met at the Zvornik Brigade Headquarters to coordinate the logistics of the murder operation.

2343. **POPOVIĆ** returned to Bratunac after the meeting where he organised a convoy of buses to transport the Muslim men and boys detained in Bratunac to the Zvornik area. Later that morning, **POPOVIĆ** personally led this convoy from Bratunac to the Orahovac School. Other schools in the Zvornik area also received the prisoners.

2344. When **POPOVIĆ** and the prisoners arrived at Orahovac, members of, *inter alia*, the Zvornik Brigade including MPs under the supervision of Drago **NIKOLIĆ**, were

<sup>5093</sup> M.NIKOLIĆ, T.32917:23-32918:17.

making preparations for the executions. While **POPOVIĆ** was at the school, two corpses lay in plain view in the schoolyard. Throughout the day and into the evening, these Muslim men and boys were transported to the nearby execution site and murdered.

*15 July*

2345. Between approximately 09:00 and 10:00 hours on 15 July,<sup>5094</sup> **POPOVIĆ** met Srećko Ačimović, the Commander of the Zvornik Brigade 2<sup>nd</sup> Battalion, at the Ročević School. **POPOVIĆ** made it clear that the prisoners would be killed.<sup>5095</sup> He arranged for personnel and vehicles for their transfer to the execution site. That afternoon, the prisoners were loaded onto trucks, driven to Kozluk and murdered.

*16 July*

2346. **POPOVIĆ** and **BEARA** arrived at the Kula School on the morning of 16 July. At least nine corpses lay in plain view nearby. Shortly after **POPOVIĆ**'s and **BEARA**'s arrival, the prisoners were brought out, bound and blindfolded, and then bussed to the Branjevo Military Farm. There, at least 1,000 Muslim men and boys were murdered in an operation lasting from approximately 10:00 hours until 16:00 hours.

2347. **POPOVIĆ** directly oversaw this murder operation. He procured the fuel necessary to transport the prisoners from school to the execution site.<sup>5096</sup> **POPOVIĆ** and **BEARA** left the school after the executions were completed.<sup>5097</sup> He later confirmed its success to the Drina Corps Command.

*17 July*

2348. For most of the day on 17 July, **POPOVIĆ** was in the Zvornik area. He supervised and oversaw the burial of the Muslim men and boys held at the Kula School and the Pilica Cultural Centre which took place at the Branjevo Military Farm. At 16:22 hours, **POPOVIĆ** reported to his Commander, Gen. Krstić, about the successful completion of the murder and burial operations, stating, "the job gets an A."<sup>5098</sup>

*23 July*

2349. On 23 July, **POPOVIĆ** organised and oversaw the summary execution and burial of 39 Muslim prisoners in Bišina, near Šekovići. Sometime between 08:30 hours and

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<sup>5094</sup> AČIMOVIĆ, T.12957-12958.

<sup>5095</sup> AČIMOVIĆ, T.12969:2-3.

<sup>5096</sup> Exh. P00377, at ERN: 0293-5766; Exh. P01189(a), Intercept dated 16 July 1995, at 13:58 hours.

<sup>5097</sup> PERIĆ, T.11471:23-11418:2.

<sup>5098</sup> Exh. P01224(a), Intercept dated 17 July 1995 at 16:22 hours.

15:00 hours, these prisoners were loaded onto trucks, driven to a remote location, lined up and then shot. **POPOVIĆ** was present throughout the execution and burial.

2350. From Bišina, **POPOVIĆ** went to the Zvornik Brigade Command before 17:00 hours.<sup>5099</sup> [REDACTED].<sup>5100</sup>

*2 August*

2351. In early August 1995, **POPOVIĆ** participated in a concerted effort to retrieve Muslim refugees who had fled Žepa to the Serbia. **POPOVIĆ**, together with **BEARA** and Gen. Krstić, was directly and actively involved in these efforts.

*September*

2352. In mid-September 1995, **POPOVIĆ** was involved in a reburial operation calculated to conceal evidence of the mass killings of the Srebrenica Muslims. **POPOVIĆ** safeguarded the secrecy of the planned operation and oversaw the security of fuel and resources needed to achieve its objectives.

**(PP) POPOVIĆ KNEW OF, SIGNIFICANTLY CONTRIBUTED TO, AND SHARED THE INTENT WITH THE OTHER JCE MEMBERS, TO PARTICIPATE IN THE JCE TO FORCIBLY REMOVE THE MUSLIM POPULATION FROM SREBRENICA AND ŽEPA.**

**(clxxxvi) The role of the security organs in the *Krivaja-95* combat order.**

2353. From an early stage in the VRS' operation to take over the Srebrenica and Žepa enclaves and to remove or destroy the Muslim populations living there, **POPOVIĆ** knew of, and played a central role in, the commission of the crimes in the Indictment.

2354. On 2 July 1995, the Drina Corps Command issued the order for active combat activities in respect of "*Krivaja-95*."<sup>5101</sup> This, order was based on Directives 7 and 7.1, and directed concrete military tasks necessary to achieve the objectives set out in these directives.<sup>5102</sup> The order assigned several tasks, which included, *inter alia*:

Security: Secure the complete secrecy of the decision and preparation for the execution of the task.

At all levels of RiK /Command and Control/ in the preparation and conduct of the operation, work out in detail and apply coding for documents in form and content suitable for the needs of efficient and safe command and control

*Security organs and military police will indicate the areas for gathering and securing prisoners of war and war booty.*

<sup>5099</sup> Exh. P00197, Vehicle log for VW Golf P-7065 assigned to **POPOVIĆ** (shows that on 23 July **POPOVIĆ**'s vehicle travelled a route of Vlasenica-Zvornik-Vlasenica)..

<sup>5100</sup> [REDACTED].

<sup>5101</sup> Exh. P00107, Drina Corps Command Order 04/156-2, Operations Order No. 1 *Krivaja-95*, dated 02 July 1995.

<sup>5102</sup> Exh. P00107, p.3.

*In dealing with prisoners of war and the civilian population behave in every way in accordance with the Geneva Conventions*

*The security organs shall regulate the security system in the area of combat activities and instruct the subordinate commands in its application.*

*Apply security particularly strictly during deployment of forces, the preparation and conduct of the attack, and after the completion of the task involving the activities of infiltrated groups and parts of enemy forces left behind /as printed/.*

*Secure the men and define identification marks.*<sup>5103</sup>

2355. **POPOVIĆ** knew of these tasks and must have played role in drafting them.<sup>5104</sup>

**POPOVIĆ** had detailed historical and current information concerning the situation in the enclave. Pursuant to the 2 July order, **POPOVIĆ** oversaw, organised and coordinated VRS security issues concerning gathering and securing prisoners of war following the fall of Srebrenica. His oversight, supervision and direction ultimately extended and contributed to the expulsion of the Muslim women and children of Srebrenica and the murder of thousands of Muslim men and boys carried out Serb forces in July 1995.

(clxxxvii) **POPOVIĆ** worked together with other members of the JCEs.

*On 10 or 11 July **POPOVIĆ** was with **BEARA** at the Bratunac Brigade HQ.*

2356. On the evening of 10 or 11 July, **POPOVIĆ** was at the Bratunac Brigade HQ with **BEARA**.<sup>5105</sup> They were among a group of two or three other men, possibly officers.<sup>5106</sup>

*On 11 July, **POPOVIĆ** accompanied Gen. **Mladić** into Srebrenica.*

2357. On the afternoon of 11 July, **POPOVIĆ** accompanied Generals **Mladić**, **Krstić** and **Živanović** during their triumphant walk through Srebrenica following the fall of the enclave.<sup>5107</sup>

***POPOVIĆ** was with **BEARA** and **Krstić** at the Drina Corps IKM.*

2358. **POPOVIĆ** and **BEARA** were at the Drina Corps IKM in Pribičevac,<sup>5108</sup> together with Gen. **Krstić** and Miroslav Deronjić later that day. Sgt. Božo Momčilović, the

<sup>5103</sup> Exh. P00107, p. 7 (emphasis added).

<sup>5104</sup> See e.g., 5D00989, Work plan of the Drina Corps for December 1994, signed by Radislav Krstić, dated 1 December 1994, p.7 (placing the Security and Intelligence Organ “in charge of” security and intelligence support tasks, including “control of the work of the 5<sup>th</sup> bVP (Military Police Battalion) and other companies and platoons according to brigades” as well as cooperation with similar services in the territory under DK (Drina Corps) control”); see also Exh. 1D01175, Expert Report of Petar Vuga, dated 31 March 2008, para. 2.144 (noting, “the security organ . . . participates in the organization and implementation of measures of security support”); see also VUGA, T.23150:4-20.

<sup>5105</sup> ČELANOVIĆ, T.6654:1-6655:7. The **POPOVIĆ** Defence did not contest **POPOVIĆ**’s presence at the Bratunac Brigade HQ on 11 July. On the contrary, during Momir Nikolić’s cross-examination, it was asserted that **POPOVIĆ** was at the Bratunac Brigade HQ on 11 July. See M.NIKOLIĆ, T.33030.

<sup>5106</sup> ČELANOVIĆ, T.6655:1-9. Čelanović easily recognised **POPOVIĆ** who frequently visited Capt. Momir Nikolić. ČELANOVIĆ, T.6654:10-22.

<sup>5107</sup> Video compilation of Srebrenica-related footage, ERN:V000-4458-V000-4458. Exh. P01936, Compilation Book of Still Images and Identifications of Bosnian Serbs, at Ch.5, p.14 ERN:0364-7834.

Assistant Commander for Logistics of the 1<sup>st</sup> Battalion of the Bratunac Brigade saw them. Others at the IKM that day who knew **BEARA** and **POPOVIĆ** told Momčilović that they were security officers.<sup>5109</sup> He later confirmed their identities without any doubt, after seeing them on television.<sup>5110</sup>

2359. When Gen. Krstić, **POPOVIĆ** and **BEARA** met in Pribićevec, Srebrenica had just fallen. The 2 July order for active combat activities<sup>5111</sup> expressly contemplated the contingency of prisoners and assigned the responsibility to determine the areas for “gathering and securing” them to the Security Organs.<sup>5112</sup> In the circumstances, given **POPOVIĆ** and **BEARA**’s professional relationship, they must have discussed prisoner-related issues and plans with Gen. Krstić.

**POPOVIĆ stayed at the Hotel Fontana with other senior Drina Corps and Main Staff officers.**

2360. As evidenced by receipts obtained from the Hotel Fontana, **POPOVIĆ** was registered there from 13 July through 14 July 1995.<sup>5113</sup> Around this time, several other senior officers were also registered there including, Lt. Col. Kosorić, Lt. Col. Krsmanović,<sup>5114</sup> Col. Lazar Ačamović,<sup>5115</sup> and Gen. Krstić.<sup>5116</sup>

**POPOVIĆ had access to key information**

2361. **POPOVIĆ** was at all times in a position to know the full extent and objectives of VRS operations within the Drina Corps’ area of responsibility. Indeed, as the Corps Chief of Security, he had to know about the nature and extent of any planned activities and operations.<sup>5117</sup>

2362. **POPOVIĆ**’s presence with Gen. Mladić establishes that **POPOVIĆ** was at key times involved very closely (figuratively and literally) with Gen. Mladić and other key members of the two JCEs.

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<sup>5108</sup> MOMČILOVIĆ, T.14085-14086, 14088:6-8, 14116:11417.

<sup>5109</sup> MOMČILOVIĆ, T.14086-2-10.

<sup>5110</sup> MOMČILOVIĆ, T.14086-14087, 14087:20-14088:3.

<sup>5111</sup> Exh. P00107.

<sup>5112</sup> Exh. P00107 at ERN:0088-3599 (indicating that the Security Organs and Military Police “will indicate the areas for gathering and securing prisoners of war ...”).

<sup>5113</sup> Exh. P00457, Hotel Fontana Receipts, dated 31 July 1995 (ERN 0089-8531) (reflecting an invoice issued dated 15 July 1995 for two nights (i.e., 13 through 14 July)).

<sup>5114</sup> Exh. P00457, Hotel Fontana Receipts, dated 31 July 1995, ERN:0089-8525.

<sup>5115</sup> Exh. P00457, Hotel Fontana Receipts, dated 31 July 1995, ERN: 0089-8526. Ačamović was the Drina Corps Assistant Commander for Rear Services.

<sup>5116</sup> Exh. P00457, Hotel Fontana Receipts, dated 31 July 1995, ERN:0089-8531.

<sup>5117</sup> Exh. P02741, Main Staff of the Republika Srpska Army /VRS/ order 18/20-414/94, dated 24 October 1994 (“It is the obligation of all VRS unit and institution commands and other Army members to provide every assistance to ŠSecurity and IntelligenceĆ organs in the realisation of their tasks...”).

**(clxxxviii) On the night of 11 July, POPOVIĆ was aware of 1,200-1,500 able-bodied Bosnian Muslim men in Potočari.**

2363. Momir Nikolić knew, based upon reconnaissance information from the Bratunac Brigade 2nd Battalion, that on the afternoon and evening of the 11 July an estimated 1,200 to 1,500 able-bodied Muslim men arrived in Potočari.<sup>5118</sup> Nikolić testified that he sent a report containing this information to the intelligence and security department of the Drina Corps.<sup>5119</sup> He further provided members of the Drina Corps command, who were present at the Bratunac Brigade HQ that evening, with this vital information.<sup>5120</sup> **POPOVIĆ**, who was present at the Bratunac Brigade Command on the night of 11 July,<sup>5121</sup> would have received this important piece of intelligence as well.

2364. Further, the presence of 1,200-1,500 Bosnian Muslim men in Potočari, must have been discussed at the Command level of both the Drina Corps and Main Staff and known to **POPOVIĆ** prior to the Hotel Fontana meeting on 12 July.

**(clxxxix) At 10:00 hours on 12 July, POPOVIĆ attended the third Hotel Fontana meeting as a Serb representative.**

2365. **POPOVIĆ**'s attendance at the third Hotel Fontana meeting at 10:00 hours on 12 July is not contested.<sup>5122</sup> His participation as a Serb "representative" is documented.<sup>5123</sup> Gen. Mladić announced that the Muslim males between ages 16 and 60 were to be screened for war criminals at this historic meeting and reiterated his ultimatum to the Bosnian Muslims of Srebrenica. He said, "ŠasĆ I told this gentleman last night, you can either survive or *disappear*,"<sup>5124</sup> and further stated that the Serb side would provide vehicles to evacuate the population.<sup>5125</sup>

2366. **POPOVIĆ** sat amongst several other senior VRS officers during the meeting, including Generals Mladić and Krstić, Col. Radislav Janković, and Drina Corps Chief of Intelligence Lt. Col. Kosorić.

<sup>5118</sup> M.NIKOLIĆ, T.32913:22-32914:20.

<sup>5119</sup> M.NIKOLIĆ, T.32913:20-32914:23.

<sup>5120</sup> M.NIKOLIĆ, T.32914:25-32915:4.

<sup>5121</sup> M.NIKOLIĆ, T.33030.

<sup>5122</sup> Exh. P01936, Compilation Book of Still Images and Identifications of Bosnian Serbs, Ch.9, p. 6 at ERN:0364-7854 (depicting **POPOVIĆ** at the third Hotel Fontana meeting).

<sup>5123</sup> Exh. P00453, Statement of the Civilian Authorities of the Srebrenica Enclave Concerning the Evacuation Agreement, dated 17 July 1995.

<sup>5124</sup> Exh. P02047, Srebrenica Trial Video; Exh. P02048, Srebrenica Trial Video Transcript of Meeting 3 at Hotel Fontana, p. 51 (emphasis added).

<sup>5125</sup> Exh. P02047, Srebrenica Trial Video; Exh. P02048, Srebrenica Trial Video Transcript of Meeting 3 at Hotel Fontana, pp. 51-52.

**POPOVIĆ had actual knowledge of the Command decision to murder all of the Bosnian Muslim men and boys and of the plan to expel the Bosnian Muslim women, children and elderly from the enclave.**

2367. **POPOVIĆ** briefly met with Momir Nikolić in front of the Hotel Fontana just before prior to the third and final meeting at the Hotel Fontana.<sup>5126</sup> Lt. Col. Kosorić was also present. Momir Nikolić asked **POPOVIĆ** what was going to happen next, in view of the developing situation and the gathering Muslim population in Potočari. **POPOVIĆ** said that civilians, women and children, and those not fit for military service, were to be sent to Kladanj<sup>5127</sup> and the men, separated and killed.<sup>5128</sup>

2368. Momir Nikolić suggested to **POPOVIĆ** and Kosorić facilities in Bratunac where the separated men could be temporarily detained (the Vuk Karadžić School and the Hangar) and killed (Ciglane Brickworks factory and the Sase mine),<sup>5129</sup> Momir Nikolić confirmed his prior testimony in the *Blagojević* case, describing this conversation:

Yes, we talked. And in answer to my question to **POPOVIĆ** and Kosorić as to what would happen next, Lieutenant-Colonel **POPOVIĆ** told me that on that day that women and children would be evacuated and that they would be evacuated in the direction of Kladanj. Also, that on that day the manŠsicĆ, the able-bodied manŠsicĆ would be separated and that those men would be temporarily detained once they had been separated. And when I asked what would happen to them next, he told me that all balijas needed to be killed. That was a conversation in the presence of **POPOVIĆ**, myself, and Kosorić ...<sup>5130</sup>

2369. While extensively challenged on cross-examination by the **POPOVIĆ** Defence, Momir Nikolić's testimony concerning his conversation is both credible and substantially corroborated.

2370. Video footage shows **POPOVIĆ** standing outside the hotel before the meeting with Momir Nikolić, Col. Janković, and one of Gen. Mladić's bodyguards.<sup>5131</sup>

2371. In addition, General Mladić and others had in fact already developed the decision to execute the Muslim men and boys well before the meeting.<sup>5132</sup> **POPOVIĆ** would have had to know about this plan on the morning of 12 July in order to carry out effectively the necessary security tasks.

<sup>5126</sup> M.NIKOLIĆ, T.32917:15-17.

<sup>5127</sup> M.NIKOLIĆ, T.23917-23918.

<sup>5128</sup> M.NIKOLIĆ, T.32917:23-32918:17 (stating that **POPOVIĆ** said, "all the balija [had] to be killed").

<sup>5129</sup> M.NIKOLIĆ, T.32922:5-19; *see also* Exh. P01553, Aerial of Bratunac town - annotated with various key locations, Hotel Fontana, Vihor Company compound, Vuk Karadžić School, hangar behind old school and football field, dated 12 July 1995. Exh. C00001, Momir Nikolić, Statement of Facts and Acceptance of Responsibility (ICTY Case No. IT-02-60/1), at para. 4.

<sup>5130</sup> M.NIKOLIĆ, T.33040:18-33041:6 (referencing the *Blagojević* trial transcript, at p.1676).

<sup>5131</sup> Exh. P01936, Compilation Book of Still Images and Identifications of Bosnian Serbs, at Ch.9, p. 6 ERN:0364-7854.

<sup>5132</sup> *See paras. 490-517.*



2372. Furthermore, Miroslav Deronjić's testimony concerning **BEARA's** reconnaissance of the Ciglane Brick Factory as a planned execution site corroborates Momir Nikolić's evidence that he identified it as a potential execution site in his discussion with **POPOVIĆ**.<sup>5133</sup>

2373. The Brick Factory and the Sase mine did not serve as execution sites because the decision to execute the Muslim men and boys in Bratunac changed at some point in the late afternoon or evening of 13 July. By that time, it was clear that there would be vastly more Muslim prisoners than had been anticipated.<sup>5134</sup> Further, a continuing international presence in the immediate area further made the mass execution of Muslim men and boys in and around Bratunac untenable.

2374. Finally, the events which actually ensued corroborate Momir Nikolić's testimony. There no meaningful screening of the men and boys separated in Potočari for military personnel or war criminals. The facilities in Bratunac used to detain the separated men and boys and those later captured were those suggested by Nikolić. Finally, VRS and MUP forces systematically separated and murdered these Muslim men and boys by the thousands in planned, organised and coordinated mass executions.

**(cxc) POPOVIĆ assigned Momir Nikolić to coordinate the separations of Muslim men and boys and to facilitate the expulsion of the women and children.**

2375. During their brief discussion outside the Hotel Fontana, **POPOVIĆ** assigned Momir Nikolić to coordinate the separation of the able-bodied Bosnian Muslim men and boys and the expulsion of the women and children in Potočari. As Nikolić understood it, he was "to assist that operation."<sup>5135</sup> However, in reality, he was instrumental to its coordination and implementation.

2376. The process of separation and expulsion necessarily entailed consideration of transportation, security, and detention issues which involved a number of disparate VRS forces, as well as other Serb forces deployed to the Potočari area.

2377. Momir Nikolić testified to the presence of members of the Drina Corps Military Police; the Drina Wolves; elements of the VRS Main Staff's 10<sup>th</sup> Sabotage Detachment and 65<sup>th</sup> Motorised Protection Regiment; the Bratunac Brigade 2<sup>nd</sup> and 3<sup>rd</sup> Infantry Battalions and Military Police; civilian police units; and the MUP Special Police

<sup>5133</sup> See para. 2233.

<sup>5134</sup> M.NIKOLIĆ, 33167:18-23 (referring to the unanticipated numbers of Muslim prisoners on 12 July 1995).

<sup>5135</sup> M.NIKOLIĆ, T.33015-3-6.

Brigade.<sup>5136</sup> Coordinating the action of the disparate Serb forces deployed in Potočari was necessary to carry out the planned operation. **POPOVIĆ** would have contemplated all of the attendant functions necessary to carry out this task, in assigning Momir Nikolić.

2378. Momir Nikolić testified that he thus oversaw the engagement of the Military Police and the 2<sup>nd</sup> Battalion of the Bratunac Brigade who were directly involved in these activities,<sup>5137</sup> and advised Duško Jević of the MUP Special Brigade,<sup>5138</sup> which was similarly involved. DutchBat witnesses also attest to Nikolić's interaction with members of the MUP.<sup>5139</sup>

2379. Nikolić's central role in Potočari is supported by the evidence of Bratunac Brigade Assistant Commander for Rear Service Maj. Dragoslav Trisić. Maj. Trišić saw Nikolić in Potočari on 12 July coordinating the work of Bratunac MPs as well as other soldiers, including Drina Corps MPs.<sup>5140</sup> Indeed, Maj. Trišić testified that he saw Momir Nikolić giving, *inter alia*, Drina Corps MPs tasks and instructing them on how to go about performing their assignments.<sup>5141</sup>

2380. **POPOVIĆ** exercised specialist control over Drina Corps MP units and he, with the approval of his Commander, determined their presence in Potočari.<sup>5142</sup> As such, **POPOVIĆ** must have overseen and directed Momir Nikolić's in his coordination of their work.

2381. As set out at paras. 341-380, the afternoon of 12 July in Potočari was marked by the organised and systematic separation of Muslim men and boys, as the women and children were bussed to BiH government controlled territory in Kladanj. For the handful of able-bodied men who did manage to get on board buses, they were subsequently

<sup>5136</sup> Exh. C00001, Momir Nikolic, Statement of Facts and Acceptance of Responsibility (ICTY Case No. IT-02-60/1), at para. 6.

<sup>5137</sup> M.NIKOLIĆ, T.33012:20-23.

<sup>5138</sup> M.NIKOLIĆ, T.33013:7-10.

<sup>5139</sup> VAN DUIJN, T.2328:11-15 (noting that in Potočari, "[Capt] Nikolić was also on site and was into contact with people that I had seen at the site and know that they had a key role in the events on those two days, meaning Mane [Đurić] and Stalin [Duško Jević]").

<sup>5140</sup> TRISIĆ, T. 27073-27074:4:5-7, 27168:7-15 (observing Momir in the coordination of the activities of Bratunac Brigade and Drina Corps Military Police).

<sup>5141</sup> TRISIĆ, T. 27073:22-27074:1, 27168:7-15.

<sup>5142</sup> Exh. P00407, SFRY Rules of Service of Security Organs in the Armed Forces, dated 1 January 1984, Ch.II, para. 23: "[t]he deployment of units or individual members of the military police to perform tasks within the security organ's competence is *determined* by the security organ officer ... with the approval of his military superior" (emphasis added). Exh. P00707, Service Regulations of the SFRY Armed Forces Military Police, 1985, dated 24 September 1995, at paras. 54-57 ERN:0304-1647-0304-1648 (noting that the military police provides escort service, which includes, "measures, actions and procedures which are undertaken to provide security for imprisoned people ... from the moment of reception to the hand over to the bodies in charge." The Military Police also escort prisoners of war).

separated *en route* to Kladanj, at the drop off point near Tišća<sup>5143</sup> where they were undoubtedly murdered.<sup>5144</sup>

2382. A few able-bodied men were able to board buses with their families on the morning of 13 July. However, Serb forces soon put an end to this,<sup>5145</sup> and that evening, Muslim men separated *en route* to Kladanj<sup>5146</sup> were detained at the Luke School. There, they were beaten and abused. They later met their deaths in a remote area near Vlasenica.<sup>5147</sup>

2383. The separations of the men that occurred at Luke were centrally coordinated along with the events occurring in Potočari. The check-points established *en route* to Kladanj for the purpose of seeking out and separating the Muslim men was part of the same process of rounding up able-bodied Muslim men, ongoing in Potočari, Nova Kasaba, Sandiči and Konjević Polje.

2384. In Potočari, on both the 12<sup>th</sup> and 13<sup>th</sup> of July, separated Muslim men and boys were detained and interrogated violently and abusively at “White House.”<sup>5148</sup> From there they went to detention sites established throughout Bratunac, where they were held in abhorrent and horrifying conditions, indiscriminately abused and, in many cases, murdered.<sup>5149</sup> As the capture and surrender of Muslim men and boys continued between 12 and 13 July, they were held at collection points and bussed to these same detention sites.

2385. Momir Nikolić coordinated these activities and **POPOVIĆ** was fully aware and tacitly approved them.

**(cxi) POPOVIĆ was personally involved with the events which transpired in Potočari.**

2386. Well in advance of the third Hotel Fontana meeting on 12 July, the VRS began to mobilise the massive number of buses needed to transfer the Muslim population out of Potočari.

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<sup>5143</sup> BOERING, T.2022:10-15.

<sup>5144</sup> See paras. 637-642.

<sup>5145</sup> VAN DUIJN, T. 2318:25-2319:12, 2286:15-2287:3.

<sup>5146</sup> [REDACTED] PW-118, T. 3409:17-19.

<sup>5147</sup> [REDACTED] PW-118, [REDACTED] T.3415:9-12.

<sup>5148</sup> See paras. 371-378.

<sup>5149</sup> See paras. 381-404.

2387. Gen. Krstić, who was clearly instrumental to the organisation of this enormous logistical undertaking, was actively engaged in these affairs as early as 07:35 hours.<sup>5150</sup> In addition, the Drina Corps Command<sup>5151</sup> and the RS Ministry of Defence<sup>5152</sup> issued orders requisitioning the necessary vehicles.

2388. Irrespective of **POPOVIĆ**'s statement to Momir Nikolić concerning the fate of the Bosnian Muslim population, **POPOVIĆ** must have known of the planned operation to forcibly remove the Muslim women and children gathered in Potočari. The credible evidence establishes his direct knowledge of this plan and his positive actions to facilitate its implementation.

**POPOVIĆ was involved in the coordination and security of the buses**

2389. Through his physical presence, **POPOVIĆ** monitored the expulsions occurring in Potočari on 12 July. There is no evidence in the trial record to suggest that he was conducting counter-intelligence activities. More directly, **POPOVIĆ** was involved with logistical and security issues concerning the buses used expel the Muslim women and children of Srebrenica.

2390. [REDACTED].<sup>5153</sup>

2391. [REDACTED].<sup>5154</sup>

2392. [REDACTED] Lt. Col. Krsmanović was a principal Drina Corps Staff Officer responsible for the procurement and dispatch of transportation assets in Potočari.<sup>5155</sup>

2393. [REDACTED]. Issues pertaining to the structure and security of the column of buses used to transfer the Muslim women and children to Muslim-held territory, as well

<sup>5150</sup> Exh. P01101[REDACTED], Intercept dated 12 July 1995, at 07:35 hours (in this intercept, Krstić orders Lt. Col. Krsmanović to see to it that 50 buses are obtained and sent to the stadium in Bratunac by no later than 17:00 hours); Exh. P01114(a), Intercept dated 12 July 1995 at 13:05 hours (showing Gen. Krstić checking on the disposition of the buses).

<sup>5151</sup> Exh. P00871, Drina Corps Order No. 22/226, dated 12 July 1995 (urgently ordering that all buses that are property of the VRS units be made available to the VRS Drina Corps, time stamped received at 08:35 hours).

<sup>5152</sup> Exh. P00012, RS Ministry of Defence Request No. 02-21-3614/95, dated 12 July 1995 (requesting the mobilisation of at least twenty buses); Exh. P00013, RS Ministry of Defence Request No. 02-21-3615/95, dated 12 July 1995 (requesting the mobilisation of at least thirty buses); and Exh. P00014, RS Ministry of Defence Request No. 02-21-3638/9, dated 12 July 1995 (requesting the mobilisation of at least fifty buses).

<sup>5153</sup> [REDACTED].

<sup>5154</sup> [REDACTED].

<sup>5155</sup> Exh. P01109(a), Intercept dated 12 July 1995 at 12:10 hours (communication in which Gen. Krstić directly orders Lt. Col. Krsmanović to have the buses start moving); *see also* Exh. P01101[REDACTED], Intercept dated 12 July 1995 at 07:35 hours.

as securing the route itself would naturally have fallen within the purview of **POPOVIĆ**'s professional expertise and responsibilities.<sup>5156</sup>

2394. [REDACTED].<sup>5157</sup>

2395. [REDACTED].<sup>5158</sup> **POPOVIĆ** had to know the overall plan for the forcible transfer of the Bosnian Muslim women and children out of Potočari in order properly to fulfil his responsibilities. Gen. Mladić made plain the objectives of this plan in an intercepted conversation at 12:50 hours on 12 July:

The conversation proceeded as follows:

X: Go ahead, General.

M: Have these buses and trucks left?

X: They have.

M: When?

X: Ten minutes ago.

M: Good, excellent. Continue to monitor the situation. Don't let small groups of the sneak in. They've all capitulated and surrendered and *we'll evacuate them all — those who want to and those who don't want to.*

X: I understand, General.

M: Don't issue any statements and don't interrupt them over the /?radio/ station. We'll open a corridor towards Kladanj.

X: .....

M: Indeed, *let it pass there. Take a patrol of ours to wait on the road and remove the mines and obstacles* ..... leave the territory.

X: Yes, General.<sup>5159</sup>

2396. Here, Gen. Mladić clearly refers to the buses and trucks brought to Potočari in order to remove the Bosnian Muslim population to BiH territory. Mladić makes abundantly that no Muslims may stay in the RS. He states openly, “we'll evacuate them all — those who want to and those who don't want to.”<sup>5160</sup> To achieve this objective, Mladić restates the importance of securing expulsion route against mines and obstacles, precisely the subject matter of **POPOVIĆ**'s and Gen. Krstić's discussion.

2397. **POPOVIĆ** must have acted to carry out Krstić's order to ensure that the convoys used to transport the Muslim women and children were secure to enable the expulsion of the Bosnian Muslim population from Potočari to proceed efficiently.

2398. The **POPOVIĆ** Defence submitted that, “the movement of Muslim civilians displaced in Potočari and disported Šić to the B and H territory was a result of explicit

<sup>5156</sup> See Exh. 7DP00412, SFRY Rules for Land Forces Corps, dated 11 April 1990, para. 468 (concerning “guidance and control of the movement of refugees” as a component of security support).

<sup>5157</sup> [REDACTED].

<sup>5158</sup> See Exh. P00686, Revised Narrative Report of Richard Butler, dated 1 November 2002 (ERN: 0113-4339) (noting that Maj. Goran Sarkić, Chief of Staff of the Milići Brigade, whose units were clearing mines from the path taken by the civilian refugees and received his orders from the Command of the Drina Corps).

<sup>5159</sup> Exh. P01113(a), Intercept dated 12 July 1995 at 12:50 hours (emphasis added).

<sup>5160</sup> Exh. P01113(a), Intercept dated 12 July 1995 at 12:50 hours.

request made by civilians and conveyed to General Mladić by DutchBat commander.”<sup>5161</sup> However, as is evident in the above intercept, there is no doubt that the voluntariness of the transfer was never a real consideration of the VRS. Instead, the process as proved in this case, was a blatant expulsion of the Muslim women and children of Srebrenica. **POPOVIĆ** knew of this operation and was an instrumental participant and contributor.

**On the afternoon of 12 July, POPOVIĆ was in Potočari directing and overseeing the forcible transfer of Muslim women and children and the separation of men and boys.**

2399. On the afternoon of 12 July, **POPOVIĆ** was present in Potočari, along with Gen. Mladić and the other senior VRS personnel. **POPOVIĆ** was present as the first buses removed the Bosnian Muslim women and children, and oversaw the process of the mass expulsion of the Bosnian Muslim population. Simultaneously, VRS and MUP personnel separated men and boys while logistical arrangements were made to detain, transport, and murder them en masse.

2400. Not long after the third Hotel Fontana meeting, senior VRS officers, soldiers and RS Special Police units began arriving in Potočari in order to secure the area and to survey the general situation as it progressed. **POPOVIĆ** was among these officers, who by early afternoon included General Mladić, as well as other key senior Drina Corps officers, including (then) Corps Commander Gen. Živanović; Chief of Staff, Gen. Krstić; Assistant Commander for Rear Services, Colonel Lazar Aćamović; and Chief of Intelligence, Lt. Colonel Svetozar Kosorić.<sup>5162</sup>

2401. **POPOVIĆ**'s presence in Potočari in the afternoon of 12 July was captured on video on at least two separate occasions. On the first occasion, **POPOVIĆ** appears in the background of an interview given by Gen. Krstić that afternoon. On the second occasion, later in the afternoon **POPOVIĆ** is controlling and supervising the distribution of bread to the thousands of Muslims gathered.<sup>5163</sup>

2402. This footage is significant in two respects: First, it shows that **POPOVIĆ**'s clear involvement in, and awareness of, the circumstances existing in and around Potočari at the time; second, it shows **POPOVIĆ**'s assertion of authority in instructing other soldiers as to what to do. Indeed, at a certain point **POPOVIĆ** is heard directing VRS soldiers to cease

<sup>5161</sup> **POPOVIĆ** Defence Opening Statement, T.21558:10-13.

<sup>5162</sup> Video compilation of Srebrenica-related footage, ERN:V000-4458-V000-4458).

<sup>5163</sup> Exh. P04536, Potočari Footage – Video of the Serb forces entering Potočari on 12 July 1995.

the distribution of bread.<sup>5164</sup> **POPOVIĆ** actively instructed VRS soldiers in Potočari on 13 July as well, as more fully set out in 2405-2415 below.

2403. During this time, Bosnian Muslim women and children were being bussed to Kladanj and VRS soldiers were separating and detaining Muslim men and boys.<sup>5165</sup>

2404. **POPOVIĆ** was present at Potočari in order to provide the Corps Command with oversight of the process of separations and expulsions. In this highly charged situation, **POPOVIĆ** must have been focused and aware of the VRS forces' continuing intimidation, physical violence and abuse of the Muslim population. This occurred not only during the physical separations of the men and boys, but also particularly during their subsequent detention, both in Potočari and subsequently in and around Bratunac.<sup>5166</sup> As an experienced and professional security officer, **POPOVIĆ** would have been keen to familiarise himself with the situation on the ground and must have become acutely aware of these ongoing crimes and abuses.

**(cxcii) On 13 July, POPOVIĆ was at the “White House” in Potočari directing and overseeing Serb soldiers in the continuing forcible transfer of Muslim women and children and the separation of the men.**

2405. At around 07:00 hours on 13 July 1995, the removal of the Muslim women and children in Potočari resumed. The separation of Muslim men continued unabated. In addition, thousands of Muslim males were surrendering to VRS and MUP forces along the Bratunac – Konjević Polje – Milići Road.<sup>5167</sup>

2406. On 13 July, **POPOVIĆ** returned to Potočari where he spoke to various Serb soldiers next to the White House.<sup>5168</sup> DutchBat Officer Johannes Rutten saw **POPOVIĆ** there for some fifteen minutes.<sup>5169</sup> He later identified **POPOVIĆ** from a photograph.<sup>5170</sup> To Rutten, an experienced officer himself, **POPOVIĆ** appeared to be someone other than

<sup>5164</sup> Exh. P04536, Potočari Footage – Video of the Serb forces entering Potočari on 12 July 1995 at time stamp 0:30:12 – 0:30:16 (stating, “No, it’s enough, it’s enough. Stop it! Only”).

<sup>5165</sup> See paras. 341-404.

<sup>5166</sup> See paras. 341-404.

<sup>5167</sup> See paras. 518-544.

<sup>5168</sup> RUTTEN, Exh. P02178 at T.2152-2153; Exh. 1DIC00058 (marked photograph indicating the location where Rutten observed **POPOVIĆ**, marked with “NPS”).

<sup>5169</sup> RUTTEN, T.5216-5217; RUTTEN, Exh. P02178 at T.2153.

<sup>5170</sup> Exh. P02324, Video still of Vujadin **POPOVIĆ** in Srebrenica, taken from V000-4458 (identified by Maj. Rutten, J.RUTTEN, T.4823-4825).

a plain soldier, someone whom Rutten considered to be in command and authority.<sup>5171</sup> Rutten also saw **POPOVIĆ** giving direct instructions to other Serb soldiers.<sup>5172</sup>

2407. **POPOVIĆ** was present and supervising VRS soldiers in Potočari on 13 July. By virtue of his presence alone, he was aware of the pervasive and serious mistreatment and abuse of the Muslim population by Serb soldiers. Under these circumstances, **POPOVIĆ**'s assertion of authority over these soldiers encouraged their continued acts of intimidation and physical violence. This played a significant role in the unlawful and involuntary removal of the Bosnian Muslim population from the Republika Srpska.

**POPOVIĆ's failure to intercede between 12-13 July in Potočari emboldened VRS abuses and facilitated the expulsion of the Bosnian Muslim women and children and the separations of able-bodied men.**

2408. As stated above, the scale of abuses and killings carried out in Potočari was such that **POPOVIĆ** had to be aware of them. In these circumstances, he was duty-bound to intercede and to take affirmative steps (set out below) as provided for in the VRS Military Prosecutor's Office Guidelines concerning criminal offences against humanity and international law.<sup>5173</sup>

2409. These Guidelines provide that it was **POPOVIĆ**'s obligation to "work on uncovering all war crimes against humanity and international law" in the Corps' area of responsibility as a member of the Drina Corps Command.<sup>5174</sup> Moreover, as Chief of Security, he was responsible to receive reports concerning the perpetration of any such crimes.<sup>5175</sup> The Military Prosecutor's Office Guidelines thus impose an implicit obligation on, *inter alia*, security organs to report any information concerning known offences up the chain of command.

2410. As **POPOVIĆ** was physically present in Potočari on 12 and 13 July, he was clearly in a position to observe the rampant serious abuses and crimes committed by VRS

<sup>5171</sup> RUTTEN, T.5220:15-19.

<sup>5172</sup> RUTTEN, T.4823-4825, 5217-5218; Exh.PIC00-0058 (indicating the location where Rutten saw **POPOVIĆ** standing in front of the White House); RUTTEN, T.5220-5223; Exh. P01936, Compilation of Photographs and Identifications of Bosnian Serbs, Ch.5 p.9 ERN:0364-7829-0364-7838; RUTTEN, Exh. P02178 at 2152-2153; Exh. P02324, Video still of **POPOVIĆ** in Srebrenica taken from V000-4458.

<sup>5173</sup> See Exh. P00028, Military Prosecutor's Office, VRS Main Staff, Guidelines for Determining the Criteria for Criminal Punishment, dated 6 October 1992.

<sup>5174</sup> See Exh. P00028, Military Prosecutor's Office, VRS Main Staff, Guidelines for Determining the Criteria for Criminal Punishment, dated 6 October 1992 at ERN:0081-4385 (providing that, "all unit commands shall: –work on uncovering all war crimes against humanity and international law on territory in their area of responsibility").

<sup>5175</sup> See Exh. P00028, Military Prosecutor's Office, VRS Main Staff, Guidelines for Determining the Criteria for Criminal Punishment, dated 6 October 1992 at ERN:0081-4385 (providing that, "all unit commands shall: –*inform the closest military police, security and military judicial organs about any crime they discover*") (emphasis added).



forces against the Muslims gathered there first hand. At the very minimum, **POPOVIĆ**'s responsibilities required him to "take uncompromising action and prevent"<sup>5176</sup> the crimes that he undoubtedly knew of, as well as those undoubtedly reported to him by others.

2411. VRS regulations further impose affirmative duties on the VRS Officer Corps, of which **POPOVIĆ** was aware.<sup>5177</sup>

2412. To justify **POPOVIĆ**'s indisputable involvement in, and responsibility for, the events that transpired in Potočari, the **POPOVIĆ** Defence contends, "the VRS had legitimate right Ššić to isolate and arrest all suspected enemy soldiers, and they did it."<sup>5178</sup> The evidence in this case categorically refutes this argument.

2413. There is no doubt that the identities of the Muslim men and boys who were separated in Potočari were not ascertained, verified, or demanded throughout the ostensible screening process. To the contrary, Bosnian Serb forces specifically discarded and/or destroyed identification documents and passports.<sup>5179</sup> Indeed, seeing these items piled up outside the White House, DutchBat Officer van Duijn testified that he inquired of MUP Commander Mane Đurić why the separated men could not take their identity papers and passports with them. Đurić told him, " ... well, they don't need the stuff that's there. They don't need it any more."<sup>5180</sup>

2414. Moreover, there was no systematic interview or interrogation process that took place. **POPOVIĆ**, would have necessarily been aware of, and involved in these matters.<sup>5181</sup>

<sup>5176</sup> See Exh. P00028, Military Prosecutor's Office, VRS Main Staff, Guidelines for Determining the Criteria for Criminal Punishment, dated 6 October 1992, ERN: 0081-4384.

<sup>5177</sup> See Exh. P00028, Military Prosecutor's Office, VRS Main Staff, Guidelines for Determining the Criteria for Criminal Punishment, dated 6 October 1992 (ERN: 0081-4384) (providing that, "If officers *merely find out* that units of the armed forces of the Army of Republika Srpska or their members have committed or are committing such acts and take no measures to prevent the consequences or the acts themselves and expose the perpetrators to criminal prosecution, *this in itself makes them answerable for those criminal offences*"); see also Exh. P00407, SFRY Rules of Service of Security Organs in the Armed Forces, dated 1 January 1984, at Ch.IV, paras. 43-44 ERN:0092-0116 (providing in relevant part that officers of the security organs may arrest a person who has committed a crime within the competence of Military Courts; and a security officer may arrest a serviceman caught in the act of committing such a crime).

<sup>5178</sup> **POPOVIĆ** Defence, T.21559:20-23.

<sup>5179</sup> Exh. 3D00041, J. Rutten - Royal Military Police Report - 02Aug95 (ERN 0091-7287-0091-7287) (noting that personal identifications were burned); RUTTEN T. 4932-4933; see R.FRANKEN, T. 2512:8-10 (personal belongings of the Muslim population were burned); see also Exh. P01897, Photograph of personal belongings burning outside the "White House."

<sup>5180</sup> VAN DUIJN, T.2411:8-9.

<sup>5181</sup> See e.g., Exh. P03402, Instructions Concerning the Work of the Deputy Battalion Commander for Intelligence and Security (noting as one of the functions of the Brigade Deputy Commander for Intelligence and Security, "carry[ing] out the necessary interrogation of war prisoners and refugees and arrange for their evacuation to a determined place"); see also Exh. P0071, Zvornik Infantry Brigade, Instructions for the work of an Assistant (Battalion) Commander for Security and Intelligence, dated 21 September 1994

2415. As more fully set out below, on 14 July, **POPOVIĆ** led a column of busses filled with the separated Muslim men and boys who had been detained in Bratunac to the Zvornik area.<sup>5182</sup> While this clearly contributed to the murder JCE, it similarly contributed to the forcible transfer JCE to the extent that the Muslim men and boys continued so transported, continued to be involuntarily and unlawfully removed from the territory in which they resided.

**(QQ) POPOVIĆ KNEW OF, SIGNIFICANTLY CONTRIBUTED TO, AND SHARED THE INTENT WITH THE OTHER JCE MEMBERS TO PARTICIPATE IN THE JCE TO MURDER THE MUSLIM MEN FROM SREBRENICA.**

**(cxciii) POPOVIĆ was aware that the purpose of the arrest and capture of Bosnian Muslim men in the column was to execute them.**

2416. On the evening of 12 July 1995, the Assistant Commander for Security and Intelligence of the VRS Main Staff, Gen. Zdravko Tolimir, sent a communication to, *inter alia*, the Intelligence and Security Departments and Command of the Sarajevo-Romanija Corps and the Eastern Bosnia Corps, General Krstić at the forward command post in Pribićevec, and **POPOVIĆ** at the Bratunac forward command post.<sup>5183</sup>

2417. In this communication, subordinate Drina Corps security organs were directed to propose to the Brigade Commands that “all measures” to capture the “enemy soldiers” from Srebrenica be taken.<sup>5184</sup>

2418. A further communication was sent shortly thereafter to the Intelligence and Security Sector of the Main Staff, the Intelligence Administration of the Drina Corps (to General Krstić personally), the Drina Corps IKM (“to Lt. Colonel **POPOVIĆ** personally”) and to the chiefs of intelligence of the Drina Corps brigades.<sup>5185</sup>

2419. In this communication, Gen. Tolimir notes that the MUP were informed about the column of Bosnian Muslim men fleeing Srebrenica through the woods and directed the *intelligence* organs to propose measures to their commands to:

ŠPCrevent armed Bosnian Muslims from illegally reaching Tuzla and Kladanj, such as *setting up ambushes along the routes they use in order to arrest them* and prevent possible surprises against civilians and our combat units along those routes” (emphasis added).<sup>5186</sup>

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(same); see VUGA, T.23247:7-17 (noting that the Security Organs were bound to ensure that the screening of the Muslim population was properly undertaken from a security standpoint).

<sup>5182</sup> See paras. 2442-2451.

<sup>5183</sup> Exh. P00149.

<sup>5184</sup> Exh. P00149.

<sup>5185</sup> Exh. P00148.

<sup>5186</sup> Exh. P00148.

2420. The communication further shows that the situation concerning the fleeing Muslim population was being closely monitored by the Drina Corps and intelligence was actively pursued. The communication further relays information obtained from a 16 year old Muslim POW and notes, among other things, that the boy revealed information about 500 armed Muslims, had set off under Zulfo Tursunović's command.<sup>5187</sup>

2421. Given **POPOVIĆ**'s presence in and around Bratunac itself, in addition to having received these orders, **POPOVIĆ** knew that the Bosnian Muslim men and boys fleeing the enclave through the woods were being actively pursued and captured, or were surrendering.<sup>5188</sup> **POPOVIĆ** would have been provided with information concerning the prisoners, as well as have been directly involved in organising and implementing any corresponding security measures.

**(exciv) By 13 July, POPOVIĆ was aware of the large number of prisoners in VRS custody.**

***At 09:30 hours POPOVIĆ met with Krstić and Mladić at the Bratunac Brigade HQ.***

2422. At around 09:30 hours on 13 July, a meeting was held at the Command of the Bratunac Brigade HQ. There, **POPOVIĆ** met with Generals Mladić and Krstić, as well as one "Col. Vasić."<sup>5189</sup> This is certainly a reference to Dragomir Vasić, Chief of the Zvornik Public Security Centre. Indeed, Vasić sent a dispatch concerning a meeting held with Mladić on the morning of 13 July during which the role of the MUP in the ongoing "evacuation" of the civilian population to Kladanj was discussed.<sup>5190</sup>

***At approximately midday POPOVIĆ returned to the Bratunac Brigade HQ with Gen. Mladić.***

2423. By midday on 13 July 1995, the first organised execution had occurred, involving approximately 16 Muslims men along the banks of the Jadar River, located a short distance north of Konjević Polje.<sup>5191</sup> [REDACTED].<sup>5192</sup>

2424. [REDACTED].<sup>5193 5194 5195 5196</sup>

<sup>5187</sup> Exh. P00148; see also Exh. 4DP00111, Drina Corps Command Intelligence Service Report No. 17/896, type-signed Radislav Krstić, dated 12 July 1995 (an order, identical to Exh. P00148).

<sup>5188</sup> See e.g., 4D00695, SJB Milići, Dispatch Str. Conf. no. 13-3/01-96/95, dated 12 July 1995 (noting information provided by the Assistant Commander for Security of the Milići Brigade concerning the movement of enemy groups in the area of Pobudje and insisting that the Milići police get involved in searching the terrain).

<sup>5189</sup> Exh. C00001, M. NIKOLIĆ Statement of Facts and Acceptance of Responsibility (ICTY Case No. IT-02-60/1), at para. 8.

<sup>5190</sup> Exh. P00886, CJB Zvornik Report No. 283/95, type-signed Dragomir Vasić, dated 13 July 1995.

<sup>5191</sup> [REDACTED] PW-112, T.3277:9.

<sup>5192</sup> [REDACTED].

2425. [REDACTED].<sup>5197 5198 5199 5200 5201 5202</sup>

2426. [REDACTED].<sup>5203 5204</sup>

2427. [REDACTED].<sup>5205 5206</sup>

2428. **POPOVIĆ** must have been involved in [REDACTED] this task, having been present at the time, and as Momir Nikolić's professional superior. Further, **POPOVIĆ** must have been apprised of [REDACTED] observations and activities in and around Konjević Polje, particularly concerning the sheer number of Muslim prisoners in VRS custody. Nevertheless, **POPOVIĆ** certainly would have obtained information concerning these prisoners, their number, location, and transfer to secure facilities and collection points from other sources, as the Drina Corps Command and VRS Main Staff were actively monitoring the developing situation.<sup>5207</sup>

2429. On the evening of 13 July, Gen. Krstić made clear that the Drina Corps Command was fully aware of the prisoner situation in Konjević Polje and Nova Kasaba, noting:

In Konjević Polje and also in Nova Kasaba reception of Muslim civilians and soldiers who surrender is being carried out taken in an organised fashion.

2430. Given his position, there is no question that **POPOVIĆ** was among the first to receive this information.

2431. Thus, the unremitting abuse, ill-treatment, the failure to provide adequate food and water, at collection points in and around Konjević Polje, Sandići, Nova Kasaba, and other

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<sup>5193</sup> [REDACTED].

<sup>5194</sup> [REDACTED].

<sup>5195</sup> [REDACTED].

<sup>5196</sup> [REDACTED].

<sup>5197</sup> [REDACTED].

<sup>5198</sup> [REDACTED].

<sup>5199</sup> [REDACTED]; J.RUEZ, T.1378:22-1379:10 (indicating that the "hangar" identified by [REDACTED] PW-112 as the location where he was held at the Konjević Polje intersection, had become a petrol station) and Exh. P02103, Exhibits of Jean-Rene Ruez, photo 35; *see also* [REDACTED] PW-112, T.3219 and Exh. PIC00031, Photo indicating the warehouse located at Konjević Polje;

<sup>5200</sup> [REDACTED].

<sup>5201</sup> [REDACTED].

<sup>5202</sup> [REDACTED].

<sup>5203</sup> [REDACTED].

<sup>5204</sup> [REDACTED].

<sup>5205</sup> [REDACTED].

<sup>5206</sup> [REDACTED].

<sup>5207</sup> Exh. P00136, Drina Corps regular combat report No. 03/2-214 to the VRS Main Staff, re transport of 15,000 Muslims, signed by Gen. Krstić, dated 13 July 1995; *see also* Exh. P01130(a), Intercept dated 13 July 1995 at 10:15 hours and Exh. P01130(e), Intercept dated 13 July at 10:09 hours (communication involving Col. **BEARA**, Maj. Zoran Malinić and Lt. Pavle Lučić of the 65<sup>th</sup> Motorized Protection Regiment, indicating 400 Muslims had arrived at Nova Kasaba); Exh. P00117, Drina Corps Order No. 03/156-11 (changed by hand to 03/156-12), preventing passage of Muslim groups to Tuzla and Kladanj, signed by Milenko Živanović, dated 13 July 1995.

locations, while men were similarly mistreated in Potočari, all point unmistakably to the planned murder operation being well underway and **POPOVIĆ**'s awareness of, and acts in furtherance of, that plan.

**(cxcv) POPOVIĆ actively implemented the command decision to kill the Bosnian Muslim Men and boys of Srebrenica.**

2432. By 20:00 hours on evening of 13 July, the removal of the Bosnian women and children from Potočari was complete.<sup>5208</sup> In addition, thousands of Muslim men from the column had been captured or had surrendered.<sup>5209</sup> Many were taken to Bratunac, where those that had been detained earlier had suffered unremitting abuse and killings.<sup>5210</sup> At least 1,000 others were transported to the Kravica Warehouse where they were summarily executed. Given the large number of prisoners in VRS custody at this time and the security threat that their detention behind the confrontation lines represented to the Drina Corps, **POPOVIĆ** would have been fully appraised of these circumstances.<sup>5211</sup>

2433. Further, **POPOVIĆ**'s had relatively immediate access to the latest pertinent information regarding the abuses and crimes that occurred in and around Bratunac, given his physical proximity. As indicated above, records from the Hotel Fontana reflect that **POPOVIĆ**'s registration there from 13 through 14 July 1995.<sup>5212</sup> Moreover, **BEARA** was also present in Bratunac on 13 July, engaged in securing construction equipment and personnel from civilian authorities to carry out the burial operation that took place in Glogova. **BEARA** was at the Ciglane Brickworks Factory the next day, the very location suggested by Momir Nikolić as an execution site.<sup>5213</sup> Given their professional relationship within the VRS Security Administration, and the significance of the overwhelming number of prisoners as a security issue, information concerning the

<sup>5208</sup> Exh. 5DP00113, Drina Corps Forward Command Report No. 08-444-10 to the Intelligence Department, dated 13 July 1995 (Col. Radoslav Janković noted the completion of the evacuation of the entire Muslim population at 20:00 hours).

<sup>5209</sup> See paras. 518-544.

<sup>5210</sup> [REDACTED] PW-169, T.17324:1-12 (observing that approximately 40 men were killed at the Hangar between the morning and afternoon of 13 July. 40 others were killed overnight between 12 and 13 July 1995).

<sup>5211</sup> Exh. P00196, Drina Corps Security Section instruction No. 17/450, re handling of war prisoners and other persons, signed by Maj. **POPOVIĆ**, Chief of Security, dated 15 April 1995 (reflecting the security concerns attendant to the handling of prisoners).

<sup>5212</sup> Exh. P00457, Hotel Fontana Receipts, dated 31 July 1995 (ERN 0089-8531) (reflecting an invoice issued dated 15 July 1995 for two nights (i.e., 13 through 14 July).

<sup>5213</sup> See para. 2233.

disposition of the Muslim men and boys known to **BEARA** at that time must have been conveyed to **POPOVIĆ**, and *vice versa*.<sup>5214</sup>

2434. The fact that Gen. Krstić proceeded to Žepa in the absence of his senior-most security officer also reflects that the situation that **POPOVIĆ** was left behind to deal with was extraordinary and urgent, requiring his personal attention and oversight. In light of the executions of the Muslim men and boys which subsequently unfolded, **POPOVIĆ** clearly received orders from Gen. Krstić prior to his departure for Žepa.

**[REDACTED]**

2435. [REDACTED].<sup>5215 5216 5217 5218 5219</sup>

2436. [REDACTED].

**14 July: POPOVIĆ becomes the centre of the expanding and intensifying murder operation.**

2437. By the morning of 14 July, more than 1,200 Muslim men and boys had been executed at the Jadar River, Sandići and the Kravica Warehouse. In addition, while many Bosnian Muslim men detained in Bratunac had been killed in makeshift detention facilities, thousands more were still alive. These men were marked for death and the murder operation which began the previous morning was about to intensify dramatically.

2438. **POPOVIĆ** knew of the imminent execution of these men, [REDACTED], but by virtue of his position as the Chief of Security of the Drina Corps in whose area of responsibility the prisoners were formally detained, abused, and murdered.<sup>5220</sup> As set out below, **POPOVIĆ** wilfully participated in the murder operation and was instrumental in the death of thousands of Muslim men and boys murdered in the Zvornik area.

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<sup>5214</sup> Exh. P00407, SFRY Rules of Service of Security Organs in the Armed Forces, dated 1 January 1984, at Ch.I, para.12 ERN:0092-0107 (providing that “Security organs report to and inform commands, units, institutions and staffs of the armed forces, superior security organs and other self-protection entities about . . . other important issues for the security of the armed forces. . .”).

<sup>5215</sup> [REDACTED].

<sup>5216</sup> [REDACTED].

<sup>5217</sup> [REDACTED]

<sup>5218</sup> [REDACTED].

<sup>5219</sup> [REDACTED].

<sup>5220</sup> [REDACTED].

**On 14 July, POPOVIĆ attended a meeting at the Zvornik Brigade Headquarters to coordinate the transfer of Bosnian Muslim Prisoners from Bratunac to the Zvornik area, where they were to be detained and summarily executed.**

2439. At approximately 08:00 hours, **POPOVIĆ** and **BEARA** met with **NIKOLIĆ** at the Zvornik Brigade HQ.<sup>5221</sup> The meeting lasted for approximately 15 to 20 minutes.<sup>5222</sup>

2440. Following this meeting, **NIKOLIĆ** went to the Vidikovac Hotel to await the arrival of the buses filled with Muslim prisoners.<sup>5223</sup> **POPOVIĆ** returned to Bratunac and organised a massive convoy of buses to transport thousands of Bosnian Muslim male prisoners to the Zvornik area. **BEARA** in the meantime, returned to Bratunac, where he met with [REDACTED] PW-162 at the SDS Offices.<sup>5224</sup> There, he engaged in procuring engineering equipment and resources, presumably related to the burial operation of the Kravica warehouse victims ongoing in Glogova.

2441. Given the circumstances both preceding and following this early morning meeting at the Zvornik Brigade HQ on 14 July, there is no doubt that this meeting must have concerned the detention and transport of the Bosnian Muslims detained in Bratunac. **POPOVIĆ**, as **NIKOLIĆ**'s superior would have [REDACTED] ascertained from him the locations, capacities and readiness of the detention facilities that had been identified in order to coordinate the subsequent transfer of the prisoners detained in and around Bratunac.

**(cxcvi) On the morning of 14 July, POPOVIĆ personally led the column of buses filled with the Muslim men and boys of Srebrenica to Zvornik.**

2442. On the morning of 14 July, **POPOVIĆ** organised the assembly of a column of buses that was used to transport the remaining Muslim men and boys detained in and around Bratunac to the Zvornik area.<sup>5225</sup>

2443. [REDACTED].<sup>5226 5227 5228</sup>

2444. [REDACTED].<sup>5229 5230 5231</sup>

<sup>5221</sup> M.BIRČAKOVIĆ, T.11013-11014.

<sup>5222</sup> See paras. 654-660.

<sup>5223</sup> M.BIRČAKOVIĆ, T.11121:6-9.

<sup>5224</sup> See paras. 2232.

<sup>5225</sup> See paras. 661-666.

<sup>5226</sup> [REDACTED].

<sup>5227</sup> [REDACTED].

<sup>5228</sup> [REDACTED].

<sup>5229</sup> [REDACTED].

<sup>5230</sup> [REDACTED].

<sup>5231</sup> [REDACTED].

2445. [REDACTED] the organisation of this operation was co-ordinated through the VRS command structures, given that the large amount of valuable fuel needed would have required high-level authorisation.<sup>5232</sup> Furthermore, the logistical organisation of such a large convoy would necessarily have been coordinated in the same manner as had been on 12 and 13 July by the VRS command structures and civilian authorities.

2446. [REDACTED].<sup>5233</sup> <sup>5234</sup> The vehicles were filled with the Muslim men who had been detained in Bratunac,<sup>5235</sup> [REDACTED].<sup>5236</sup> A survivor, [REDACTED] PW-110, saw some 20 or 30 vehicles in the convoy at one point.<sup>5237</sup> Capt. Momir Nikolić also saw, and estimated that it was approximately a half kilometre in length.<sup>5238</sup>

2447. [REDACTED].<sup>5239</sup> <sup>5240</sup> <sup>5241</sup> **POPOVIĆ** set the pace.<sup>5242</sup>

2448. After passing Zvornik in the direction of Bijeljina, the convoy followed **POPOVIĆ** towards Sapna. Passing a small bridge, they arrived at the Orahovac School.<sup>5243</sup> [REDACTED].<sup>5244</sup>

2449. The prisoners [REDACTED].<sup>5245</sup> [REDACTED] were made to leave their personal belongings in a pile in front of the school as they entered.<sup>5246</sup> In these circumstances, the seizure of personal items, which in this case even included simple berets and in one instance a crutch, was a clear sign that execution of these prisoners was a foregone conclusion.

2450. **POPOVIĆ** undoubtedly observed all of this, as he remained next to the parked buses.<sup>5247</sup> [REDACTED] PW-138 saw approximately ten vehicles of prisoners emptied

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<sup>5232</sup> BUTLER, T. 19809:22-19810:3 ("Because of the embargo which prevented fuel from flowing freely over the Drina River and the Serbian border, fuel was a valuable commodity").

<sup>5233</sup> [REDACTED].

<sup>5234</sup> [REDACTED].

<sup>5235</sup> [REDACTED]; Exh. P00220, Bratunac Brigade Military Police Daily Log, dated 30 June 1995 to 29 April 1996 (reflecting a 14/15 July entry indicating that "the police were engaged in the escort of Muslim refugees); [REDACTED].

<sup>5236</sup> [REDACTED].

<sup>5237</sup> [REDACTED] PW-110, T.676.

<sup>5238</sup> M.NIKOLIĆ, T.33075:6-13.

<sup>5239</sup> [REDACTED].

<sup>5240</sup> [REDACTED].

<sup>5241</sup> [REDACTED].

<sup>5242</sup> [REDACTED] PW-138, T.3903:11-16.

<sup>5243</sup> [REDACTED] PW-138, T.3851:10-21 (identifying the Orahovac School).; *See also* Exh. P01691, Photograph of playground and gymnasium of the Orahovac School..

<sup>5244</sup> [REDACTED].

<sup>5245</sup> [REDACTED].

<sup>5246</sup> ORIĆ, T.938:19-24 (noting that even items such as berets were taken away from the prisoners); *see also* TANIĆ, T.10337:15-21 (observing a pile of clothes outside the main entrance of the Orahovac School, which included a crutch).

<sup>5247</sup> [REDACTED] PW-138, T.3879:2-5.



before departing.<sup>5248</sup> As [REDACTED] PW-138 attempted to leave the school, **POPOVIĆ** instructed him to stay as other vehicles had yet to disembark.<sup>5249</sup> However, under a pretext, [REDACTED] PW-138 succeeded in returning to Bratunac, where he reported these events to Momir Nikolić.<sup>5250</sup>

2451. The evidence of **POPOVIĆ**'s personal involvement underscores his hands-on approach to every detail and phase of the operation; [REDACTED], leading the column personally, and setting its pace. This kind of personal involvement and oversight is further exemplified by **POPOVIĆ**'s procurement of the fuel needed to carry out the executions at the Branjevo Military Farm, as well as his physical presence at the Orahovac, Ročević and Kula Schools. Moreover, although not charged in the Indictment, his central role in coordinating, organising and supervising the Bišina executions<sup>5251</sup> substantiates the nature and extent of his personal involvement in the Zvornik area murder operations.

**(cxcvii) POPOVIĆ was physically present and directly involved in the organisation, coordination and oversight of operations carried out at the execution sites.**

**On 14 July, POPOVIĆ was at the Orahovac School where he oversaw the detention of the prisoners and their subsequent execution.**

2452. On the morning of 14 July, **POPOVIĆ** was at the Orahovac School with 2<sup>nd</sup> Lt. **NIKOLIĆ**, Zvornik Brigade Military Police and other units, as well as with several Zvornik Brigade officers. Upon **POPOVIĆ**'s arrival at the school, preparations were already underway for the executions of Muslim prisoners.<sup>5252</sup> Throughout the course of the day and well into the evening, over 1,000 men were blindfolded, led aboard trucks and summarily executed a few hundred metres away.

2453. In addition to [REDACTED] PW-138's testimony, Lt. Col. **POPOVIĆ**'s presence at the Orahovac School on 14 July is independently corroborated by several other witnesses, as set out below.

2454. Zvornik Brigade Financial Clerk, Tanacko Tanić saw **POPOVIĆ** in the yard of the Orahovac School<sup>5253</sup> after he (Tanić) arrived there sometime after 12:00 hours.<sup>5254</sup> By

<sup>5248</sup> [REDACTED] PW-138, T.3850:2-3.

<sup>5249</sup> [REDACTED] PW-138, T.3850:2-8.

<sup>5250</sup> [REDACTED] PW-138, T.3882-3883.

<sup>5251</sup> See paras. 2530-2537.

<sup>5252</sup> See paras. 702-704.

<sup>5253</sup> TANIĆ, T.10337:17-18.

<sup>5254</sup> TANIĆ, T.10334:18-19.

this time, two corpses of Bosnian Muslim prisoners lay in the schoolyard in plain view. Tanić's attention was drawn to them by another soldier.<sup>5255</sup> Although Tanić did not know **POPOVIĆ**, he was told who **POPOVIĆ** was by a Military Policeman who identified him as, "a security officer from the Corps, Vujadin **POPOVIĆ**."<sup>5256</sup>

2455. Tanić's testimony is credible on this point, as there is no absolutely no identifiable motive for him to have fabricated such a story. First, it is very likely that an MP would know who **POPOVIĆ** was, given his superior-subordinate relationship with 2<sup>nd</sup> Lt. **NIKOLIĆ**. Second, Tanić's independent testimony fits hand in glove with that of [REDACTED] PW-138, who similarly had no identifiable motive to fabricate his association with **POPOVIĆ** on 14 July. To the contrary, [REDACTED] PW-138's statements are all the more reliable to the extent that they are clearly contrary to interests in placing him at risk of prosecution.

2456. Further, Milorad Birčaković testified that he was 99% sure<sup>5257</sup> that he saw **POPOVIĆ**<sup>5258</sup> arrive in front of the Orahovac School with two other officers<sup>5259</sup> approximately half an hour after the Muslim prisoners were brought there on 14 July.<sup>5260</sup> Although extensively cross-examined, his evidence is reliable, as corroborated by both Tanić and [REDACTED] PW-138.

2457. Finally, **POPOVIĆ**'s presence at other detention and execution sites, as more fully set out below, corroborates the fact that he was also present at the execution site at the Orahovac School. Specifically, **POPOVIĆ** was observed at the Ročević School, the Kula School and in Bišina.

2458. **POPOVIĆ**'s presence at the Orahovac School means that he was there passing on the orders of his commanders and working in coordination with Zvornik Brigade units and officers in overseeing, coordinating and facilitating the murder operation which took place.

**Evidence of false alibi.**

2459. The **POPOVIĆ** Defence called Gordan Bjelanović to proffer evidence of alibi with respect to **POPOVIĆ**'s whereabouts on 13 and 14 July. Bjelanović testified that on

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<sup>5255</sup> TANIĆ, T.10336:9-13.

<sup>5256</sup> TANIĆ, T.10337:17-21.

<sup>5257</sup> BIRČAKOVIĆ, T.11024.

<sup>5258</sup> BIRČAKOVIĆ, T. 11025:4 (specifically recalling **POPOVIĆ** as the Chief of Security for the Drina Corps in 1995).

<sup>5259</sup> BIRČAKOVIĆ, T.11057:24-11058:4.

<sup>5260</sup> BIRČAKOVIĆ, T.11024.

the day following the handover ceremony at the Drina Corps Command (*i.e.*, on 13 July 1995),<sup>5261</sup> he drove Gen. Krstić to the Drina Corps IKM in Krivače.<sup>5262</sup> While there, he saw several officers, including **POPOVIĆ**.<sup>5263</sup> Aside from the irreconcilable inconsistency in Bjelanović's story, his testimony was further shown to be unreliable and clearly false.

2460. First, on its face, Bjelanović's testimony that he drove Gen. Krstić to Krivace is inconsistent with his claim to have remained in Krivace until dark, when he says Gen. Krstić arrived.<sup>5264</sup> Second, Bjelanović testified that, "when it comes to the exact dates and times, it's difficult",<sup>5265</sup> and was unable to recall with certainty the dates and times of his own whereabouts immediately following the fall of Srebrenica.<sup>5266</sup> Third, Bjelanović's testimony that he did not leave Vlasenica until after the fall of Srebrenica was directly contrary to his prior signed statement, in which he claimed to have been present in Srebrenica from 5 to 12 July.<sup>5267</sup> When confronted at trial, Bjelanović explanation was incredible, and barely coherent:

JUDGE AGIUS: But when you made the statement to Mr. Petrusic, did you lie to him, when you said that you were near Potocari on the 12th of July? And if you did, why -- what interest did you have to lie to him?

THE WITNESS: [Interpretation] No, I did not lie. When I used to come there with General Krstic, because... I used to go to Vlasenica but not only in his car and not only General Krstic, and I know that I was bringing some pills, not with his car. We used to come with another car. So it's not like that day --

2461. The procurement and proffer of Bjelanović's clearly false testimony demonstrates **POPOVIĆ** consciousness of guilt. In these circumstances, the Trial Chamber should draw a negative inference against **POPOVIĆ** to that effect.

**POPOVIĆ directed Maj. Dragan Jokić to protect the secrecy of the ongoing murder and burial operations.**

2462. **POPOVIĆ**'s intent and involvement in the murder operation is further underscored by a specific order that he gave Maj. Jokić calculated and designed to protect the secrecy of the murder and burial operations. [REDACTED].<sup>5268 5269</sup>

<sup>5261</sup> [REDACTED].

<sup>5262</sup> BJELANOVIĆ, T.22072:22-22073:6, 22084:5-6.

<sup>5263</sup> BJELANOVIĆ, T.22073:14-16.

<sup>5264</sup> BJELANOVIĆ, T.22074:19-22.

<sup>5265</sup> BJELANOVIĆ, T.22083:11-12.

<sup>5266</sup> BJELANOVIĆ, T.22082:9-22.

<sup>5267</sup> Exh. P03398, Witness statement of Gordan Bjelanović provided to Nenad Petrušić, dated 9 March 2001, at p.2 ERN:0202-6352.

<sup>5268</sup> [REDACTED]; *see also* Exh. P01164(a), Intercept dated 14 July at 21:02 hours (a conversation between Maj. Jokić and **BEARA** showing that Maj. Jokić was aware that there were "big problems ... with the people, I mean, with the parcel").

**(cxcviii) POPOVIĆ had knowledge of the prisoners held at the Ročević School on 14 July 1995 and was physically present there on 15 July 1995**

2463. On 14 July between 20:30 and 21:30 hours, the Commander of the Zvornik Brigade 2<sup>nd</sup> Battalion, Srećko Ačimović contacted the Zvornik Brigade Duty Operations Officer from the 2<sup>nd</sup> Battalion's former rear services base in Kozluk concerning prisoners that he learned were at the Ročević School.<sup>5270</sup> He spoke to **POPOVIĆ**, who had just then arrived at the Zvornik Brigade Command.<sup>5271</sup>

2464. Ačimović informed **POPOVIĆ** about what was transpiring at the school and that the soldiers there were killing the prisoners in front of the school.<sup>5272</sup> Ačimović testified that **POPOVIĆ** said, "not Štoć put things in such dramatic terms, that Šheć should calm down, and that those prisoners would be exchanged the next morning."<sup>5273</sup> As outlined at paras. 817-818, Ačimović's claim that **POPOVIĆ** told him that the prisoners would be exchanged is questionable. Indeed, the evidence in this case would suggest the contrary.

2465. **POPOVIĆ** was at the Ročević School on the at around 09:00 or 10:00 hours on July 15, where he met Ačimović.<sup>5274</sup> By this time, there were already approximately a dozen corpses visible in the grass near the school.<sup>5275</sup>

2466. **POPOVIĆ** and Ačimović went to one of the offices on the first floor of the school,<sup>5276</sup> where an argument between them ensued. Ačimović testified that **POPOVIĆ** was incensed over the fact that he (Ačimović) had not brought soldiers with him to the school to assist in carrying out the executions.<sup>5277</sup> According to Ačimović, at a certain point during their heated discussion **POPOVIĆ** stated, "Fuck you. Do you know what happened to the Serbs in Kravica and other Serb villages which were torched and which are around Srebrenica?"<sup>5278</sup> He then left the office.<sup>5279</sup> **POPOVIĆ** subsequently returned and called the Zvornik Brigade Command to request that trucks to be sent to the Ročević

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<sup>5269</sup> [REDACTED].

<sup>5270</sup> AČIMOVIĆ, T.12937:13-18.

<sup>5271</sup> AČIMOVIĆ, T.12939:20-25.

<sup>5272</sup> AČIMOVIĆ, T.12940:7.

<sup>5273</sup> AČIMOVIĆ, T.12940:5-12.

<sup>5274</sup> AČIMOVIĆ, T.12957-12958.

<sup>5275</sup> AČIMOVIĆ, T.12959:9-19.

<sup>5276</sup> AČIMOVIĆ, T.12958:5-8.

<sup>5277</sup> AČIMOVIĆ, T.12958:23-12959:10.

<sup>5278</sup> AČIMOVIĆ, T.12959:11-13.

<sup>5279</sup> AČIMOVIĆ, T.12959-T.12960.

School.<sup>5280</sup> As noted above at paras. 821-823, it is unlikely that Aćimović mounted much, if any, real resistance to **POPOVIĆ**'s demands.

2467. [REDACTED] a single truck arrived driven by Veljko Ivanović, a member of the Zvornik Brigade 2<sup>nd</sup> Battalion.<sup>5281</sup> [REDACTED].<sup>5282 5283</sup>

2468. **POPOVIĆ** ultimately contributed to the success of the executions carried out in Kozluk, given his considerable efforts to galvanise the personnel and transportation resources to carry it out. Like his presence at Orahovac and later, in Bišina, **POPOVIĆ**'s presence at the Ročević School can only have been to personally oversee, and thereby ensure, that the operation proceeded according to plans and orders of his commanders.

**(cxcix) POPOVIĆ arrives at the 10<sup>th</sup> Sabotage Detachment Vlasenica Platoon base in Dragaševac.**

2469. Sometime between 10:00 and 12:00 hours on 14 July, while at the base of the Vlasenica Platoon of the 10<sup>th</sup> Sabotage Detachment in Dragaševac,<sup>5284</sup> Dragan Todorović saw Main Staff Security Officer Maj. Dragomir Pečanac arrive, accompanied by an officer who came in a separate vehicle. The vehicle, a Golf, remained parked outside the gate,<sup>5285</sup> while Pečanac entered the compound and asked Zoran Obrenović for some soldiers.<sup>5286</sup>

2470. An argument ensued, following which Obrenović directed Brano Gojković to gather up some men and to go with Pečanac and this second officer. Approximately eight soldiers were assembled,<sup>5287</sup> which included, *inter alia*, Franc Kos, Brano Gojković, Boris Popov, Marko Boškić, a soldier named Selanović, and Dražen Erdemović.<sup>5288</sup> The group then left the base and got into a van,<sup>5289</sup> which left together with Maj. Pečanac's vehicle and the Golf.<sup>5290</sup>

2471. At trial, Todorović claimed that he never saw the officer who arrived in the Golf,<sup>5291</sup> and that the officer neither entered the base nor spoke with any soldiers.<sup>5292</sup>

<sup>5280</sup> AĆIMOVIĆ, [REDACTED], 12986:12-18.

<sup>5281</sup> [REDACTED]; V.IVANOVIĆ, T. 18176-18178, [REDACTED].

<sup>5282</sup> [REDACTED]

<sup>5283</sup> [REDACTED].

<sup>5284</sup> TODOROVIĆ, T.13993:19-20.

<sup>5285</sup> TODOROVIĆ, T.14013:10.

<sup>5286</sup> TODOROVIĆ, T.14013:3-4.

<sup>5287</sup> TODOROVIĆ, T.14040:7-10.

<sup>5288</sup> TODOROVIĆ, T.14040:8-12.

<sup>5289</sup> TODOROVIĆ, T.14040:15-18.

<sup>5290</sup> TODOROVIĆ, T.14039:22-14040:5.

<sup>5291</sup> TODOROVIĆ, T.14023:2; T.14024:8-20.

<sup>5292</sup> TODOROVIĆ, T.14013:1-4.

However, Todorović's testimony on this point was clearly implausible and an obvious attempt to protect Lt. Col. **POPOVIĆ**. In a statement given to the United States Federal Bureau of Investigation on 19 June 2005, Todorović stated:

A group of soldiers that included Major Pečanac, General Mladić's aide de camp, was waiting for Todorović when he got back to Dragaševac, a senior officer named **POPOVIĆ** was also present, although he waited for Pečanac by his Volkswagen Golf outside the driveway's gate.<sup>5293</sup>

2472. Nevertheless, Todorović conceded that he was told by the gate-keeper at the base that the officer in question was indeed Lt. Col. **POPOVIĆ**.<sup>5294</sup> Todorović testified that he was sure the gate-keeper knew who **POPOVIĆ** was.<sup>5295</sup> Further, Todorović himself knew **POPOVIĆ**, both by name and as security officer in the Drina Corps,<sup>5296</sup> as well as recognised the parked Golf as **POPOVIĆ**'s.<sup>5297</sup>

2473. **POPOVIĆ** was actively engaged in seeking out personnel in order to facilitate the ongoing murder operation. Moreover, this is unequivocally supported by other evidence in this case, proving that **POPOVIĆ** worked with the 10<sup>th</sup> Sabotage Detachment and by the fact that elements of the 10<sup>th</sup> Sabotage Detachment were utilised in the executions which took place at both the Branjevo Military Farm on 16 July and Bišina on 23 July. **POPOVIĆ** was personally present at both of these executions.

2474. An intercepted conversation between Gen. Krstić and Lt. Col. **POPOVIĆ** on 25 June 1995 corroborates the fact that the Drina Corps Command, including **POPOVIĆ** personally, had relatively easy access to the 10th Sabotage Detachment of the Main Staff.<sup>5298</sup>

2475. In this conversation, Gen. Krstić orders **POPOVIĆ** to have the Commander of the 10<sup>th</sup> Sabotage Detachment, Milorad Pelemiš, go with the unit to join in an urgent unknown task.<sup>5299</sup> Gen. Krstić tells **POPOVIĆ** to convey to Pelemiš that Krstić was asking for him "because it's really much needed Šand he hadĆ big problems."

<sup>5293</sup> TODOROVIĆ, T.14018:7-9, 14019:12-19, 14021:6-14.

<sup>5294</sup> TODOROVIĆ, T.14014:20.

<sup>5295</sup> TODOROVIĆ, T.14014:22-23.

<sup>5296</sup> TODOROVIĆ, T.14013:15-19, 14014:10-11 (indicating that he knew **POPOVIĆ**'s family name and first name, Vujadin).

<sup>5297</sup> TODOROVIĆ, T.14013:10, 14024:49-20 ("... that was his [**POPOVIĆ**'s] car ... I'm not speculating. It was his car"); *see also* BJELANOVIĆ, T.22071:10-11 (noting that **POPOVIĆ** "had a car of the Golf make").

<sup>5298</sup> Exh. P01133[REDACTED], Intercept dated 25 June 1995 at 14:46 hours.

<sup>5299</sup> The intercept refers familiarly to "Mišo" Pelemiš, which in context is clearly 2nd Lt. Milorad Pelemiš, Commander of the 10th Sabotage Detachment. Thus, the "unit" referred to by Gen. Krstić in this intercept is the 10<sup>th</sup> Sabotage Detachment of the Main Staff.

**POPOVIĆ** acknowledges the order and states, “ŠwĆell his lad is here with me right now and I’ll give him my regards and go immediately to tell him that.”<sup>5300</sup>

2476. The close association between **POPOVIĆ** and the 10<sup>th</sup> Sabotage Detachment (or Commander Pelemiš) is consistent with the evidence of Dragan Todorović, who testified that **POPOVIĆ** “used to come to ŠtheĆ unit even before the 15th. He would talk to the commander.”<sup>5301</sup>

2477. **POPOVIĆ** also attended the first anniversary celebration of the 10<sup>th</sup> Sabotage Detachment in Vlasenica on 14 October 1995. The ceremony was captured on film, and shows the Commander of the 10<sup>th</sup> Sabotage Detachment, Mišo Pelemiš, along with senior Drina Corps officers, Gen. Krstić, Lt. Col. Kosorić and Lt. Col. **POPOVIĆ**.<sup>5302</sup> Taking place only three months after elements of the 10<sup>th</sup> Sabotage unit took part in the murder of at least 1,000 Muslim prisoners for which Erdemović admitted his guilt and responsibility,<sup>5303</sup> the event marked, *inter alia*, Erdemović’s “exceptional promotion.”<sup>5304</sup>

**(cc) Sometime after 18:00 hours on the evening of 15 July, POPOVIĆ met with BEARA at the Zvornik Brigade Command**

2478. Zvornik Brigade MP, [REDACTED] PW-165, testified that on the evening of 15 July 1995 after he had returned to the Zvornik Brigade Headquarters from an assignment to man a checkpoint<sup>5305</sup> at the Ročević School, he saw some soldiers in the stairwell of the command building.<sup>5306</sup> He asked another soldier who these men were and was told, “Well the commander has a meeting with **POPOVIĆ** and **BEARA**.”<sup>5307</sup>

2479. While [REDACTED] PW-165 did not know **POPOVIĆ** at the time,<sup>5308</sup> he was aware before July 1995 that **POPOVIĆ** was a security officer in the Drina Corps.<sup>5309</sup> [REDACTED] PW-165 further testified that he was able to see **POPOVIĆ** from the

<sup>5300</sup> Exh. P01133[REDACTED], Intercept dated 25 June 1995 at 14:46 hours.

<sup>5301</sup> TODOROVIĆ, T.14013:15-16.

<sup>5302</sup> Exh. P01999, Video clip of the anniversary celebration of the 10th Sabotage Detachment, dated 14 October 1995, taken from V000-3988-V000-3988, with accompanying English and BCS transcripts, dated 14 October 1995 (showing **POPOVIĆ** together with Lt. Col. Kosorić and “Mišo” Pelemiš at 00:13:41-00:13:49).

<sup>5303</sup> ERDEMOVIĆ, T.10928:8-19 (Erdemović pled guilty to the violation of Article 3 of the Tribunal’s Statute, violation of the laws and customs of war, on 14 January 1998).

<sup>5304</sup> Exh. P01999, Video clip of the anniversary celebration of the 10th Sabotage Detachment, dated 14 October 1995, taken from V000-3988-V000-3988, with accompanying English and BCS transcripts, dated 14 October 1995, p.1 of the English transcript.

<sup>5305</sup> [REDACTED] PW-165, T.9922:14-18.

<sup>5306</sup> [REDACTED] PW-165, T.9962.

<sup>5307</sup> [REDACTED] PW-165, T.9962:18-19.

<sup>5308</sup> [REDACTED] PW-165, T.9962:20-22.

<sup>5309</sup> [REDACTED] PW-165, T.9963-9964.

back and side, and could see that he had a moustache.<sup>5310</sup> Sometime after 1998, he recognised **POPOVIĆ** from a warrant that he had seen<sup>5311</sup> and specifically recalled that the warrant indicated the name Vujadin **POPOVIĆ**.<sup>5312</sup>

2480. [REDACTED] PW-165's testimony is credible and reliable. First, this chance encounter occurred on the same day that he was assigned to Ročević. The Zvornik Brigade MP log documents this assignment. Second, there is absolutely no evidence of any motive whatsoever for [REDACTED] PW-165 to have fabricated either the fact that he was told that **POPOVIĆ** and **BEARA** were at the Standard to meet the Zvornik Brigade Commander, or the circumstances under which he saw them.

**(cci) POPOVIĆ coordinated the execution of Muslim prisoners in Pilica.**

2481. By mid-afternoon on 16 July, elements of the VRS were in the process of busing at least 1,000 Muslim men just a few kilometres from Kula School, where they had been previously detained, to the Branjevo Military Farm.<sup>5313</sup> Both circumstantial and direct evidence establish **POPOVIĆ**'s presence in the Zvornik area at this time, and his direct involvement in these events.

2482. Slavko Perić established that both **BEARA** and **POPOVIĆ** were physically present at the Kula School on 16 July 1995.<sup>5314</sup> Significantly, **BEARA** and **POPOVIĆ** were present while as at least 1,000 Bosnian Muslim men were systematically removed from the school, bound, blindfolded and bussed to the Branjevo Military Farm where they were summarily executed.<sup>5315</sup>

2483. **BEARA**'s and **POPOVIĆ**'s presence at the Kula School, and their proximity to the crimes committed there in plain view, unequivocally establishes that their purpose was to oversee, coordinate and facilitate the executions that took place.

2484. The evidence as to **POPOVIĆ**'s physical presence at the school is further corroborated by entries in the Zvornik Brigade Unofficial Duty Officers Notebook,<sup>5316</sup>

<sup>5310</sup> [REDACTED] PW-165, T.9962.

<sup>5311</sup> [REDACTED] PW-165, T.9975:4-8; [REDACTED] PW-165, T.9963:2-3.

<sup>5312</sup> [REDACTED] PW-165, T.9962:22-9963:3; [REDACTED] PW-165, T.9974-9975.

<sup>5313</sup> Exh. P00686, Revised Narrative Report of Richard Butler, at para. 10.41 ERN:0113-4402; [REDACTED] (PW-117), Exh. P02207 at T.3039-41; S.PERIĆ, T.11410;11415-8; A.HASIĆ, T. 1192-3,1195-6,1200-02; ERDEMOVIĆ, T.10970-2,10983; BUTLER, T. 19976,20006,20127.

<sup>5314</sup> See paras. 932-937.

<sup>5315</sup> PERIĆ, T.11414-11416.

<sup>5316</sup> Exh. P00377, Zvornik Brigade Duty Operations Officer Notebook (unofficial) 29 May through 27 July at ERN:0293-5763 (16 July 1995 entry of 08:55 hours reflecting a request by Maj. Golić to have **POPOVIĆ** call him and confirming that it was conveyed at 09:10 hours); Exh. P00377, Zvornik Brigade Duty Operations Officer Notebook (unofficial) 29 May through 27 July at ERN: 0293-5763 (16 July 1995 entry of 14:00 hours reflecting a request by **POPOVIĆ** for the provision of a bus with a full tank and 500



intercepted communications,<sup>5317</sup> as well as trial testimony<sup>5318</sup> showing that he was in the Zvornik Brigade's area of responsibility during this critical period. Further, this evidence shows the nature and degree of his direct involvement in the execution process.

**POPOVIĆ coordinated personnel and resources.**

2485. Elements of the Zvornik Brigade 1<sup>st</sup> Battalion,<sup>5319</sup> elements of the Bratunac Brigade<sup>5320</sup> and Bratunac Brigade Military Police Company,<sup>5321</sup> the 10<sup>th</sup> Sabotage Detachment, and Drina Corps Military Police<sup>5322</sup> all took part in the operations, which culminated in the mass executions and burials of Muslim prisoners at the Branjevo Military Farm.

2486. These execution and burial operations had to have been organised at a high level and achieved with the authorisation and participation of the correlative commands.<sup>5323</sup> The presence of both Drina Corps Military Police units as well as elements of the 10<sup>th</sup> Sabotage Detachment (as in the case of Bišina), shows that **POPOVIĆ's** was instrumental in organising their deployment and involved in coordinating their actions with the other participating units.

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litres of D-2, to be delivered to Pilica, as per Exh. P01189(a)); Exh. P00377, Zvornik Brigade Duty Operations Officer Notebook (unofficial) 29 May through 27 July at ERN:0293-5767 (16 July 1995 entry of 16:40 hours relaying through the 1<sup>st</sup> Battalion a message to **POPOVIĆ** to see **PANDUREVIĆ** in the field, as reflected in Exh. P01225(a) Intercept dated 16 July 1995 at 16:43 hours; and Exh. P00377, Zvornik Brigade Duty Operations Officer Notebook (unofficial) 29 May through 27 July at ERN:0293-5763 (noting a message from the Zvornik Secretariat of the Interior to have **POPOVIĆ** call them).

<sup>5317</sup> [REDACTED]; Exh. P01189, Intercept dated 16 July 1995 at 13:58 hours (reflecting that "**POPOVIĆ** is at Palma"); Exh. P01225, Intercept dated 16 July 1995 at 16:43 hours (conveying a message to Palma, that **NIKOLIĆ** or **POPOVIĆ** is to go to see Vinko **PANDUREVIĆ**); Exh. P01201, Intercept dated 16 July 1995 at 21:16 hours (reflecting a **POPOVIĆ** call from Palma to Rašić (in fact, Lt. Col. Rakić)); and Exh. P01204, Intercept dated 16 July 1995 at 22:33 hours (acknowledging that **POPOVIĆ** had been at Palma).

<sup>5318</sup> **V.PANDUREVIĆ**, T.31701:3-5 (noting that Capt. Trbić confirmed **POPOVIĆ's** presence in the Zvornik area on 16 July).

<sup>5319</sup> **PERIĆ**, T.11417:14-18 (stating that he cannot be sure that 1<sup>st</sup> Battalion soldiers did not board the traveling from the Kula School to the execution site).

<sup>5320</sup> **ERDEMOVIĆ**, T.10974 (stating that units from Bratunac came during the course of the executions).

<sup>5321</sup> [REDACTED] Exh. P00220, Bratunac Brigade Military Police Daily Log, dated between 30 June 1995 to 29 April 1996 ERN:0070-6697 (reflecting, "One police patrol remained in Pilica to secure and guard the Muslims"); **M.NIKOLIĆ**, T.32909:9-17.

<sup>5322</sup> **ERDEMOVIĆ**, T.10969-10972 (noting the involvement of members of the 10<sup>th</sup> Sabotage Detachment in the executions); **ERDEMOVIĆ**, T.10966:17-10967-7 (stating that he recognized the insignia and uniforms of Drina Corps Military Policemen who were at the Branjevo Military Farm on 16 July).

<sup>5323</sup> See Exh. P00686, Revised Narrative Report of Richard Butler, 1 November 2002, at para. 22 ERN; 0113-4298 (noting, "[d]espite significant combat activity that occurred during the relevant period, the Drina Corps Command, as well as the 1st Zvornik Infantry Brigade and the 1st Bratunac Light Infantry Brigade maintained a fully functioning system of positive command and control over the activities of their subordinate formations").

**POPOVIĆ was involved in securing the Fuel and Resources necessary to continue the executions**

2487. The executions at the Branjevo Military Farm were the product of a larger logistical operation which involved the mobilisation of personnel, materiel and transportation assets, including necessary fuel. As such, this operation was organised and directed from high levels, both within the VRS Security Administration and its command structures. Ensuring the availability of the resources necessary to the operation was a critical implement of the murder operation and would have been a top priority for senior VRS Staff Officers and, as proven in this case, was Lt. Col. **POPOVIĆ**'s concern on 16 July 1995.

*Intercept of 16 July at 13.58 hours.*

2488. A series of four conversations between the Zvornik Brigade Command ("Palma")<sup>5324</sup> and the Drina Corps Command ("Zlatar") in an intercept dated 16 July 1995 at 13:58 hours, demonstrates Lt. Col. **POPOVIĆ**'s direct involvement in procuring the fuel needed to ensure that the ongoing executions in the Pilica area could be successfully completed.

2489. In the first conversation, Capt. Milorad Trbić,<sup>5325</sup> the Zvornik Brigade Duty Officer at the time ("Palma"), relays **POPOVIĆ**'s request for 500 litres of D2 (diesel fuel) to the Duty Officer at the Drina Corps Command ("Zlatar").<sup>5326</sup>

2490. During the second conversation, Cpt. Trbić again calls Zlatar and asks for Bašević (presumably Chief of Technical Services of the Drina Corps Rear Services, Maj. Tomislav Bašević).<sup>5327</sup> Trbić informs Bašević that **POPOVIĆ** contacted him from the field in the Zvornik area<sup>5328</sup> and told him to pass on the message that "500 litres of D2 are urgently being asked for him *or else the work he's doing will stop*."<sup>5329</sup>

2491. In the third conversation, Capt. Trbić asks the switchboard operator to be connected to Maj. Golić (presumably Maj. Pavle Golić,<sup>5330</sup> then a member of the Drina

<sup>5324</sup> Exh. P02443, Updated Index to code names referenced in intercepts, at ERN:0424-7695.

<sup>5325</sup> Exh. P02844, Handwriting report titled, "Milorad TRBIĆ", dated 10 January 2007; *see also* Exh. P00377, Zvornik Brigade Duty Operations Officer Notebook (unofficial) for 29 May 1995 through 27 July 1995.

<sup>5326</sup> Exh. P01189(a), Intercept dated 16 July 1995 at 13:58 hours; Exh. P02443, Index to code names referenced in intercept exhibits.

<sup>5327</sup> Exh. P00686, Revised Narrative Report of Richard Butler, at para. 10.41, p. 112 ERN:0113-4401.

<sup>5328</sup> Exh. P01189(a), Intercept dated 16 July 1995 at 13:58 hours (Trbić notes "he just called me from the field and told me to pass you the message over there").

<sup>5329</sup> Exh. P01189(a), Intercept dated 16 July 1995 at 13:58 hours (emphasis added).

<sup>5330</sup> Exh. P01189(a), Intercept dated 16 July 1995 at 13:58 hours.

Corps Intelligence Organ).<sup>5331</sup> In speaking with Maj. Golić, Trbić repeats **POPOVIĆ**'s urgent message concerning the needed fuel:

Golić, Pop just called me and told me to contact you. 500 litres of D2 have to be sent to him immediately, otherwise his work will stop . . . *yeah, 500 litres, or else his work will stop.*<sup>5332</sup>

2492. In the final conversation, Trbić speaks to an unidentified participant and tells him that "a bus loaded with oil is to go to *Pilica village*."<sup>5333</sup> He further states that Lt. Col. Krsmanović (Drina Corps Transportation Chief) has to call the Zvornik Brigade Vehicle Battalion, presumably to arrange the requisition of the bus.<sup>5334</sup>

2493. At the time of this intercept, elements of the VRS were in the throes of carrying out the execution of what remained of the Muslim men held at the Kula School.<sup>5335</sup> There were no combat activities occurring in that area at the time<sup>5336</sup> and the only activities occurring were the mass executions carried out the Branjevo Military Farm and subsequently at the Pilica Cultural Centre.

2494. **POPOVIĆ**'s urgent request for fuel is further corroborated by a contemporaneous notation made in the Zvornik Brigade Unofficial Duty Operations Officer's Notebook on 16 July which provides:

At 1400 hours, **POPOVIĆ** requested a bus with a full tank and 500 litres of D2. Duty officer and Golić informed.<sup>5337</sup>

2495. Capt. Trbić was the Zvornik Brigade Duty Operations Officer on this date, as confirmed by reference to intercepted VRS communications.<sup>5338</sup> As the Duty Officer, Trbić would have been obliged to contemporaneously record entries in the Unofficial Duty Operations Officer's Notebook in order to "ensure continuity of 'command group' functions" within the Brigade and to ensure that vital information coming to the command was available for, *inter alia*, the Commander, the Chief of Staff, the Assistant Commanders, and other staff officers.<sup>5339</sup> As such, the notebook entries reliably and accurately reflect the recorded events.

<sup>5331</sup> Exh. P00686, Revised Narrative Report of Richard Butler, at para. 10.41, p.113 ERN:0113-4402

<sup>5332</sup> Exh. P01189(a), Intercept dated 16 July 1995 at 13:58 hours (emphasis added).

<sup>5333</sup> Exh. P01189(a), Intercept dated 16 July 1995 at 13:58 hours (emphasis added).

<sup>5334</sup> Exh. P01189(a), Intercept dated 16 July 1995 at 13:58 hours (emphasis added).

<sup>5335</sup> ERDEMOVIĆ, T. 10972:18-22 (stating that the executions lasted from 10:00 hour until 15:00 or 16:00 hours); *see also* Exh. P00685, Narrative Report by Richard Butler, dated 15 May 2000, para. 9.22.

<sup>5336</sup> BUTLER, T.20006:18-19.

<sup>5337</sup> Exh. P00377, Zvornik Brigade Duty Operations Officer Notebook (unofficial) 29 May through 27 July 1995 at p. 148 ERN:0293-5766.

<sup>5338</sup> Exh. P01208(a), Intercept dated 17 July 1995 at 08:59 hours (confirming that Trbić (not Strbić) was the duty officer the day before, 16 July).

<sup>5339</sup> Exh. P00684, Revised VRS Brigade Command Responsibility Report, dated 31 October 2002, at para. 3.7 ERN:0113-4265.

2496. A Zvornik Brigade materiel dispatch order, dated 16 July 1995, also reliably memorialises the disbursement of 500 litres of D2 to the Drina Corps Command through the normal brigade channels<sup>5340</sup> (i.e., it is signed by the Chief of the Zvornik Brigade's Technical Service in charge of fuel disbursements, Sgt. Milenko Krstić).<sup>5341</sup>

2497. This dispatch order specifically reflects that the fuel was intended "for Lt. Col. **POPOVIĆ**", who is designated as the addressee.<sup>5342</sup> As this record was generated in respect of the disbursement of fuel in the ordinary course of events, it is reliable. Further, the recorded transaction is corroborated by an entry in the Zvornik Brigade Technical Material Disbursal Logbook,<sup>5343</sup> as well as confirmed by the testimony Branko Bogičević, a driver for the Zvornik Brigade Logistics Department, whose signature appears on the materiel dispatch order.

2498. Bogičević testified that he received the order to deliver the 500 litres of D2 to the village of Pilica on 16 July.<sup>5344</sup> Although he normally received orders from Radislav Pantić,<sup>5345</sup> Bogičević claimed that he could not recall who issued this particular order.<sup>5346</sup> He also denied having ever been told to whom the fuel was to be delivered.<sup>5347</sup>

2499. Given the obvious value of the fuel and the urgency of the request, Bogičević's testimony in this respect was clearly evasive and contrived. Nonetheless, when confronted with irrefutable documentation, Bogičević conceded that he indeed picked up the fuel from the Zvornik Brigade Standard Barracks<sup>5348</sup> and delivered the fuel to a location near Pilica.<sup>5349</sup> There, four or five ostensibly unknown VRS soldiers decanted 360 of the 500 litres.<sup>5350</sup>

<sup>5340</sup> Exh. P01042, Zvpbr Material Dispatch Order No.21/1-2140 for fuel, dated 16 July 1995 at ERN:0084-4508, Fuel Receipt (21/1-2140) (indicates that 500 litres of D-2 (i.e. diesel) was issued to Lieutenant Colonel **POPOVIĆ** on 16 July 1995).

<sup>5341</sup> See Exh. P00285, Srebrenica Narrative Report, dated 15 May 2000, at p. 109 ERN:0095-0849; **PANDUREVIĆ**, T.31322:17-20.

<sup>5342</sup> Exh. P01042, Zvpbr Material Dispatch Order No.21/1-2140 for fuel, dated 16 July 1995 at ERN:0084-4508, Fuel Receipt (21/1-2140) (indicates that 500 litres of D-2 (i.e. diesel) was issued to Lieutenant Colonel **POPOVIĆ** on 16 July 1995).

<sup>5343</sup> Exh. P00286, Zvornik Brigade Technical Material Disbursal Logbook (showing the disbursal of 500 litres of D-2 under entry number 2140 of 16 July 1995).

<sup>5344</sup> **BOGIČEVIĆ**, T.22364:10-11.

<sup>5345</sup> **BOGIČEVIĆ**, T.22353:5-6.

<sup>5346</sup> **BOGIČEVIĆ**, T.22394-22396.

<sup>5347</sup> **BOGIČEVIĆ**, T.22396:9-12.

<sup>5348</sup> **BOGIČEVIĆ**, T.22356:7-12.

<sup>5349</sup> **BOGIČEVIĆ**, T.22364:4-6.

<sup>5350</sup> **BOGIČEVIĆ**, T.22364:24-25, 22365:4-13, 22369:21-25, 22397:3-4, 22398:3.

2500. This fuel was clearly used to “finishŠĆ the job”<sup>5351</sup>; enabling the transportation of the Muslim men from the Kula School to their deaths at the Branjevo Military Farm to continue, and **POPOVIĆ** was directly and actively involved in its procurement to this purpose.

**(ccii) POPOVIĆ reported to the Drina Corps Command about the murder operation.**

2501. As set out above, the evidence in this case shows that on 16 July the Drina Corps Command was in regular contact with the Zvornik Brigade. There were several messages from the Drina Corps Command to Lt. Col. **POPOVIĆ** seeking current information concerning the corridor opened by Lt. Col. **PANDUREVIĆ**, as well as in respect of the other significant activities going on in the Brigade’s area of responsibility.

2502. In an intercepted conversation at 16:43 hours,<sup>5352</sup> the Drina Corps Duty Officer inquires after **POPOVIĆ** and then after 2<sup>nd</sup> Lt. **NIKOLIĆ**. Informed by the Zvornik Brigade Duty Officer that neither is at the Brigade Command, the Drina Corps Duty Officer advises: “Listen... the boss wants one of the two of them to go to Vinko . . . to see what’s going on there.” The reference to žboss’ in these circumstances likely refers to General Krstić, who is obviously looking for information concerning the developing situation at the front line.

2503. An entry in the Zvornik Brigade Unofficial Duty Operations Officer’s Notebook at 16:40 hours, similarly reflects the substance of this intercept:

Message from Zlatar that Lieutenant Colonel **POPOVIĆ** must go to Vinko **PANDUREVIĆ** in the field at 1640 hrs. Message through the 1<sup>st</sup> pb that **POPOVIĆ** must report to the duty officer so he can be sent on a task by Zlatar.<sup>5353</sup>

2504. It is particularly significant that this message was relayed through the 1<sup>st</sup> Battalion. This establishes that **POPOVIĆ** could be found within the 1<sup>st</sup> Battalion’s area of responsibility at the time and, given that **POPOVIĆ** was on the ground in this area, it is reasonable to infer that he must have been fully aware of the executions that had, by then, just taken place at the Branjevo Military Farm.<sup>5354</sup> To this extent, both the Corps

<sup>5351</sup> Exh. P01201(a), Intercept dated 16 July 1995 at 21:16 hours (conversation between **POPOVIĆ** and Drina Corps Duty Operations Officer Ljubo Rakić, in which **POPOVIĆ** states “tell the General ... I’ve finished the job ... I finished everything”).

<sup>5352</sup> Exh. P01225, Intercept dated 16 July 1995 at 16:43 hours.

<sup>5353</sup> Exh. P00377, Zvornik Brigade Duty Operations Officer Notebook (unofficial) 29 May through 27 July 1995, at ERN:0293-5767.

<sup>5354</sup> Exh. P00686, Srebrenica Military Narrative (revised), dated 1 November 2002 para. 7.36 at p. 69 and 7.47 at p. 71 (noting that the Branjevo Farm and Pilica Cultural Centre are within the area of responsibility of the Zvornik Brigade 1<sup>st</sup> Battalion).

and Brigade Commands would have known precisely why he was there and what he was actually doing.

2505. A communication intercepted at 21:16 hours shows that Lt. Col. **POPOVIĆ**'s sought to keep Drina Corps Command and in particular, Gen. Krstić, fully informed of his activities and confirms **POPOVIĆ**'s direct knowledge and involvement in these executions.

2506. In this conversation, **POPOVIĆ** calls from "Palma" seeking Gen. Krstić, to report on the state of affairs in the Zvornik area. Given Krstić's unavailability, **POPOVIĆ** reports to Lt. Col. Ljubo Rakić<sup>5355</sup>, the Duty Operations Officer in the Operations Centre of the Drina Corps on 16 July.<sup>5356</sup>

2507. During the course of their conversation, **POPOVIĆ** informs Lt. Col. Rakić that he had just been "up there ... with the boss personally",<sup>5357</sup> meaning that he has personally visited Lt. Col. **PANDUREVIĆ** at the front lines near Baljkovica. He then goes on to report that what he observed while there was "horrible" and "all just like he wrote it", referring to **PANDUREVIĆ**'s 16 July Zvornik Brigade Interim Combat Report.<sup>5358</sup>

2508. **POPOVIĆ** then goes on to report about the business of the executing the Muslim prisoners, saying, "tell the General ... *I've finished the job. I finished the job . . . I finished everything*".<sup>5359</sup> When questioned about this remark, Lt. Col. Rakić testified that he understood **POPOVIĆ** to be referring to his having toured the area of Baljkovica.<sup>5360</sup>

2509. On cross-examination, Rakić insisted that he did not remember anything about a request for 500 litres of D-2.<sup>5361</sup> However, given Rakić's alternatives, his response is as unsurprising as it is unconvincing. As the Drina Corps Operations Centre Duty Officer, Lt. Col. Rakić would certainly have known of the urgent request for fuel relayed to the Drina Corps Command. Were he to have acknowledged that he knew about the fuel request at trial, this would have established his knowledge of the murder operation connected to it.

<sup>5355</sup> L.RAKIĆ, T.22185:19-22186 (also known by the nickname "Rale", as appears in the intercept).

<sup>5356</sup> Exh. 1D00767, List of Drina Corps Operations Centre Duty Officers for July 1995.

<sup>5357</sup> BUTLER, T.20023:6-7; RAKIĆ, T.22187:12-17 (noting the reference "up there" refers to the Baljkovica area).

<sup>5358</sup> BUTLER, T.20020:25-20021:3; Exh. P00330, Zvornik Brigade Command Interim Combat Report, dated 16 July 1995; RAKIĆ, T.22187:4-7.

<sup>5359</sup> Exh. P01201(a), Intercept dated 16 July 1995 at 21:16 hours (emphasis added).

<sup>5360</sup> RAKIĆ, T.22189:21-24.

<sup>5361</sup> RAKIĆ, T.22202:16-18.

2510. It is clear that the žjob' **POPOVIĆ** was referring to concerned the transporting and summary execution of as many as 1,500 Muslim prisoners at the Branjevo Military Farm. Furthermore, **POPOVIĆ**'s subsequent remark about making sure that "that's all been taken care of" before returning to the Corps Command, denotes his direct and personal oversight of the burial operation at Branjevo Military Farm that in fact took place on 17 July.<sup>5362</sup>

**(cciii) On 17 July, Popović was involved with the Burial operations carried out at Branjevo Military Farm**

2511. As set out at paras. 987-1002, heavy earth-moving equipment was in full operation at the Branjevo Military Farm throughout the day on 17 July. The equipment was deployed in a massive burial operation following the executions of the Muslim prisoners from the Kula School and the Pilica Cultural Centre the previous day.

2512. An intercepted conversation at 12:42 hours on 17 July<sup>5363</sup> shows that Lt. Col. **POPOVIĆ** was at work completing the burials that began earlier that day. In this conversation, Maj. Golić speaks to Gen. Krstić,<sup>5364</sup> who is looking for **POPOVIĆ** to report to him. Maj. Golić tells Gen. Krstić that **POPOVIĆ** is in Zvornik but will be back later that afternoon. Maj. Golić is then ordered to, "find him and have him report immediately" to the Drina Corps IKM.

2513. Given **POPOVIĆ**'s previous statement to Lt. Col. Rakić that he intended to return to the Drina Corps Command once he was sure that everything had "been taken care of,"<sup>5365</sup> his presence continued presence in the Zvornik area when Gen. Krstić called evidences his ongoing engagement overseeing the burial operation at the Branjevo Military Farm.

2514. [REDACTED].

2515. [REDACTED],<sup>5366 5367</sup>

2516. [REDACTED].<sup>5368 5369</sup>

<sup>5362</sup> Exh. P01201(a), Intercept dated 16 July 1995 at 21:16 hours (**POPOVIĆ** states "I'll come there tomorrow when I'm sure that that's all been taken care of, you know"); *see also* BUTLER, T. 20143-45.

<sup>5363</sup> Exh. P01218(a), Intercept dated 17 July 1995 at 12:42 hours.

<sup>5364</sup> While Gen. Krstić is not mentioned in this intercept, subsequent intercepted conversations make clear that he is the "General" referred to in this conversation; *see also* BUTLER, T.20033:5-13.

<sup>5365</sup> Exh. P01201(a), Intercept dated 16 July 1995 at 21:16 hours.

<sup>5366</sup> [REDACTED].

<sup>5367</sup> [REDACTED].

<sup>5368</sup> [REDACTED].

<sup>5369</sup> BUTLER, T.20035:8-9.

2517. These series of intercepts show **POPOVIĆ**'s direct and personal involvement the burial operation, which is further cemented by a later intercepted conversation at 16:22 hours:

255.850 MH 1622 hrs

**POPOVIĆ** -- Y (inaudible)

P: Hello, it's **POPOVIĆ** ... boss ... everything's OK, that job is done ... everything's OK ... everything's been brought to an end, no problems... I am here at the place ... I'm here at the place where I was before, you know ... I'm at the base ... at the base, the base. Can I just take a little break, take a little break, take a shower and then I'll think again later... basically, *that all gets an A ... an A ... the grade is an A*, everything's OK.... that's it, bye, take care.<sup>5370</sup>

2518. In this conversation, **POPOVIĆ** reports to Y, referring to him as "boss." The "boss" is very likely Gen. Krstić [REDACTED].<sup>5371</sup> This conversation also directly follows the intercepted conversation involving Maj. Golić, in which Golić was told to find **POPOVIĆ** and have him report.<sup>5372</sup> In addition, **POPOVIĆ** identifies his current location in the intercept as "the place where I was before ... at the base", which undoubtedly refers to the Zvornik Brigade Command. This is supported by the fact that Maj. Golić had only a few hours before stated that **POPOVIĆ** was in Zvornik,<sup>5373</sup> as well as his clear and continuous presence and engagement in the Zvornik area (i.e., the Kula School) on the previous day.

2519. **POPOVIĆ**'s report to his superior that, "everything's ok, that job is done ... everything's been brought to an end, no problems",<sup>5374</sup> is a direct reference to the finalisation of the mass executions around Zvornik and the completion of the ensuing burial operation at the Branjevo Military Farm.

**(cciv) POPOVIĆ's presence in the Zvornik area was not motivated by counter – intelligence activities.**

2520. During the cross-examination of Richard Butler, the **POPOVIĆ** Defence suggested that the **POPOVIĆ** was in the Zvornik area on 16 and 17 July performing counter-intelligence functions.<sup>5375</sup>

2521. However, the evidence in this case soundly refutes this position. Moreover there is absolutely no evidence that supports the notion that **POPOVIĆ** might have been engaged in counter-intelligence activities in the Zvornik area during this critical time.

<sup>5370</sup> Exh. P01224(a), Intercept dated 17 July 1995 at 16:22 hours (emphasis added).

<sup>5371</sup> [REDACTED].

<sup>5372</sup> Exh. P01218(a), Intercept dated 17 July 1995 at 12:42 hours.

<sup>5373</sup> Exh. P01218(a), Intercept dated 17 July 1995 at 12:42 hours.

<sup>5374</sup> Exh. P01224(a), Intercept dated 17 July 1995 at 16:22 hours.

<sup>5375</sup> BUTLER, T.20136-20140 (concerning the potential enemy sabotage groups and groups splintered off from the column); *see also* BUTLER, T.20142-20146 (concerning the securing of mobilized conscripts).



Although these activities are by their nature secret,<sup>5376</sup> the fact that there is not one shred of factual support for this contention is a powerful indicator that the proposition is untenable.

2522. The **POPOVIĆ** Defence insinuated that the investigation of apparent Zvornik Brigade fuel consumption irregularities or anomalies (as suggested during the cross-examination of **PANDUREVIĆ**<sup>5377</sup>) may have justified **POPOVIĆ**'s presence in and around the Zvornik area. However, in the face of an imminent collapse of the defence lines, the situation in the Zvornik Brigade area of responsibility between 14 and 16 July was far more serious than any need to investigate the possible misappropriation of fuel.<sup>5378</sup> Moreover, there is no evidence whatsoever of any particular counter-intelligence threat warranting **POPOVIĆ**'s presence in the Zvornik area and as proven, at the crime scenes, in particular.

2523. The further suggestion by the **POPOVIĆ** Defence, that **POPOVIĆ**'s in the Zvornik area was justified in relation to an urgent 15 July 1995 Drina Corps Command mobilisation request<sup>5379</sup> and subsequent order,<sup>5380</sup> is also untenable. Although **POPOVIĆ** had responsibilities in respect of mobilised conscripts<sup>5381</sup> and was obviously authorised to carry out counter-intelligence activities from any location he deemed appropriate, it is simply implausible that he would have been engaged in these functions between 15 and 17 July.

<sup>5376</sup> BUTLER, T.20142, 20148-20189; Exh. 1D01175, Expert Report by Petar Vuga, dated 31 March 2008, at para. 2.52 ERN:1D19-1822.

<sup>5377</sup> **PANDUREVIĆ**, T.31714-31744 (suggesting fuel log discrepancies, irregular procedures and possible corruption).

<sup>5378</sup> See Exh. 5DP00327, Zvornik Brigade Interim Report No. 06-216/2, dated 14 July 1995; Exh. P00686, Srebrenica Military Narrative (revised), dated 1 November 2002 para. 7.63 at p. 79 ERN: 0113-4368 (noting that on the evening of 14 July, the column of Muslim men had broken through Zvornik Brigade defences, and was approaching the 4th, 6th and 7th Battalions from the rear); Exh. P01174(a), Intercept dated 15 July 1995, 09:10 hours, dated 15 July 1995 (noting that 4000 – 5000 Muslim men were in the Zvornik Brigade area, as reported by Maj. Obrenović); Exh. P00329, Zvornik Brigade Daily Interim Combat Report No. 06-217-1, dated 15 July 1995, paras. x and 3 (notifying the Drina Corps Command that the Zvornik Brigade was fully engaged and without any reserves and reporting the “great pressure on the brigade’s area of responsibility, the losses sustained, the inability of the surrounded forces to hold out for long”); see also Exh. 1D01175, Expert Report by Petar Vuga, dated 31 March 2008, para. 3.40 and 4.51(c) at ERN:1D19-1852-1D19-1853, 1D19-1863 (observing, “the security regime in the z/o of the DK [Drina Corps] and particularly in the z/o of the Zvpbr [Zvornik Brigade] was threatened to such a degree that the defence was on the verge of collapsing, with a realistic threat that the situation could become untenable”).

<sup>5379</sup> See BUTLER, T.20142-20146; see also Exh. 1D00698, Drina Corp. Command, mobilization request. Str. Conf. No. 05/1-241, dated 15 July 1995.

<sup>5380</sup> Exh.1D00697, Ministry of Defence, Zvornik Department, Mobilisation Order o2-81/95, dated 15 July 1995.

<sup>5381</sup> BUTLER, T.20140:19-20141:2 (observing that during a mobilization security personnel screen conscripts for potential security or counter-intelligence threats); R.BUTLER, T.20142:1-5.

2524. First, the mobilisation request and order concerning the Zvornik Brigade obviously cannot account for **POPOVIĆ**'s leading a column of Muslim prisoners to the Zvornik area or his presence at the Orahovac School on 14 July, as proven in this case.

2525. Second, **POPOVIĆ**'s presence at the Orahovac School is entirely consistent with his presence at, both the Ročević and Kula schools on 15 and 16 July, respectively. The same motive and purpose underlies this pattern of conduct.

2526. Third, to the extent that the VRS had information about splinter groups that had broken off from the main Muslim column, it is simply not credible that **POPOVIĆ** was fully engaged in counter-intelligence activities trying to locate and gather information concerning these groups.<sup>5382</sup> These activities do not fall within a classic counter-intelligence function.<sup>5383</sup> Simply put, there is no evidence indicating that **POPOVIĆ** was, "beating the bushes with operative sources looking for these individuals",<sup>5384</sup> nor does it make any sense that he would have been interviewing newly mobilised conscripts to find out where groups might have been located.<sup>5385</sup>

2527. The evidence in this case proves that **POPOVIĆ**'s presence in the Zvornik area during the critical period in which Muslim prisoners were detained, executed and buried, owed to the skill and technical expertise that he possessed and indeed, was required to organise, coordinate and carry out the massive crimes perpetrated there. In carrying out the orders of his commanders, **POPOVIĆ**'s ability to use of the military police, facilitate the procurement of engineering resources and personnel and, perhaps most importantly, his ability to further the VRS' vested interest in keeping these large-scale crimes quiet<sup>5386</sup> were all indispensable to the success of these operations.

**(ccv) On 18 July, POPOVIĆ directed Drina Corps security organs to ban the press.**

2528. The following day, on 18 July, **POPOVIĆ** issued a direction to the Chiefs of Intelligence and Security in Drina Corps formations, including the Zvornik Brigade, banning indefinitely "all reporters and cameramen from entering the RS."<sup>5387</sup> The direction notes that an influx of foreign and domestic news crews are expected in the

<sup>5382</sup> BUTLER, T.20146:3-7 (the **POPOVIĆ** Defence apparently asserts that **POPOVIĆ** was engaged in the performance of counter-intelligence functions regarding splinter Muslim groups).

<sup>5383</sup> BUTLER, T.20146:8-12.

<sup>5384</sup> BUTLER, T.20146:13-14.

<sup>5385</sup> BUTLER, T.20146:14-16.

<sup>5386</sup> Exh. P00686, Srebrenica Military Narrative (Revised), dated 1 November 2002, p. 4 at ERN:0113-4298; VUGA, T.23090-23092, 23241.

<sup>5387</sup> Exh. P03014, Drina Corps Command Order No. 17/916, dealing with reporter crews, signed by Vujadin **POPOVIĆ**, dated 18 July 1995.

Srebrenica area, and prefaces the ban stating, “most of Šthese reportersĆ are malicious, filing false and tendentious reports from our parts, in fact abusing our hospitality and introducing themselves as our friends while recording certain footage, and then manipulating it.”<sup>5388</sup> **POPOVIĆ** further directs that, in the event news crews currently in Pale turn up without a permit permitting them to move about and to film, they must be arrested and the Corps Security Organ immediately notified.

2529. Whether or not this ban originated with **POPOVIĆ**, it demonstrates a concerted effort on the part of the VRS to conceal the horrendous crimes that had just taken place. By personally directing that these media restrictions be enforced, **POPOVIĆ** implemented these measures.

**(ccvi) On 23 July, POPOVIĆ was physically present in Bišina where he oversaw the execution of 39 Muslim men.**

2530. On 23 July, **POPOVIĆ** was present during the execution of at least 39 Muslim men<sup>5389</sup> at a remote location in Bišina, around 10 kilometres north of Šekovići. Members of the 10th Sabotage Detachment with the support and participation of members of the Drina Corps Military Police carried out the killings, which were organised, coordinated and overseen by **POPOVIĆ**.

2531. **POPOVIĆ**’s presence at the Bišina executions is firmly established by the credible and reliable testimony of [REDACTED] PW-172 placing him there. [REDACTED].<sup>5390</sup> Second, he recognised **POPOVIĆ**’s car as a Golf 2,<sup>5391</sup> which is consistent with other evidence in the case.<sup>5392</sup> Third, he was familiar with **POPOVIĆ**’s nickname, “Pop.”<sup>5393</sup> Moreover, on cross-examination Nikolić reconfirmed his certainty that Lt. Colonel **POPOVIĆ** was present before the executions started, and remained at the execution site while they took place.<sup>5394</sup> A Vehicle Work Log reflecting his assignment for 23 July 1995<sup>5395</sup> further corroborates [REDACTED] PW-172’s testimony, as does other testimonial, documentary and intercept evidence.

<sup>5388</sup> Exh. P03014, Drina Corps Command Order No. 17/916, dealing with reporter crews, signed by Vujadin **POPOVIĆ**, dated 18 July 1995.

<sup>5389</sup> Exh. 1D01392, Federation of BiH Cantonal Prosecutor’s Office for the Tuzla Canton – Exhumation Report, signed by Cantonal Prosecutor Mr. Mensur Topčić, dated 1 June 2006.

<sup>5390</sup> [REDACTED].

<sup>5391</sup> [REDACTED] (PW-172), T..32569:8-12.

<sup>5392</sup> **TODORVIĆ**., T.14013 (noting that **POPOVIĆ** drove a Golf); [REDACTED]; [REDACTED] (PW-172), T.32589 (noting the presence of a Golf at Bišina).

<sup>5393</sup> [REDACTED] (PW-172), T..32574:4.

<sup>5394</sup> [REDACTED] PW-172, T.32585; [REDACTED].

<sup>5395</sup> Exh. P04425, Vehicle Work Log No. 07/95-2 for TAM 110T7, Reg. No. K-2183, dated 1 to 31 July 1995 (indicating a 23 July 1995 trip, Vlasenica-Bišina-Vlasenica, transporting 15 people).

2532. Drina Corps Logistics Unit driver, [REDACTED] PW-175, testified that on 23 July he was ordered to pick up some soldiers in Dragaševac (the base of the Vlasenica Platoon of the 10<sup>th</sup> Sabotage Detachment<sup>5396</sup>) whom he drove to Bišina.<sup>5397</sup> [REDACTED] PW-175's account of his activities that day is also memorialised in a Vehicle Work Log entry, reflecting his assignment.<sup>5398</sup> More importantly, the entry also reflects Lt. Col. **POPOVIĆ**'s name.

2533. [REDACTED] PW-175 testified that wrote **POPOVIĆ**'s name in the Vehicle Work Log because this is whom he was told was in charge of the operation by his Commander, Momo Avović.<sup>5399</sup> Although [REDACTED] PW-175 claimed at trial that Avović said, "probably **POPOVIĆ**" was in charge,<sup>5400</sup> he conceded upon further examination that there was no such qualification: "as far as I remember, he said, [w]ell, **POPOVIĆ**, I suppose."<sup>5401</sup>

2534. **POPOVIĆ** is further connected to these executions through his involvement with Himzo Mujić, [REDACTED]. Mujić was discussed in an intercepted conversation on 24 July at 12:50 hours,<sup>5402</sup> the day after the executions. In the conversation, one participant (X) identifies that he is in Vlasenica.<sup>5403</sup> Later in the conversation he asks the other participant (Y) to relay a message regarding Himzo Mujić to someone named Kane that, "Himzo is no longer in prison here", meaning Vlasenica and undoubtedly the Sušica prison. He tells X that Kane should call Lieutenant Colonel **POPOVIĆ**" at extension 91 at the Drina Corps: "...he's the only one who knows where he [Mujić] went from here and what happened to him."<sup>5404</sup> [REDACTED].

2535. The **POPOVIĆ** Defence introduced the written statements of Milenko Kojić and Dragiša Čojić, both of whom place **POPOVIĆ** in Bišina on the date of the executions.<sup>5405</sup> Their evidence, that in the afternoon of 23 July **POPOVIĆ** briefly stopped by a construction site where they worked, was intended to suggest a benign motive for his presence in Bišina. However, it does not exclude that **POPOVIĆ** was at the execution

<sup>5396</sup> TODORVIĆ, T.13993:19-20; D.ERDEMOVIĆ, T.10960:25-10961:1.

<sup>5397</sup> [REDACTED] PW-175, T.32782-32783; 32786.

<sup>5398</sup> Exh. P04432, Vehicle Work Log No. 28/3-202 for Minibus.

<sup>5399</sup> [REDACTED] PW-175, T.32782:10-12.

<sup>5400</sup> [REDACTED] PW-175, T.32797.

<sup>5401</sup> [REDACTED] PW-175, T.32797.

<sup>5402</sup> Exh. P01324(a), Intercept dated 24 July 1995, at 12:50 hours.

<sup>5403</sup> Exh. P01324(a), Intercept dated 24 July 1995, at 12:50 hours (X notes that two or three bombs have just fallen "around us here . . . around Vlasenica").

<sup>5404</sup> Exh. P01324(a), Intercept dated 24 July 1995, at 12:50 hours.

<sup>5405</sup> Exh. 1D01439, Dragiša Čojić 92bis Statement, dated 13 June 2009, para. 5; *see also* 1D01446, Milenko Kojić 92bis Statement, dated 30 June 2009, para. 13.

site that morning<sup>5406</sup> doing precisely what the overwhelming evidence proves: directly coordinating, organising and overseeing the executions of 39 Muslim men.

2536. The involvement of the 10<sup>th</sup> Sabotage Detachment with the assistance of members of the Drina Corps MPs in this execution is consistent with their presence at the Branjevo Military Farm executions on 16 July. As such, the presence of these units in Bišina under the direction of **POPOVIĆ**, underscores the nature and extent of his involvement in the planning and carrying out of the large scale carried out in Branjevo.

2537. **POPOVIĆ**'s coordination of the discrete units involved in carrying out the Bišina execution further demonstrates his active and hands-on involvement in every aspect of its planning through to literally covering-up the evidence of the crimes committed. His role was no different with regard to the charged executions that took place in the Zvornik area.

**(ccvii) On 23 July, POPOVIĆ passed on the order to murder the Milići Patients.**

2538. As more fully set out at paras. 1032-1050, 11 Muslim men wounded while trying to escape the Srebrenica enclave, were admitted to the Milići hospital on 13 July,<sup>5407</sup> following their capture or surrender. The VRS Main Staff ordered their transfer to the Zvornik Hospital on 14 July<sup>5408</sup> and from there, they were transferred to the Zvornik Brigade Infirmary. They remained in the Infirmary several days until they were removed and undoubtedly killed. On 23 July 1995, **POPOVIĆ** personally implemented the command decision to kill them.

2539. [REDACTED].<sup>5409</sup> In intercepted conversation which took place on 23 July at 08:00 hours, Lt. Col. **PANDUREVIĆ** discussed his concern, stating, "...[b]ecause that letter arrived stating that the wounded should be sent to the Zvornik hospital. However, there's a problem with that, and I'd ask you for a solution to be found today."<sup>5410</sup>

2540. Five minutes later, the Zvornik Brigade Duty Operations Officer received a message for **PANDUREVIĆ**. This conversation was also intercepted and indicates that the same participant as in the 08:00 conversation (designated "?") called to say, "What

<sup>5406</sup> See P01313(a), Intercept dated 23 July 1995, at 09:04 hours (noting that **POPOVIĆ** was going to Vlačić's, a clear reference to Šekovići. Lt. Col Vlačić was the Chief of the Birać Brigade, headquartered in Šekovići). [REDACTED]

<sup>5407</sup> Exh. P01882, Two pages of a hospital patient logbook containing 14 Muslim names, dated 13 July 1995.

<sup>5408</sup> Exh. P02482, OTP Witness Statement of Yugoslav Gavrić, dated 30 January 2003; see also Exh. 6DP01888, Letter from the Director of the Milići Hospital, signed by Dr. Davidović, dated 20 July 1995 (Note related to the release of injured persons to the hospital in Zvornik pursuant to the order of Chief of Medical Services of the VRS).

<sup>5409</sup> [REDACTED].

<sup>5410</sup> Exh. P01309(a), Intercept dated 23 July at 08:00 hours.

Vinko and I were just talking about will arrive at your place by 1700 hrs. The boss, *Lt. Col. **POPOVIĆ***, will arrive and say what needs to be done regarding the work we talked about”,<sup>5411</sup> meaning the wounded prisoners.

2541. At 08:30 hours, Drina Corps Assistant Commander for Moral Guidance and Religious and Legal Affairs, Col. Cerović, passed on the same message for **PANDUREVIĆ**, reiterating that **POPOVIĆ** “will arrive by 17:00 hours.”<sup>5412</sup>

2542. [REDACTED].<sup>5413</sup>

2543. Indeed, **POPOVIĆ** went to the Zvornik Brigade to ‘deal’ with these wounded prisoners on the afternoon of 23 July, as reflected in a Vehicle Log entry for the VW Golf car assigned to **POPOVIĆ** and his driver, Dušan Vučetić. The Vehicle Log reflects a trip taken that day from Vlasenica to Zvornik and back.<sup>5414</sup> [REDACTED].<sup>5415</sup>

2544. [REDACTED].<sup>5416</sup>

2545. While it has been suggested that **POPOVIĆ**’s excursion to the Medical Centre was in relation to a planned “exchange” of these prisoners,<sup>5417</sup> the direct evidence in this case points unambiguously to their murder.

2546. Moreover, the circumstantial evidence of the wounded prisoners’ murder is compelling. Dr. Zoran Begović, Chief of the Zvornik Brigade Medical Centre<sup>5418</sup> testified that when the prisoners were taken away from the Infirmary, their medical charts and the discharge papers they brought with them from the Milići and Zvornik hospitals documenting their condition were left behind.<sup>5419</sup> Dr. Begović testified that these documents were specifically “put together in a list that was supposed to go with them when they went off for exchange.”

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<sup>5411</sup> Exh. P01310(a), Intercept dated 23 July at 08:05 hours (emphasis added).

<sup>5412</sup> Exh. P00377 Zvornik Brigade Duty Operations Officer Notebook (unofficial) 29 May through 27 July 1995 at ERN:0293-5795.

<sup>5413</sup> [REDACTED].

<sup>5414</sup> Exh. P00197, Vehicle log for VW Golf P-7065 assigned to Vujadin **POPOVIĆ** in the period from 01 to 31 July 1995, p.4.

<sup>5415</sup> [REDACTED].

<sup>5416</sup> [REDACTED].

<sup>5417</sup> **PANDUREVIĆ**, T.32261-66.

<sup>5418</sup> Exh. P02481, OTP Witness Statement of Zoran Begović, dated 2 April 2003, at para. 6 ERN:0290-7840.

<sup>5419</sup> **BEGOVIĆ**, T.9147:10-14.

2547. The wounded prisoners were transported unaccompanied by any medical personnel, technicians or doctors.<sup>5420</sup> Dr. Begović testified that this was contrary to the rules of the Infirmary:

It was our custom and rule that the wounded who were sent to the Zvornik medical centre would, along with the driver, be also escorted by a medical technician. No patient could go to the medical centre who had been with us at the Infirmary, who had been admitted to the Infirmary, could not go to the medical centre without a -- an ambulance and a medical escort.<sup>5421</sup>

2548. Notably, the prisoners were taken away in the early morning hours<sup>5422</sup> without any contemporaneous or advance notice to Dr. Begović, despite his obvious responsibility for them as Chief of the Medical Centre.<sup>5423</sup> Clearly, any planned exchange of these wounded prisoners would have required some minimal documentation as to their medical condition, not to mention a command authorisation.

2549. The murder of these wounded Muslim men is certain. **POPOVIĆ** was involved and indeed, instrumental in carrying them out.

**(ccviii) 2 August 1995- POPOVIĆ contributed to VRS attempts to retrieve individuals forced to flee the Žepa enclave from Serbian authorities**

2550. In early August 1995, the VRS actively sought to retrieve Muslim refugees who fled to Serbia (then the FRY) on the heels of the VRS takeover of Žepa. Lt. Col. **POPOVIĆ**, Col. **BEARA** and Gen. Krstić were directly involved in these efforts.

2551. [REDACTED].<sup>5424 5425</sup>

2552. [REDACTED].<sup>5426 5427</sup>

2553. A related conversation on the following day at 12:40 hours,<sup>5428</sup> shows that **POPOVIĆ** was also deeply involved in this endeavour and thus fully aware of the flight of refugees from Žepa. In this conversation, Gen. Krstić orders **POPOVIĆ** to accompany Lt. Col. Kosorić across the Drina River to Bajina Bašta, Serbia to arrange the return of the Muslims refugees. **POPOVIĆ** acknowledges the order and asks what to do if the Serbian

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<sup>5420</sup> BEGOVIĆ, T.9135:13-18.

<sup>5421</sup> BEGOVIĆ, T.9148:7-12.

<sup>5422</sup> BEGOVIĆ, T.9135:21-9135:3

<sup>5423</sup> BEGOVIĆ, T.9135:13-18.

<sup>5424</sup> [REDACTED].

<sup>5425</sup> Exh. P02443, Index to code names referenced in intercept exhibits (noting that Čaura is the codename for the 5<sup>th</sup> Podrinje Light Infantry Brigade in Višegrad).

<sup>5426</sup> [REDACTED].

<sup>5427</sup> [REDACTED]

<sup>5428</sup> Exh. P01392[REDACTED] Intercept dated 2 August 1995, at 12:40 hours.

authorities do not relinquish the refugees. Gen. Krstić responds tersely, “They’re our Turks, man! ... I’ll turn the gun-barrels on them. Did you understand?”<sup>5429</sup>

**(ccix) In September 1995, POPOVIĆ was an integral participant in the reburial operation designed to conceal the evidence of atrocities committed by the VRS against the Bosnian men and boys.**

2554. One of the key functions of the Security Organ was to conceal certain of the VRS’ intentions.<sup>5430</sup> [REDACTED].<sup>5431</sup>

2555. **POPOVIĆ** acted pursuant to and under the authority of the VRS Command structures in carrying out these activities. Indeed, Gen. Mladić personally authorised the distribution of the fuel necessary to carry out this massive operation, designating Capt. Milorad Trbić as being responsible for the accurate maintenance of fuel and materiel records,<sup>5432</sup> while the disbursal of the fuel was to be executed with the assistance of a representative of the Drina Corps.<sup>5433</sup>

**POPOVIĆ managed the fuel resources used to carry out the operation.**

2556. [REDACTED].<sup>5434</sup>

2557. [REDACTED].<sup>5435</sup> Later, a short order followed, indicating the five tonnes of D-2 were for engineering work and Capt. Trbić.<sup>5436</sup> However, this anodyne explanation was clearly a pretext, as Capt. Trbić was not an engineering officer but a security officer.

2558. [REDACTED].<sup>5437</sup> <sup>5438</sup>

2559. An intercepted conversation on 22 September 1995 at 18:44 hours<sup>5439</sup> shows **POPOVIĆ**’s involvement in managing and overseeing the reburial operations in the Zvornik. In the conversation, **POPOVIĆ** speaks to someone named “Mihalić.” However, in the context of the conversation, it is clear that the other participant is 2<sup>nd</sup> Lt.

<sup>5429</sup> Exh. P01392[REDACTED] Intercept dated 2 August 1995, at 12:40 hours.

<sup>5430</sup> VUGA, T.23090-23092, 23241.

<sup>5431</sup> [REDACTED].

<sup>5432</sup> Exh. 7DP01053, VRS Main Staff Order No.03/4-2341, dated 14 September 1995 (ERN: 0082-2150-0082-2150) (approving the issuance of 5 tonnes of diesel fuel and designating Capt. Trpić [sic] responsible for the accurate maintenance of related records); [REDACTED].

<sup>5433</sup> Exh. P00042, VRS Main Staff Order No. 10/34/2-3-701, issuing 5,000 litres of D-2 diesel fuel, type-signed Zarko Ljuboječić, dated 14 September 1995, ERN:0082-2152-0082-2152 (“A Drina Corps representative shall collect the approved quantities of fuel and provide the transportation”).

<sup>5434</sup> [REDACTED].

<sup>5435</sup> [REDACTED].

<sup>5436</sup> [REDACTED]; Exh. P00041, Main Staff Order No. 03/4-2341, dated 14 September 1995 (approving five tonnes of diesel fuel).

<sup>5437</sup> [REDACTED].

<sup>5438</sup> [REDACTED].

<sup>5439</sup> Exh. P02391(a), Intercept dated 22 September 1995, at 18:44 hours.



**NIKOLIĆ**.<sup>5440</sup> **POPOVIĆ** seeks information from **NIKOLIĆ** regarding fuel that was to have been sent to the Zvornik Brigade. Trbić is clearly involved in this as well, as **POPOVIĆ** seeks to gain information from him concerning the status of the fuel delivery.

2560. In view of the fuel disbursal order of 14 September 1995, designating Trbić the officer responsible for keeping account of its usage,<sup>5441</sup> this conversation clearly concerns the same subject matter. More importantly, it demonstrates **POPOVIĆ**'s involvement in fuel-related issues during the period of reburial operations, as well as his supervision of the tasks necessary to its implementation. The conversation also shows that 2<sup>nd</sup> Lt. **NIKOLIĆ** is also aware of the task that Trbić is working on, which in the context of the conversation must be the reburials.

2561. [REDACTED].<sup>5442 5443</sup>

2562. [REDACTED] this concerned the reburial operations that were clearly underway in the Zvornik area of responsibility as demonstrated by the aerial imagery adduced at trial.

2563. Sgt. Damjan Lazarević testified about the involvement of the Zvornik Brigade Engineering Company in the reburial operations that took place in the Zvornik area. He was assigned to carry out these operations by Maj. Jokić and Slavko Bogičević.<sup>5444</sup> Bogičević told Lazarević that "the bodies had to be dug out and transferred somewhere" and then he, together with Jokić handed Lazarević a list of the people that were to participate.<sup>5445</sup> These included operators<sup>5446</sup> from the Engineering company, as well as men from other Zvornik Brigade units.<sup>5447</sup>

2564. Lazarević went to the same locations to which he had been previously assigned to the carry out the initial burials (i.e., Orahovac, Kozluk and Branjevo Military Farm).<sup>5448</sup> At each location, vehicles from various companies were used to transport the exhumed

<sup>5440</sup> Notably, **POPOVIĆ** addresses **NIKOLIĆ** familiarly as "Nido" who reciprocates with "Pop." See e.g., Exh. P02437[REDACTED], Intercept dated 19 January 1995, at 10:57 hours (a conversation between **POPOVIĆ** and **NIKOLIĆ**, referring to one another familiarly as "Pop" and "Nidžo"). Second, the name Mihalić sounds similar to the name Nikolić and could very easily be attributable to poor reception of the radio signal. Third, tenor of the conversation clearly denotes a familiar and working relationship shared amongst Capt. Trbić, **NIKOLIĆ** and **POPOVIĆ**.

<sup>5441</sup> Exh. 7DP01053, VRS Main Staff Order No.03/4-2341, dated 14 September 1995.

<sup>5442</sup> [REDACTED].

<sup>5443</sup> [REDACTED].

<sup>5444</sup> D.LAZAREVIĆ, T.14467:22-14468:9.

<sup>5445</sup> D.LAZAREVIĆ, T.14468:11-16.

<sup>5446</sup> D.LAZAREVIĆ, T.14523:3-4 (noting Cvijetin Ristanović, and Milovan Miladinović).

<sup>5447</sup> D.LAZAREVIĆ, T.14484:6-13.

<sup>5448</sup> D.LAZAREVIĆ, T.14469:14-15.

corpses.<sup>5449</sup> Lazarević recalled that the operations relating to these three sites were carried out mostly by night<sup>5450</sup> over a period of five or six days<sup>5451</sup> and the necessary fuel was obtained from the Zvornik Brigade.<sup>5452</sup> According to Lazarević, Capt. Trbić coordinated this operation<sup>5453</sup> and would summon Lazarević and the other workers to determine the status of the operation after every job.<sup>5454</sup> This corroborates the 22 September 1995 intercept, which shows **POPOVIĆ**'s knowledge of, and involvement in, Zvornik Brigade fuel-related issues, as well as demonstrates the nature and extent of the work being carried out by Trbić.

2565. **POPOVIĆ**'S involvement in the reburial operations also extended to the operations that took place in the Bratunac area. Momir Nikolić, who admitted his own involvement in the reburial operation, testified that he became aware of the operation in September 1995<sup>5455</sup> when he was informed of it by **POPOVIĆ** at discussions held at the Bratunac Brigade.<sup>5456</sup>

2566. According to Nikolić, **POPOVIĆ** specifically told him that there the Main Staff had ordered the relocation of the grave in Glogova<sup>5457</sup> and that he (Nikolić) was to conduct the operation.<sup>5458</sup> He testified that **POPOVIĆ** told him:

“the Command of the Drina Corps received an order to initiate the whole action and the task of the Drina Corps or the security organ of the Drina Corps precisely to ensure, for this operation the necessary quantities of fuel and that this fuel provided from resources of the Drina Corps should be stored into proper storage areas or gas stations, and that the security organ of the brigade, that is me, had the task to monitor the consumption of the fuel. After the task had been completed, ŠNikolić's duty was to send a written report justifying the use of petrol and fuel oil that had been received from the Drina Corps.”

2567. Momir Nikolić's participation in this operation (dubbed “asanacija”<sup>5459</sup>) was also ordered through the Brigade Commander Col. Vidoje Blagojević.<sup>5460</sup> Throughout the reburial operation from September to October 1995, Nikolić coordinated the effort<sup>5461</sup> and

<sup>5449</sup> D.LAZAREVIĆ, T.14485:3-14.

<sup>5450</sup> D.LAZAREVIĆ, T.14510:14-18.

<sup>5451</sup> D.LAZAREVIĆ, T.14486:25-14487:2.

<sup>5452</sup> D.LAZAREVIĆ, T.14487:13.

<sup>5453</sup> D.LAZAREVIĆ, T.14468:12-13; D.LAZAREVIĆ, T.14489:15-18 (“at the [Zvornik Brigade] command. [Trbić] was in charge of all these reburial and transfer of bodies”).

<sup>5454</sup> D.LAZAREVIĆ, T.14489:25-14490:3.

<sup>5455</sup> Exh. C00001 at para. 13.

<sup>5456</sup> M.NIKOLIĆ, T.33349:13-15,

<sup>5457</sup> M.NIKOLIĆ, T.32961:20-22.

<sup>5458</sup> Exh. C00001 at para. 13.

<sup>5459</sup> M.NIKOLIĆ, T.32960:19-21.

<sup>5460</sup> M.NIKOLIĆ, T.32962:11-13.

<sup>5461</sup> Exh. C00001 at para. 13.

reported to Blagojević.<sup>5462</sup> He supported his assigned tasks, which were primary the management of the fuel, with documentation reflecting the quantities consumed.<sup>5463</sup> However, the operation itself was carried out in the absence of a written order.<sup>5464</sup> This is hardly surprising, given the nature of the operation and the vested interest the VRS had in its concealment.

2568. Momir Nikolić explained that the very decision to involve the Security Organs was likely made because “[t]he reburial was supposed to be carried out in secret. Hence, the fuel which had to be at their disposal, the distribution, and the consumption thereof all of it had to be taken care of by the security organ.”<sup>5465</sup> [REDACTED].

2569. Momir Nikolić’s testimony as to the reburial process is reliable and corroborated: first, by the demonstrative and forensic evidence in this case, which proves that a massive reburial operation was indeed carried out and second, because the fact of the operation is established by credible testimonial evidence.<sup>5466</sup>

2570. The involvement of the Security Organ in the dispatch and management of resources, particularly fuel (which was tightly monitored and controlled<sup>5467</sup>) was calculated to maintain to the greatest degree possible, the secrecy of the operation.<sup>5468</sup> **POPOVIĆ**’s role was thus vital to the successful execution of the operation.<sup>5469</sup>

**(RR) CONCLUSION OF THE TWO JOINT CRIMINAL ENTERPRISES.**

2571. Vujadin **POPOVIĆ** is individually criminally responsible under Article 7(1) of the Statute for the crimes with which he is charged in the Indictment as a member of the Joint Criminal Enterprise to forcibly remove the Muslim populations of Srebrenica and Žepa<sup>5470</sup> and the Joint Criminal Enterprise to murder the Muslim men of Srebrenica.<sup>5471</sup> As described above, **POPOVIĆ** significantly contributed to the execution of the common purpose of both JCEs and shared the intent with the other members of the JCE to commit the crimes which fell within the common purpose of the JCEs.

<sup>5462</sup> See Exh. P00219, Bratunac Brigade Reports and Meetings Journal. Dated between 28 June 1995 to 8 May 1997, (ERN0070-6671) (entry for 16 October 1995 indicating “we are currently engaged in tasks issued by the Army of the Republika Srpska Main Staff (asanacija)”).

<sup>5463</sup> M.NIKOLIĆ, T.32962:22-25;

<sup>5464</sup> M.NIKOLIĆ, T.32962:9.

<sup>5465</sup> M.NIKOLIĆ, T.3350:6-12.

<sup>5466</sup> See paras. 1070-1079.

<sup>5467</sup> [REDACTED]; M.NIKOLIĆ, T.32961-32962, 33058-33059 )

<sup>5468</sup> M.NIKOLIĆ, T.33350:9-12.

<sup>5469</sup> M.NIKOLIĆ, T.33350:20-21 (explaining that one of the reasons for the involvement of the security organs in monitoring fuel consumption was the porous nature of the operation).

<sup>5470</sup> See para. 80 of the Indictment.

<sup>5471</sup> See para. 42 of the Indictment.

(SS) OTHER FORMS OF LIABILITY UNDER ARTICLE 7(1) OF THE STATUTE

2572. In addition to his criminal liability for the crimes charged in the Indictment as a member of two Joint Criminal Enterprises, Vujadin **POPOVIĆ** is criminally responsible for ordering, planning, instigating and otherwise aiding and abetting the commission of the crimes charged in the Indictment. **POPOVIĆ**'s criminal responsibility for ordering, planning and inciting the crimes charged is briefly outlined below.

2573. **POPOVIĆ** ordered the commission of the crimes for which he is charged in the Indictment. Of particular importance in this respect is that a person knowingly relaying illegal orders from superiors to subordinates is also individually responsible for the crime ordered.<sup>5472</sup> As the Drina Corps Chief of Security, **POPOVIĆ** was fully aware of the illegality of the orders he relayed in the commission of the crimes charged in the Indictment.<sup>5473</sup>

2574. **POPOVIĆ** passed on orders and issued instructions regarding the separation and expulsion of the Muslim women, children, and elderly from Srebrenica, as well as the separation of men and boys that were detained in and around Bratunac to Capt. Momir Nikolić, under the authority of the VRS and Drina Corps Command structures, including Generals, Živanović, Krstić and Mladić, as well as orders and instructions from his superior in the Security Administration, namely Gen. Tolimir and Col **BEARA**.

2575. In turn, **POPOVIĆ** passed on and issued orders regarding the detention, transport, execution and burial of Muslim prisoners at Orahovac, Petkovci, Ročević / Kozluk and Pilica/Branjevo to, *inter alia*, **NIKOLIĆ**, the Drina Corps Military Police, the Bratunac Brigade Military Police, the Main Staff 10<sup>th</sup> Sabotage Detachment and others, under the authority of the Command structures of the VRS, including Generals Krstić and Mladić.

2576. [REDACTED]. On 14 July **POPOVIĆ** passed an order to [REDACTED] assist in the transport of thousands of Muslim prisoners detained in and around Bratunac to the Zvornik area to be executed. On 15 July **POPOVIĆ** passed on an order to execute Muslim prisoners detained at the Ročević School to 2<sup>nd</sup> Battalion Commander, Srećko Aćimović. On 23 July **POPOVIĆ** passed on the order to execute 39 Muslim prisoners to members of the Main Staff 10<sup>th</sup> Sabotage Detachment. Later that day, he passed on a

<sup>5472</sup> *Milutinović* TJ (Vol. 1), para. 87; *Kupreškić* TJ, para. 862; *Kupreškić* AJ, para. 451.

<sup>5473</sup> Exh. P00028, Military Prosecutor's Office, VRS Main Staff, Guidelines for Determining the Criteria for Criminal Punishment, dated 6 October 1992 at ERN:0081-4385 (providing that, "all unit commands shall: –work on uncovering all war crimes against humanity and international law on territory in their area of responsibility").

separate order to murder the wounded Muslim prisoners that had been transferred to the Zvornik Brigade Infirmary from the Milići Hospital.

2577. In passing on these orders, **POPOVIĆ** shared the intent of his superiors, and is further individually responsible for the crimes committed by the individuals who implemented or acted on these orders.

2578. **POPOVIĆ** was involved in the planning and organising<sup>5474</sup> of the detention and transport of Muslim men and boys in and around Bratunac, as well as their detention, transport and execution in at Orahovac, Petkovci, Ročević / Kozluk and Pilica/Branjevo. For example, on 12 July, **POPOVIĆ** planned and organised the detention of Muslim prisoners in Bratunac with Momir Nikolić. He further planned and organised their detention in Zvornik with **NIKOLIĆ** on the evening of 13 July. On 14 July, he met with **NIKOLIĆ** and **BEARA** at the Zvornik Brigade HQ, where they further organised and planned the further detention and murder of the Muslim prisoners who were brought to the Zvornik area.

2579. **POPOVIĆ** went to the Orahovac School where he oversaw the organisation of detention Muslim prisoners on the day prior to their execution. **POPOVIĆ** similarly went to the Ročević School, where he organised the transport of prisoners to the nearby execution site in Kozluk. He also went to the Kula School, where he oversaw the organisation of the detention and transportation of prisoners to the Branjevo Military Farm for execution. **POPOVIĆ** further organised the fuel resources required to carry out those murders.

**(TT) VUJADIN POPOVIĆ INTENDED TO COMMIT GENOCIDE.**

2580. Vujadin **POPOVIĆ** intended to bring about the destruction of the Bosnian Muslim population of Eastern Bosnia.

**(ccx) POPOVIĆ's intent to commit genocide is evidenced by the existence of a genocidal plan and his central and wilful involvement in it.**

2581. The existence of a plan is not an element of the crime of genocide; however, its existence of a plan may lead to the establishment of the specific intent for genocide.<sup>5475</sup> The genocidal plan for Srebrenica evolved from a policy directive and subsequent decisions by members of the RS and VRS leadership. As Chief of Security of the Drina Corps, **POPOVIĆ** was a knowing and active participant in the two JCEs arising from this

<sup>5474</sup> *Akayesu* TJ, para. 473.

<sup>5475</sup> *Jelišić* AJ, para. 48.

plan. He knew of the political objectives underlying the Drina Corps operations resulting in the forcible removal of the Muslim populations of Srebrenica and Žepa and in the murder of the Muslim men and boys of Srebrenica. He played a part in the development and implementation of these operations as a key member of the Corps Command.

2582. **POPOVIĆ**'s deliberate acts and omissions, as demonstrated above, particularly his personal and active coordination and oversight of the murders of thousands of Muslim men, confirms his intent to destroy, in part, the Bosnian Muslim population.

2583. **POPOVIĆ**'s involvement in the genocidal plan is evidenced by his inexorable role in the separation of Muslim men and boys in Potočari and their subsequent detention and execution in the Zvornik area. As set out above, **POPOVIĆ**'s physical presence at multiple detention/execution sites, as well as his supervision and oversight of the logistical coordination and implementation of the murder operation, leave no doubt that he fully intended the natural and probable consequences of his actions; namely, the deaths of thousands of Muslim men and boys, and the destruction of the Muslim population of Eastern Bosnia in whole, or in part.

2584. His substantial personal involvement in these crimes demonstrates an unmitigated and unwavering commitment achieving this objective. **POPOVIĆ** led a column buses carrying thousands Muslim prisoners to their deaths. He arranged the implements of their transport, detention and executions, with the assistance of his subordinates and with the authority of his commanders in ensuring that the murders of these men and boys were carried out successfully, efficiently and as quietly as possible. Following these killings, **POPOVIĆ** continued to play central role in covering up the evidence of these horrendous crimes by involving himself in the massive reburial operation in September 1995 to cover up the genocide in which he willingly participated.

**(ccxi) POPOVIĆ's intent to commit genocide is evidenced by his ethnic animus towards Muslims.**

2585. Evidence of genocidal intent can also be shown through the Accused's use of derogatory language towards members of the targeted group.<sup>5476</sup>

2586. There is conclusive evidence in this case establishing that ethnic bias among VRS soldiers and officers was widespread.<sup>5477</sup> **POPOVIĆ** was no exception. Indeed, he

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<sup>5476</sup> *Kayishema* TJ, para. 93.

<sup>5477</sup> M.NIKOLIĆ, T.33032:16-17 (noting that nearly all VRS officers used the term "balija" to refer to Muslims); Exh. 1126(a), Intercept dated 13 July at 09:05 hours (a conversation in which X and Y in which X states, "Fuck 'em. They weren't human beings").

harboured a particularly deep-seated ethnic animus toward Bosnian Muslims. **POPOVIĆ** used derogatory terms such as “*balija*” in referring to Muslims. Not only was this done in relatively casual circumstances,<sup>5478</sup> but **POPOVIĆ**’s use of this disparaging term was also evident in professional documents that he authored, which were directed to his subordinates throughout the Drina Corps.

2587. In a document directed to all the Chiefs of Organs for Intelligence and Security Matters in the Drina Corps, **POPOVIĆ** said:

Security organs at the Drina Corps received information that *balija* /by the name of/ Šaban OMEROVIĆ[sic] from the village of Zutica, in the Srebrenica enclave, contacted by phone, from Switzerland, a soldier in the Drina Corps of the VRS. . .

. . . this *balija*, Šaban OMEROVIĆ, requested to be declared by the VRS as a war criminal as he had participated in combats against the Serbs. He said that if he would be declared a war criminal, his rating among *balijas* in Switzerland would be boosted and that would enable him to materialize certain privileges . . .<sup>5479</sup>

2588. In another document again directed to the Security and Intelligence Departments of all Drina Corps Brigades, **POPOVIĆ** wrote:

We have information that a man called Milorad Radojčić from Belgrade is in contact with the *balija* army in connection with the verification of confidential information<sup>5480</sup>

2589. The use of such derogatory terms was inappropriate for a JNA-trained professional security officer<sup>5481</sup> indeed, such conduct was punishable.<sup>5482</sup> Thus, **POPOVIĆ**’s conduct demonstrates a near pathological bias against Muslims as a group,<sup>5483</sup> and exemplifies the animus with which **POPOVIĆ** deliberately acted in carrying out the crimes of which he stands accused under the Indictment.

<sup>5478</sup> M.NIKOLIĆ, T.33032:16-20 (noting that **POPOVIĆ** referred to Muslims as *balijas*).

<sup>5479</sup> Exh. P03497, Drina Corps Command Security Department Memorandum No. 17/504, dated 29 April 1995 (emphasis added).

<sup>5480</sup> Exh. 1D01076, Drina Corps Command Security Department, Str. Conf. No. 17/141, dated 11 February 1995 (emphasis added).

<sup>5481</sup> VUGA, T.23416:11-13 (“As for how appropriate it is, if you’re asking me this question, if you’re putting this question to me as a professional, well I can say that it’s not appropriate”).

<sup>5482</sup> MITROVIĆ, T.25149.

<sup>5483</sup> See M.NIKOLIĆ, T.33048:13-17 (noting that **POPOVIĆ** bore a resentment towards Muslims).

**(XII) INDIVIDUAL CRIMINAL RESPONSIBILITY OF DRAGO NIKOLIĆ  
UNDER ART. 7(1) OF THE STATUTE**

**(UU) INTRODUCTION**

2590. Drago **NIKOLIĆ** joined the JNA on 15 July 1976 and became a member of the VRS in 1992.<sup>5484</sup> He joined the Security Organ of the Zvornik Brigade in January 1993<sup>5485</sup> and was appointed to the post of Chief of Security and Intelligence of the Zvornik Brigade on 27 March 1993.<sup>5486</sup> By July 1995 and at all times relevant to the crimes charged in the Indictment, he held the rank of 2<sup>nd</sup> Lieutenant and his post was Assistant Commander for Security in the Zvornik Brigade.<sup>5487</sup>

**(ccxii) Role and responsibilities of Drago NIKOLIĆ.**

2591. Drago **NIKOLIĆ** was one of three Zvornik Brigade Assistant Commanders who were directly subordinated to Vinko **PANDUREVIĆ**, the Commander of the Zvornik Brigade.<sup>5488</sup> **NIKOLIĆ**'s deputy was Captain Milorad Trbić.<sup>5489</sup>

2592. As the Assistant Commander for Security, Drago **NIKOLIĆ** had two primary responsibilities: counter intelligence and military police / criminal legal tasks.<sup>5490</sup> Under instructions from Gen. Mladić, security organs at all levels were to spend approximately 80% of their time in intelligence / counter intelligence work, and the remaining 20% in military police and criminal/legal tasks.<sup>5491</sup>

2593. Counter intelligence responsibilities involved identifying threats to the RS and VRS from within the RS and VRS or any other threat that would undermine the safety and security of the RS and VRS from within.<sup>5492</sup>

2594. Military police tasks involved professional supervision of military police units and their activities including capture, detention, escort and treatment of prisoners of war and other issues relating to military police work.<sup>5493</sup>

<sup>5484</sup> Exh. P00373, PVL (Professional Military File) for Drago (son of Predrag) Nikolić.

<sup>5485</sup> **PANDUREVIĆ**, T.31336-31337.

<sup>5486</sup> Exh. P00373.

<sup>5487</sup> *See, e.g.,* Exh. P00345, Zvornik Brigade Report to Bijeljina Military Prosecutor, signed by 2<sup>nd</sup> Lt. Drago Nikolić, dated 26 July 1995.

<sup>5488</sup> Exh. P00407, para.16 at ERN 0092-0108; [REDACTED].

<sup>5489</sup> JEREMIĆ, T.10422:20.

<sup>5490</sup> *See* Exh. P00684 at paras. 3.10 – 3.19 Exh. P02741; Exh. P00694 at para. 122; Exh. P00707 at para. 12; [REDACTED].

<sup>5491</sup> Exh. P02741.

<sup>5492</sup> Exh. P00407, para.6.

<sup>5493</sup> Exh. P00707, Service Regulations of the SFRY Armed Forces Military Police, 1985. *See* paras. 25(h): "the military police...take part in providing security for prisoners of war in camps for prisoners of war;"



2595. With respect to the military police, **NIKOLIĆ**'s role was to make proposals to his commander, **PANDUREVIĆ**, on the most effective use of the military police and recommend what their tasks should be.<sup>5494</sup> Once the commander issued an order, **NIKOLIĆ** would provide direction and instructions to the Commander of the Military Police Company on how best to implement the commander's order.<sup>5495</sup> Thus, while the MPs considered **NIKOLIĆ** to have some command authority of his own,<sup>5496</sup> **NIKOLIĆ** was actually passing on his commander's orders and giving instructions and directions to the MP Commander and the MPs in order to facilitate and oversee the implementation of those orders. In doing so, **NIKOLIĆ** always operated under the derived authority of his commander, **PANDUREVIĆ**, [REDACTED].<sup>5497</sup>

2596. **PANDUREVIĆ** would have an early morning briefing each day with his assistant commanders and agree on tasks for the day.<sup>5498</sup> If there were any tasks for the military police apart from their regular duties, **NIKOLIĆ** would see Lt. Jasikovac, the Commander of the MP Company, and issue him tasks.<sup>5499</sup> **NIKOLIĆ** would attend a briefing with the brigade commander every morning, then return to his office and call the team to hand down instructions to them.<sup>5500</sup> On occasion, MP Company lawyer Nebojša Jeremić went to **NIKOLIĆ**'s office to receive his orders; sometimes he saw Lt. Jasikovac there also receiving tasks.<sup>5501</sup> In **NIKOLIĆ**'s absence, Milorad Trbić would attend the morning briefing and issue the team its orders.<sup>5502</sup> As regards combat issues, Lt. Jasikovac was Jeremić's superior.<sup>5503</sup>

2597. Criminal/legal tasks involved supervising and directing the investigation and prosecution of criminal conduct by VRS soldiers and officers.<sup>5504</sup> The MP Company contained a crime prevention unit, which consisted of a team of three lawyers that would, *inter alia*, gather the necessary documentation to accompany criminal reports and draft charges and orders for sentences in connection with criminal acts committed by Zvornik

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and para. 57: "The military police may also, upon a special order, escort prisoners of war." See also Exh. P00684, Butler Brigade Command Responsibility Report at para. 3.19.

<sup>5494</sup> Exh. P00694 at para. 122; Exh. P00707 at para. 12; BUTLER, T.19637.

<sup>5495</sup> BUTLER, T.19638. See also [REDACTED] PW-165, T.10012:17-20 "The military police commander received orders from his security officer, the security officer received orders from the main commander, and that way up and down the chain."

<sup>5496</sup> [REDACTED] Milorad Birčaković testified that Jasikovac reported to **NIKOLIĆ** (T.11012; 11116).

<sup>5497</sup> See BUTLER, T.19638; [REDACTED].

<sup>5498</sup> KOSTIĆ, T.25989.

<sup>5499</sup> KOSTIĆ, T.25989.

<sup>5500</sup> JEREMIĆ, T.10422, 10443.

<sup>5501</sup> JEREMIĆ, T.10422.

<sup>5502</sup> JEREMIĆ, T.10422, 10444.

<sup>5503</sup> JEREMIĆ, T.10447-10448.

<sup>5504</sup> See e.g., JEREMIĆ, T.10421, 10440, 10442, 10449, 10467.

Brigade soldiers.<sup>5505</sup> This applied both to disciplinary proceedings handled within the Brigade, as well as criminal complaints referred to the military prosecutor's office in Bijeljina.<sup>5506</sup> **NIKOLIĆ** was the officer who issued orders to the team; directed the team to initiate an investigation or draw up charges; and signed off on the criminal charges written up by the team, which would keep him informed.<sup>5507</sup> The Brigade Commander had the right to punish a soldier with a prison term of up to 60 days and did not have to await approval from the military courts in order to do so.<sup>5508</sup>

**(ccxiii) Overview of the case against Drago NIKOLIĆ.**

2598. Drago **NIKOLIĆ** is individually criminally responsible under Article 7(1) of the Statute for the crimes with which he is charged in the Indictment as a member of two Joint Criminal Enterprises: (a) to forcibly remove the Muslim populations of Srebrenica and Žepa;<sup>5509</sup> and (b) to murder the able-bodied men of Srebrenica.<sup>5510</sup>

2599. As outlined below, Drago **NIKOLIĆ** made significant contributions to the execution of the common purpose of both JCEs and shared the intent with the other JCE members to commit the crimes which fell within the common purpose of the JCEs. Drago **NIKOLIĆ** is also responsible for ordering, planning, instigating and otherwise aiding and abetting the commission of crimes charged in the Indictment.

2600. **NIKOLIĆ**'s known involvement in the murder operation began on the night of 13 July, [REDACTED].<sup>5511</sup>

2601. On the night of 13 July, **NIKOLIĆ** personally oversaw the deployment of MPs and the detention of prisoners who arrived at the Orahovac School that night.<sup>5512</sup> **NIKOLIĆ** knew that these prisoners were to be murdered.<sup>5513</sup>

2602. On the morning of 14 July, **NIKOLIĆ** met with **BEARA** and **POPOVIĆ** at the Zvornik Brigade HQ to plan the logistics of the murder operation.<sup>5514</sup> Following this meeting, **NIKOLIĆ** went to the Hotel Vidikovac near Zvornik and directed buses

<sup>5505</sup> JEREMIĆ, T.10418-10420.

<sup>5506</sup> JEREMIĆ, T.110419-10420, 10471-10472.

<sup>5507</sup> JEREMIĆ, T.10421, 10440, 10442, 10449, 10467.

<sup>5508</sup> JEREMIĆ, T.10420-10421, 10467, 10472.

<sup>5509</sup> See para. 77 of the Indictment.

<sup>5510</sup> See para. 39 of the Indictment.

<sup>5511</sup> See paras. 2615-2646.

<sup>5512</sup> See paras. 2632-2633.

<sup>5513</sup> See paras. 2647-2666.

<sup>5514</sup> See paras. 2667-2672.

carrying additional Muslim prisoners to the Orahovac School where they were detained in deplorable conditions prior to being murdered later that day.<sup>5515</sup>

2603. On the late morning of 14 July, **NIKOLIĆ** passed on an order to the Zvornik Brigade 1<sup>st</sup> Battalion's security officer to go to the Kula School near Pilica to coordinate the security of Muslim prisoners from Srebrenica.<sup>5516</sup> **NIKOLIĆ** knew that the prisoners at the Kula School were to be murdered.

2604. Throughout the day on 14 July, **NIKOLIĆ** oversaw the detention of the prisoners at the Orahovac School.<sup>5517</sup> During the afternoon and evening hours, **NIKOLIĆ** coordinated the transport of the prisoners from the Orahovac School to the execution site nearby.<sup>5518</sup> With **NIKOLIĆ**'s full knowledge and authority, Zvornik Brigade MPs blindfolded the prisoners, placed them on trucks and escorted them to the execution site.<sup>5519</sup> **NIKOLIĆ** knew that the prisoners being transported from the Orahovac School were being murdered just a few hundred metres away.

2605. During the late afternoon hours on 14 July, **NIKOLIĆ** was present with **BEARA** near the Petkovci School, from where Muslim prisoners were taken and murdered that night.<sup>5520</sup> **NIKOLIĆ** knew that the prisoners at the Petkovci School were to be murdered.

2606. Around nightfall on 14 July, **NIKOLIĆ** was at the Orahovac execution site coordinating the disembarkment of prisoners from trucks which had brought them from the Orahovac School.<sup>5521</sup> These prisoners were murdered in **NIKOLIĆ**'s presence.

2607. During the early morning hours on 15 July, **NIKOLIĆ** passed on an order for the Zvornik Brigade's 2<sup>nd</sup> Battalion to participate in an execution of prisoners.<sup>5522</sup>

2608. At around 09:00 hours on 15 July, **NIKOLIĆ** met with **BEARA** at the Zvornik Brigade HQ to continue coordinating the murder operation.<sup>5523</sup>

2609. Later that day, **NIKOLIĆ** and Milorad Trbić visited the Ročević School where Muslim prisoners were detained prior to being transported, murdered and buried by, *inter alia*, elements of the Zvornik Brigade including Zvornik Brigade MPs.

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<sup>5515</sup> See paras. 2673-2675.

<sup>5516</sup> See paras. 2676-2684.

<sup>5517</sup> See paras. 2685-2695.

<sup>5518</sup> See paras. 2703-2714.

<sup>5519</sup> See paras. 2696-2702.

<sup>5520</sup> See paras. 2717-2720.

<sup>5521</sup> See paras. 2721-2734.

<sup>5522</sup> See paras. 2738-2762.

<sup>5523</sup> See paras. 2763-2769.

2610. On the morning of 16 July, **NIKOLIĆ** received a situation update from the 1<sup>st</sup> Battalion related to the situation at the Kula School. He organised for fuel to be sent to the 1<sup>st</sup> Battalion for the transport of 1<sup>st</sup> Battalion soldiers to Kula. He was also aware that **POPOVIĆ** was in the Zvornik area on 16 July and that **POPOVIĆ** was overseeing the executions at Branjevo Farm and the Pilica Dom.<sup>5524</sup>

2611. On or around 26 July, **NIKOLIĆ** and his commander Vinko **PANDUREVIĆ** organised the murders of the four Branjevo Farm Survivors.<sup>5525</sup>

2612. **NIKOLIĆ** also was involved in the reburial operation in September 1995.<sup>5526</sup>

2613. **NIKOLIĆ**'s actions throughout this period also contributed to the forcible removal of the Muslim population from Srebrenica and Žepa.

2614. Evidence including witness testimony, intercepts and the Zvornik Brigade Duty Operations Officer Notebook proves that **NIKOLIĆ**, while under the command of Vinko **PANDUREVIĆ**, worked closely with **POPOVIĆ** and **BEARA** during this period in furtherance of the JCEs to murder the able-bodied men of Srebrenica and to forcibly remove the Muslim populations of Srebrenica and Žepa. Each of these security officers performed a critical role in the organisation and coordination of the murder operation. Given the speed and efficiency with which the operation was carried out, they did their job well; despite its horrific nature. Each of their respective commanders, including Mladić, **GVERO**, **MILETIĆ**, Tolimir and the Main Staff, were kept fully informed of this process and results of the mass murders and burials.

**(VV) NIKOLIĆ KNEW OF, SIGNIFICANTLY CONTRIBUTED TO, AND SHARED THE INTENT WITH THE OTHER JCE MEMBERS TO PARTICIPATE IN THE JCE TO MURDER THE MUSLIM MEN FROM SREBRENICA.**

**(ccxiv) On the night of 13 July, NIKOLIĆ was relieved of duty at the IKM [REDACTED] to join BEARA and POPOVIĆ in organising the detention and murder of the prisoners.**

**/REDACTED/**

2615. On the evening of 13 July, Drago **NIKOLIĆ** was the Duty Officer at the Zvornik Brigade's Kitovnice IKM.<sup>5527</sup> [REDACTED].<sup>5528 5529</sup>

<sup>5524</sup> See paras. 2779-2782.

<sup>5525</sup> See para. 2783.

<sup>5526</sup> See paras. 2784-2784.

<sup>5527</sup> Exh. P00347, Zvornik files: Operational Diary/IKM log at ERN 0084-2275; BUTLER, T.19956; RISTIĆ, T.10111 (Ristić testified that around nightfall on 13 July, **NIKOLIĆ** called him from the IKM asking about a fire by the mosque in the village of Nežuk).

2616. [REDACTED].<sup>5530</sup>

2617. [REDACTED].<sup>5531 5532 5533 5534</sup>

2618. [REDACTED].<sup>5535 5536 5537 5538</sup>

2619. [REDACTED].<sup>5539 5540 5541</sup>

2620. [REDACTED].<sup>5542</sup> First, **NIKOLIĆ** actually was relieved from duty at the IKM on the night of 13 July. Second, Lt. Jasikovac and a number of MPs were deployed to the Orahovac School on the night of 13 July to guard prisoners who arrived from Bratunac. [REDACTED]. [REDACTED]. Fifth, before **NIKOLIĆ** left the IKM on the night of 13 July, his fellow security officer Momir Nikolić from the Bratunac Brigade personally delivered instructions about the prisoners to **NIKOLIĆ**.

**Drago NIKOLIĆ was relieved of duty at the IKM at 23:00 hours on 13 July.**

2621. The Zvornik Brigade IKM Logbook contains the following entry dated 13 July 1995: "I took over duty (unscheduled) from Lieutenant Drago **NIKOLIĆ** at 2300 hours."<sup>5543</sup> The entry is clear on its face; it is located in the correct date order (*i.e.* preceded by an entry on 12 July and followed by an entry on 14 July); and proves that **NIKOLIĆ** was relieved that night.

2622. Former Zvornik Brigade officer Mihajlo Galić confirmed that **NIKOLIĆ** was relieved that night and that he (Galić) replaced **NIKOLIĆ** as the IKM Duty Officer. Galić testified that on the evening of 13 July 1995, at about 22:00 or 23:00 hours, he was tasked to go to the IKM in Kitovnice to replace **NIKOLIĆ**.<sup>5544</sup> **NIKOLIĆ** was not at the IKM when Galić arrived.<sup>5545</sup> [REDACTED].<sup>5546</sup>

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<sup>5528</sup> [REDACTED].

<sup>5529</sup> [REDACTED].

<sup>5530</sup> [REDACTED].

<sup>5531</sup> [REDACTED].

<sup>5532</sup> [REDACTED].

<sup>5533</sup> [REDACTED].

<sup>5534</sup> [REDACTED].

<sup>5535</sup> [REDACTED].

<sup>5536</sup> [REDACTED].

<sup>5537</sup> [REDACTED].

<sup>5538</sup> [REDACTED].

<sup>5539</sup> [REDACTED].

<sup>5540</sup> [REDACTED].

<sup>5541</sup> [REDACTED].

<sup>5542</sup> [REDACTED].

<sup>5543</sup> Exh. P00347, Zvornik files: Operational Diary/IKM log, at ERN 0084-2275.

<sup>5544</sup> GALIĆ, T.10495, 10545. Mihajlo Galić's absence from the Zvornik Brigade HQ on 14 July is confirmed by 3D00311, Roster of the Command of the 1st Zvornik Infantry Brigade Headquarters, which indicates that he was in the terrain ("T") on 14 July. Galić's absence from the HQ on 14 July is further

2623. Galić confirmed that he wrote the handwritten entry in the IKM logbook and that the signature was his.<sup>5547</sup> Galić also confirmed the accuracy of his notation in the IKM logbook that the handover was “unscheduled,” stating he was meant to be on duty as of 07:00 hours the following morning and that his replacement of **NIKOLIĆ** was an “extraordinary shift duty.”<sup>5548</sup> [REDACTED].<sup>5549</sup>

2624. [REDACTED].<sup>5550 5551</sup>

2625. Defence witness Dragan Stojkić testified that he was on duty at the IKM on the night of 13 July and the day of 14 July and did not see Mihajlo Galić.<sup>5552</sup> However, Stojkić confirmed that he was a member of Tactical Group 1 (TG-1) which went to Srebrenica and Žepa in early July.<sup>5553</sup> The soldiers from TG-1 did not return to Zvornik until around noon on 15 July.<sup>5554</sup> Therefore, Stojkić could not have been at the IKM on the evening of 13 July. Stojkić’s mistaken recollection was further confirmed when he stated that TG-1 stayed at Crni Rijeka on 11 July<sup>5555</sup> whilst *en route* to Žepa,<sup>5556</sup> and participated in fighting near Žepa the following day.<sup>5557</sup> The evidence has shown that TG-1 stayed at Rijeka on the night of 13-14 July and that the assault on Žepa began on 14 July,<sup>5558</sup> two days later than claimed by Stojkić. Thus, Stojkić was in Rijeka on the night of 13 July and was either mistaken or untruthful about being at the Zvornik Brigade IKM.

2626. Defence witness Zoran Aćimović testified that he went to the Zvornik Brigade IKM after seeing a burned ambulance and repairing broken lines in the area of Crni Vrh.<sup>5559</sup> The Zvornik Brigade ambulance was attacked in the area of Planinci, near Crni

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confirmed by Exh. 7D00099, Military Post, Request for mobilization dated 14 July 1995, which was signed for by Galić’s deputy, Anđeljko Ivanović, in Galić’s absence from the command post (*see* T.10572-10573).

<sup>5545</sup> GALIĆ, T.10498.

<sup>5546</sup> [REDACTED].

<sup>5547</sup> GALIĆ, T.10500. *See also* T.10547, where counsel for **NIKOLIĆ** suggested to Galić that he was not at the IKM on the night of 13 July and was only testifying that way because he saw the IKM logbook. Galić responded emphatically: “I can’t accept that I just made that up and wrote it down then. It is the nature of my job and it was my nature that I would never have done such a thing, and that’s why I can’t accept what you’re putting to me. How would I take a piece of paper and write a document that is pure fabrication, that is my invention? What you are saying is something I cannot accept at all. I disagree completely.”

<sup>5548</sup> GALIĆ, T.10496.

<sup>5549</sup> [REDACTED].

<sup>5550</sup> [REDACTED].

<sup>5551</sup> [REDACTED].

<sup>5552</sup> STOJKIĆ, T.21977.

<sup>5553</sup> STOJKIĆ, T.21971-21972; Exh. P03396, Zvornik Brigade Tactical Group Command.

<sup>5554</sup> *See e.g.*, DRAGUTINOVIĆ, T.12598.

<sup>5555</sup> STOJKIĆ, T.22011.

<sup>5556</sup> STOJKIĆ, T.21971.

<sup>5557</sup> STOJKIĆ, T.22009-22010.

<sup>5558</sup> DRAGUTINOVIĆ, T. 12591-12592; **PANDUREVIĆ**, T.30911, 30917.

<sup>5559</sup> AĆIMOVIĆ, T.22053, 22055.

Vrh,<sup>5560</sup> and the cables to the 7<sup>th</sup> Battalion cut in the same area, not on 13 July, but on 15 July.<sup>5561</sup> Accordingly, it is clear that Zoran Aćimović went to the IKM sometime on or after 15 July and his testimony has no relevance to the question of whether **NIKOLIĆ** was relieved of duty at the IKM on the night of 13 July.

2627. **NIKOLIĆ**'s and **POPOVIĆ**'s failed attempt to show that Mihajlo Galić was not at the IKM on the night of 13 July was an attempt to cover up the fact that **NIKOLIĆ** was relieved of duty that night.

**Lt. Jasikovac and a number of MPs were sent to Orahovac on the night of 13 July to guard prisoners and NIKOLIĆ personally oversaw their deployment.**

2628. [REDACTED].<sup>5562 5563 5564</sup>

2629. [REDACTED].

2630. At approximately 20:50 hours on 13 July, the tactical intercepts record the following conversation: "They immediately called and said to round up two more military platoons and to wait in front of Standard. *Not to get off the truck and that the Chief will wait for them there.*"<sup>5565</sup> [REDACTED].

2631. [REDACTED], approximately 10-15 Zvornik Brigade MPs<sup>5566</sup> were ordered by Jasikovac to go to the Orahovac School to guard the prisoners from Srebrenica who were due to arrive there.<sup>5567</sup> After the prisoners arrived at the Orahovac School on the night of 13 July, the MPs were deployed around the gym; some at the door,<sup>5568</sup> some at the corners and some at the back of the gym.<sup>5569</sup>

2632. The arrival of hundreds of prisoners in the Zvornik Brigade's area of responsibility on the night of 13 July, with thousands more to arrive the following morning and in circumstances where the Zvornik Brigade resources were already stretched on account of their deployment to Srebrenica/Žepa and the presence of the Muslim column in the Snagovo area, was a situation which necessitated **NIKOLIĆ**'s personal involvement and presence at the Orahovac School. Consequently, **NIKOLIĆ**

<sup>5560</sup> See, e.g., Exh. P01463, Map : *Krivaja-95*: Military map seized by OTP.

<sup>5561</sup> Exh. 5DP00328, Zvornik Brigade Daily Combat Report 06-217 dated 15 July 1995.

<sup>5562</sup> [REDACTED].

<sup>5563</sup> [REDACTED].

<sup>5564</sup> [REDACTED].

<sup>5565</sup> Exh. P02232, Tactical Intercepts, p.3 (emphasis added).

<sup>5566</sup> [REDACTED] PW-143, T.6529[REDACTED]; S.BIRČAKOVIĆ, T.10744.

<sup>5567</sup> [REDACTED] PW-143, T.6527; S.BIRČAKOVIĆ, T.10742-10743. Dragoje Ivanović testified that he actually received the order from Stevo Kostić, the MP Company clerk (T.14539).

<sup>5568</sup> D. IVANOVIĆ, T.14543; S.BIRČAKOVIĆ, T.10746-10747.

<sup>5569</sup> S.BIRČAKOVIĆ, T.10746-10747.

went to the Orahovac School on the night of 13 July and he<sup>5570</sup> and Jasikovac<sup>5571</sup> assigned the MPs to the places where they spent the night guarding the prisoners.

2633. **NIKOLIĆ**'s relief from the IKM and his presence at the Orahovac School on the night of 13 July is further corroborated by the vehicle log for an Opel Rekord logged out to three Zvornik Brigade MPs.<sup>5572</sup> One of these MPs, Milorad Birčaković, was **NIKOLIĆ**'s driver.<sup>5573</sup> This vehicle log records two relevant journeys on 13 July. The first journey ("Standard – IKM – Zvor – Local") is consistent with **NIKOLIĆ** being relieved from the IKM. The second journey ("Orahovac – Zvornik – Orahovac – Standard – Bratunac – Zvornik") is consistent with **NIKOLIĆ** visiting the Orahovac School. While Milorad Birčaković could not recall whether he went to Orahovac on the night of 13 July,<sup>5574</sup> the vehicle log is clear on its face and corroborates the other evidence placing **NIKOLIĆ** at the Orahovac School that night.<sup>5575</sup>

**NIKOLIĆ's request to be relieved of duty at the IKM and for MPs with which to secure the prisoners is consistent with his role as Assistant Commander for Security.**

2634. **NIKOLIĆ**'s role as the Assistant Commander for Security required him to make proposals to his commander on the most effective use of the MPs and what their tasks should be.<sup>5576</sup> Once the commander issued an order, **NIKOLIĆ** provided direction and instructions to Lt. Jasikovac and the MPs on how best to implement the commander's order.<sup>5577</sup> Through his professional management of the military police, **NIKOLIĆ**'s role also included responsibility for prisoners of war.<sup>5578</sup>

2635. [REDACTED].

<sup>5570</sup> [REDACTED] PW-143, T.6532-6533, [REDACTED].

<sup>5571</sup> D.IVANOVIĆ, T.14564.

<sup>5572</sup> Exh. P00296, Vehicle Log for Opel Rekord P-4528, 1-31 July 1995. This log records Milorad Birčaković, Mirko Ristić and Miško Arapović as authorized drivers. All three are listed as members of the Zvornik Brigade Military Police Company in July 1995 (see Exh. P00354).

<sup>5573</sup> M.BIRČAKOVIĆ, T.11011.

<sup>5574</sup> M.BIRČAKOVIĆ, T.11054.

<sup>5575</sup> [REDACTED] PW-143, T.6532-6533, [REDACTED].

<sup>5576</sup> Exh. P00694 at para. 122; Exh. P00707 at para. 12; BUTLER, T.19637.

<sup>5577</sup> BUTLER, T.19638. See also [REDACTED] PW-165, T.10012:17-20 "The military police commander received orders from his security officer, the security officer received orders from the main commander, and that way up and down the chain."

<sup>5578</sup> Exh. P00707, Service Regulations of the SFRY Armed Forces Military Police, 1985, para. 25(h): "the military police...take part in providing security for prisoners of war in camps for prisoners of war;" and para. 57: "The military police may also, upon a special order, escort prisoners of war." See also Exh. P00684, Butler Brigade Command Responsibility Report at para. 3.19.



**NIKOLIĆ's request to be relieved is consistent with the evidence that he worked closely with BEARA and POPOVIĆ during the following days.**

2636. [REDACTED].<sup>5579</sup> [REDACTED] **NIKOLIĆ** worked closely with **BEARA** and **POPOVIĆ** throughout the following days. For example, **NIKOLIĆ** met with **BEARA** and **POPOVIĆ** at the Zvornik Brigade HQ on 14 July.<sup>5580</sup> Later that day, **NIKOLIĆ** met with **BEARA** near the Petkovci School<sup>5581</sup> where prisoners were being detained before being murdered.

2637. The Zvornik Brigade Duty Operations Officer Notebook provides additional evidence that **NIKOLIĆ**, **BEARA** and **POPOVIĆ** were working closely together during this period. An entry on the morning of 14 July states: "Col. SALAPURA called – **Drago** and **BEARA** are to report to **GOLIĆ**."<sup>5582</sup> Another entry on 14 July records that **BEARA** sought reports from **NIKOLIĆ** on the progress of his work: "From **BEARA Drago** to report."<sup>5583</sup> The next day, an entry states: "**Drago** and Lieutenant Col. **POPOVIĆ** are to report to Major **GOLIĆ** early in the morning."<sup>5584</sup> This is compelling evidence that these security officers were working closely together during this period and of course reporting the progress of their work to their superiors.

**Momir Nikolić went to the IKM to deliver instructions regarding the prisoners to Drago NIKOLIĆ.**

2638. On the night of 13 July, Momir Nikolić met Col. **BEARA** in the centre of Bratunac.<sup>5585</sup> **BEARA** ordered Momir Nikolić to travel to the Zvornik Brigade and inform Drago **NIKOLIĆ** that thousands of Muslim prisoners were being held in Bratunac and would be sent to Zvornik and executed.<sup>5586</sup> Momir Nikolić travelled to Zvornik and arrived at around 21:45 hours.<sup>5587</sup> He went to the Duty Officer's desk, which he accurately identified as being on the first floor of the Standard Barracks,<sup>5588</sup> and requested to see Drago **NIKOLIĆ**.<sup>5589</sup> Someone whom Momir Nikolić believed was from the

<sup>5579</sup> [REDACTED].

<sup>5580</sup> See paras. 654-660.

<sup>5581</sup> See paras. 779-786.

<sup>5582</sup> Exh. P00377 at ERN 0293-5744.

<sup>5583</sup> Exh. P00377 at ERN 0293-5752.

<sup>5584</sup> Exh. P00377 at ERN 0293-5761.

<sup>5585</sup> Exh. C00001 at para.10.

<sup>5586</sup> Exh. C00001 at para.10.

<sup>5587</sup> Exh. C00001 at para.10.

<sup>5588</sup> M.NIKOLIĆ, T.33020.

<sup>5589</sup> Exh. C00001 at para.10.

Brigade Intelligence Branch told Momir Nikolić that Drago **NIKOLIĆ** was on duty at the IKM.<sup>5590</sup> Momir Nikolić was provided with an MP escort and then drove to the IKM.<sup>5591</sup>

2639. At the IKM, Momir Nikolić met with Drago **NIKOLIĆ**.<sup>5592</sup> Momir Nikolić told Drago **NIKOLIĆ** that he had been sent by **BEARA** to convey his order, “that members who had been separated, *i.e.*, the men from Bratunac who had been separated and housed in the facilities in Bratunac, would, during the day, be transferred to Zvornik and that his task was to prepare the facilities and men who will receive these prisoners.”<sup>5593</sup> Drago **NIKOLIĆ** stated that he would advise his command.<sup>5594</sup> As he was leaving, Momir Nikolić told Drago **NIKOLIĆ** that he had “had information that these men who were being brought or taken to Zvornik would be executed.”<sup>5595</sup> Momir Nikolić then left the IKM, drove back to Zvornik, dropped of his MP escort and returned to Bratunac.<sup>5596</sup>

2640. Momir Nikolić’s testimony on this point is corroborated by other reliable evidence. Drago **NIKOLIĆ** was at the IKM that evening; Drago **NIKOLIĆ** was relieved of duty that evening to deal with the prisoners arriving from Bratunac; Drago **NIKOLIĆ** coordinated the detention of the prisoners in the subsequent days; [REDACTED]. [REDACTED]. Momir Nikolić’s testimony that he passed on a significant order implementing the murder operation is reliable. Momir Nikolić made this admission knowing that he would be sentenced for his actions and willingly acknowledged that he was a significant participant in the murder operation working directly with **BEARA**. Momir Nikolić had nothing to gain by placing himself in this position or putting Drago **NIKOLIĆ** in this key role. Also, Momir Nikolić had no reason to falsely implicate his fellow security officer Drago **NIKOLIĆ**.

2641. Zvornik Brigade MP Nebojša Jeremić was on duty at the Zvornik Brigade barracks gate that evening. Jeremić testified that he did not know Momir Nikolić and that: “I may have seen him, but I don't know who that man is.”<sup>5597</sup> In a statement given to Drago **NIKOLIĆ**’s Defence team, Jeremić again confirmed that he did not know Momir Nikolić.<sup>5598</sup> Significantly, while Jeremić stated that he was sure that someone had not come to the gate that night and introduced himself as Momir Nikolić, Jeremić also stated

<sup>5590</sup> Exh. C00001 at para.10.

<sup>5591</sup> Exh. C00001 at para.10.

<sup>5592</sup> Exh. C00001 at para.10.

<sup>5593</sup> M.NIKOLIĆ, T.32937.

<sup>5594</sup> Exh. C00001 at para.10; M.NIKOLIĆ, T.32938-32939.

<sup>5595</sup> M.NIKOLIĆ, T.32938.

<sup>5596</sup> Exh. C00001 at para.10.

<sup>5597</sup> JEREMIĆ, T.10455.

<sup>5598</sup> Exh. 3D00587, Rule 92bis Statement of Nebojsa Jeremić.

that: "It is possible that during the time I was on duty at the gate, I missed officers who were not from the Zvornik Brigade, coming or leaving Standard Barracks in a vehicle."<sup>5599</sup> This candid admission from Jeremić that he may have missed non-Zvornik Brigade officers, combined with his acknowledgement that he did not actually know Momir Nikolić, renders Jeremić's testimony on this point of minimal probative value.

2642. Sreten Milošević was the Zvornik Brigade Duty Operations Officer on 13 July. Milošević claimed that he did not see Momir Nikolić that evening.<sup>5600</sup> Milošević also stated that Momir Nikolić's would have been recorded in the Duty Operations Officer Notebook had he actually been at the Zvornik Brigade that evening.<sup>5601</sup> However, a review of the entire Notebook shows that there are *no* entries which reflect a call from the barracks gate advising that a military person had arrived.<sup>5602</sup> Thus, Milošević's testimony does not reflect the practice at the time and was either mistaken or false. Significantly, Milošević also acknowledged that there was a period of time on the night of 13 July when another person stood in for him as the Duty Operations Officer.<sup>5603</sup> Milošević could not recall how long he was away from his post.<sup>5604</sup> This was around the time when Momir Nikolić visited the Zvornik Brigade before visiting Drago **NIKOLIĆ** at the IKM.

2643. In addition to these inconsistencies, Sreten Milošević was less than candid about other aspects of his involvement in the murder operation. Milošević acknowledged that he was at the Orahovac School on 14 July but claimed that he had coffee in a house across the street for two hours.<sup>5605</sup> He claimed that he could not recall ammunition for the executions being sent to Ročević by the Logistics Organ under his command.<sup>5606</sup> He lied about the existence of new uniforms.<sup>5607</sup> He claimed that he could not recall the logistical preparations for the Srebrenica operation.<sup>5608</sup> He claimed that he did not know what the word "dozer" meant, despite the fact that he (Milošević) had entered it into the Duty Operations Officer Notebook.<sup>5609</sup> He claimed that he did not know that Birač Holdings

<sup>5599</sup> Exh. 3D00587, Rule 92bis Statement of Nebojsa Jeremić.

<sup>5600</sup> S.MILOŠEVIĆ, T.33971-33972.

<sup>5601</sup> S.MILOŠEVIĆ, T.33971-33972.

<sup>5602</sup> There is one entry in the Notebook noting that a civilian came and asked for Legenda. See Exh. P00377 at ERN: 0293-5698.

<sup>5603</sup> S.MILOŠEVIĆ, T.34005-34006. See also Exh. P00377 at 0293-5742-0293-5743, which shows entries in the Duty Operations Officer Notebook in handwriting other than Sreten Milošević's on the evening of 13 July.

<sup>5604</sup> S.MILOŠEVIĆ, T.34005-34006.

<sup>5605</sup> S.MILOŠEVIĆ, T.33995.

<sup>5606</sup> S.MILOŠEVIĆ, T.33997.

<sup>5607</sup> See S.MILOŠEVIĆ, T.33997-33999. Milošević's testimony is contradicted by Exh. P04600, Zvornik Brigade material list for delivery No. 20/02-197, for camouflage uniforms, dated 17 July 1995.

<sup>5608</sup> S.MILOŠEVIĆ, T.34001-34003.

<sup>5609</sup> S.MILOŠEVIĆ, T.34006-34008.

had bulldozers, despite the fact that he (Milošević) had written the phone number for Birač Holdings directly underneath the word “dozer” in the Duty Operations Officer Notebook.<sup>5610</sup> He claimed that he knew nothing about fuel for the executions being sent to Pilica by the Logistics Organ under his command.<sup>5611</sup> He claimed that he knew nothing about 5,000 litres of fuel for the reburials, despite the relevant orders going to the Head of Logistics Transport Service, Radislav Pantić, under Milošević’s command.<sup>5612</sup> Given Milošević’s repeated and obvious attempts to distance himself from the murder operation, his testimony that Momir Nikolić did not come to the Zvornik Brigade to convey an order about the murder operation should be given no weight.

### **Conclusion**

2644. **NIKOLIĆ** was relieved of duty at the IKM on the night of 13 July to organise the detention and murder of the prisoners who were arriving from Bratunac. [REDACTED].

2645. Lt. Jasikovac and some MPs went to the Orahovac School that night to secure the first group of prisoners. **NIKOLIĆ** also went to the Orahovac School that night to oversee the deployment of Lt. Jasikovac and the MPs.

2646. [REDACTED]. **NIKOLIĆ** both intended, and desired, the murder of the Muslim men from Srebrenica.

**(ccxv) On the night of 13 July, NIKOLIĆ knew the prisoners were to be murdered, not exchanged.**

2647. The following evidence shows that on the night of 13 July, Drago **NIKOLIĆ** knew that the prisoners being brought to the Zvornik area were to be murdered.

**NIKOLIĆ was explicitly told that the prisoners were to be murdered.**

2648. On 13 July, Gen. Mladić, Gen. Krstić and the VRS Tactical Groups moved out of the Srebrenica area and marched towards Žepa. The decision to kill all the prisoners had been made by this time and several large, organised executions had been carried out that day, including the large-scale execution at Kravica Warehouse.

2649. On the night of 13 July, before he was relieved of duty at the IKM, Drago **NIKOLIĆ** was explicitly told by [REDACTED]<sup>5613</sup> [REDACTED] Momir Nikolić<sup>5614</sup> that the prisoners were being sent to Zvornik to be killed. [REDACTED] Momir

<sup>5610</sup> S.MILOŠEVIĆ, T.34006-34009.

<sup>5611</sup> S.MILOŠEVIĆ, T.34021.

<sup>5612</sup> S.MILOŠEVIĆ, T.34022-34025.

<sup>5613</sup> [REDACTED]. [REDACTED].

<sup>5614</sup> M. NIKOLIĆ, T.32937-32938; Exh. C00001, Momir Nikolić Statement of Facts.

Nikolić's testimony on this point is strongly corroborated, as outlined at paras. 2620-2637.

**The circumstances and deplorable conditions of the prisoners' detention would have placed NIKOLIĆ on notice that the prisoners were not going to be exchanged.**

2650. NIKOLIĆ had been involved in the negotiation of prisoner exchanges since 1993.<sup>5615</sup> Thus, NIKOLIĆ knew the standard procedure for detaining, registering, interrogating and exchanging a prisoner of war. This procedure was described by former East Bosnia Corps commander Novica Simić:

A prisoner of war is first brought by the brigade police to a certain location where the intelligence officers try to find out interesting information from them in order to understand the situation among the enemy, the number of troops, equipment, which is regular procedure; and then they inform the corps command that they have captured a prisoner of war. The security organ of the corps immediately sends a military police patrol, with a vehicle, and takes the prisoner of war after the interview and takes him directly to the Batkovic collection centre. And the camp commander immediately informs the International Committee of the Red Cross who also come then to take his particulars.

When they are taking the person's particulars, this is usually done in the presence of a representative of the ICRC. And once he provides his particulars, he's protected, he has certain rights to contact his family and so on and so forth. In all the unfortunate circumstances that he finds himself in, he is allowed some certain measures that would make his life easier. We had extremely good cooperation with the 2<sup>nd</sup> Corps of B and H army; and we would quickly exchange these people for our fighters who are captured on the other side or for our men who happened to be in prison; for example, in Tuzla, who were detained for some political reasons. That was how it was done.<sup>5616</sup>

2651. The Drina Corps Analysis of Combat Readiness for 1994 also noted the importance of prisoners for obtaining intelligence data and stated that the processing of prisoners of war was approached "very professionally and responsibly."<sup>5617</sup>

2652. The deplorable treatment of the Muslim men who were separated from their families or captured by Serb forces after the fall of Srebrenica was nothing like the process described by Novica Simić or the professional and responsible process described by the Drina Corps in its 1994 Analysis. NIKOLIĆ would have seen this immediately upon his arrival at the Orahovac School on the night of 13 July and again on the morning of 14 July. At least four separate features of the prisoners' detention would have placed NIKOLIĆ on notice that they were not to be exchanged.

2653. First, the decision to place the prisoners in schools in the middle of populated towns and villages in the Zvornik area was, of itself, a clear indication that these prisoners

<sup>5615</sup> See e.g., Exh. 3D7D00454, Zvornik Brigade report no. 57, signed for Nenad Simić, dated 11 November 1993, which describes how Drago NIKOLIĆ and Vinko PANDUREVIĆ met with Muslim representatives to discuss an exchange.

<sup>5616</sup> N.SIMIĆ, T.28693-28694.

<sup>5617</sup> Exh. 5D01394, "Analysis of Combat Readiness of the Drina Corps for Each Element of Combat Readiness for 1994," January 1995, p.18 (English) (emphasis added).

were not going to be exchanged. These schools were unequipped and unsuitable for dealing with large numbers of prisoners and there is no reasonable explanation why prisoners would be placed in these locations rather than the Batković Camp. The Batković Camp had the facilities to cater for thousands of prisoners and was only 60 kilometres away from Zvornik via an asphalt road.<sup>5618</sup> Defence witness Ljubomir Mitrović, who in July 1995 was the President of the East Bosnia Corps Commission for Exchange of Prisoners of Bodies,<sup>5619</sup> confirmed during his cross-examination by the Prosecution that there was no legitimate explanation for why the prisoners were sent to these schools instead of the Batković Camp.<sup>5620</sup>

2654. Second, the prisoners had been detained in horrific conditions in Bratunac without food, medical attention and little water.<sup>5621</sup> The Serb soldiers fired shots to control them; many prisoners were subject to brutal beatings and approximately 80 were killed in the Hangar alone. After the prisoners arrived at the Orahovac School, they continued to be kept in suffocating and overcrowded conditions without food or medical attention and with insufficient water.<sup>5622</sup> At least two prisoners were openly murdered at the Orahovac School on 14 July. **NIKOLIĆ** would have seen the bodies of these murdered prisoners outside the School.<sup>5623</sup> These appalling conditions of detention and deliberate murders could only have occurred with **NIKOLIĆ**'s knowledge and approval.

2655. Third, the vast majority of the prisoners had their identification, wallets, watches and money stripped from them in Bratunac and along the Bratunac – Konjević Polje – Milići road when they surrendered.<sup>5624</sup> They were forced to discard the remainder of their belongings, including in many cases their clothes, when they arrived at the Orahovac School.<sup>5625</sup> Forcing the prisoners to discard their personal belongings at this juncture constitutes clear evidence that the VRS had no intention of exchanging them. This would have been obvious to everyone at the Orahovac School, especially those in superior positions such as **NIKOLIĆ**.

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<sup>5618</sup> MITROVIĆ, T.23667.

<sup>5619</sup> MITROVIĆ, T.23609.

<sup>5620</sup> MITROVIĆ, T.23671. "Q. So, sir, you've got security experience, and you served on this commission, had a lot of experience with prisoner exchanges. Do you know of any reason to divert thousands of prisoners of war from Batković instead of back to Batkovic and housing them in little schools around the Zvornik area? Do you have any explanation why that would have been done, thousands of prisoners? A. I have no explanation."

<sup>5621</sup> See paras. 381-404.

<sup>5622</sup> See paras. 677-690.

<sup>5623</sup> See para. 700.

<sup>5624</sup> See paras. 677-690 and 518-544.

<sup>5625</sup> See para. 677.

2656. Fourth, as explained by [REDACTED] PW-110, it is of crucial significance that the Bosnian Serbs made no lists of the prisoners, either in Bratunac or in Zvornik:

[N]o exchange could be carried out before people were listed because the Serbs didn't know how many people they had. Not a single one of us was registered by them. They can't even know our numbers. Only if they counted the dead bodies could they know how many people there were. They can't know how many people they killed, and it's true, they can't know, because nobody asked for our names.<sup>5626</sup>

2657. Had **NIKOLIĆ** genuinely believed that prisoners were being placed in the Zvornik area pending an exchange, as the Assistant Commander for Security and the officer in charge of the detention of those prisoners, he would have been concerned with listing the Muslim prisoners. The Muslim prisoners were not listed. Equally importantly, **NIKOLIĆ** would have wanted to find out the exact number and identity of the Serb prisoners who were to be received in exchange. There is absolutely no evidence that the Muslim side had any Serb prisoners behind their front lines near Orahovac to participate in a local exchange outside the standard procedure.

2658. The reason why the prisoners were not taken to the Batković Camp, why they were detained in inhumane conditions, why they had their identification removed and why they were not listed, is that they were to be murdered, not exchanged. This would have been abundantly clear to the VRS soldiers, MPs and officers who went to the Orahovac School on the night of 13 July or the morning of 14 July. It would have been particularly obvious to those officers in superior positions who were familiar with the regular procedure for conducting prisoner exchanges, such as **NIKOLIĆ**.

2659. [REDACTED].

**The Zvornik Brigade made no rear services preparations to cater for the thousands of prisoners in its area of responsibility.**

2660. As noted by Richard Butler in his Srebrenica Narrative, there appears to have been no significant activity by the Zvornik Brigade's Rear Services organ in relation to the arrival of thousands of Muslim prisoners.<sup>5627</sup> Such activity should have been recorded in the Rear Service logs as the Rear Services organ would have been responsible for providing food, water, sanitation and medical support for the prisoners.<sup>5628</sup> As noted at paras. 687-689, the prisoners at Orahovac received no food, very little water, only a bucket for their toilet facilities and there was no medical support of any kind.

<sup>5626</sup> [REDACTED] PW-110, T.678 (emphasis added). See also T.676-677.

<sup>5627</sup> Exh. P00686 at para. 7.78.

<sup>5628</sup> Exh. P00686 at para. 7.78.

2661. In stark contrast to the treatment of the prisoners, a transport log from the Rear Services organ shows that the MPs in Orahovac received supplies on the night of 13 July.<sup>5629</sup> **NIKOLIĆ** was familiar with the procedure for dealing with prisoners. **NIKOLIĆ** knew that the absence of basic life support provisions for the prisoners meant that they were not being held pending an exchange.

**Other evidence that there was no intention to exchange the prisoners.**

2662. The Trial Chamber heard evidence from several former Zvornik Brigade members who were at the Orahovac School on 14 July. Some of these witnesses claimed that they believed the prisoners were to be exchanged. In each case, this was an attempt on the part of the witness to minimise their knowledge of, and involvement in, the murder operation. The circumstances surrounding the capture, transport and detention of these prisoners, as outlined above, clearly show that these prisoners were not going to be exchanged.

2663. Contrary to the evidence of the MP witnesses who were present at the Orahovac School and physically engaged in the murder operation, Zvornik Brigade MP Company clerk Stevo Kostić confirmed that there was no discussion of an exchange at that time:

Q. During this period of time did you ever hear that these prisoners were going to be exchanged?

A. *No one was talking about anything of the sort.*<sup>5630</sup>

2664. Tanacko Tanić, a member of the Zvornik Brigade Command who was present at the Orahovac School, also testified that as soon as he saw the first group of prisoners board a truck, he knew that they were to be murdered.<sup>5631</sup>

2665. It is also significant that neither **BEARA** or **POPOVIĆ** has suggested in their defence that the prisoners were moved to Zvornik pending an exchange. Indeed, in the face of overwhelming evidence to the contrary, **BEARA** has maintained that he was not even present in the Zvornik area during this period. **POPOVIĆ** and **BEARA** needed **NIKOLIĆ**'s assistance with the coordination of the murder operation. They had no reason to deceive **NIKOLIĆ**.

**Conclusion**

2666. On the night of 13 July, **NIKOLIĆ** knew that these prisoners were to be murdered. [REDACTED]. The fact that the prisoners were sent to Zvornik rather than Batković Camp would have confirmed that the prisoners were to be murdered, not

<sup>5629</sup> Exh. P00289, Log of transport service detailing vehicle movements, dated 2 December 1994 to 31 December 1995, at ERN 0092-2764; BUTLER, T.19957-19958; Exh. P00686 at para. 7.78.

<sup>5630</sup> KOSTIĆ, T.26036.

<sup>5631</sup> TANIĆ, T.10346.



exchanged. When **NIKOLIĆ** went to the Orahovac School that night, he would have received additional compelling proof that these prisoners were to be murdered when he saw their appalling conditions of detention and the pile of discarded belongings outside the School, and received no list of the prisoners' names. These prisoners were never intended to be exchanged. They were marked for death.

**(ccxvi) On the morning of 14 July, NIKOLIĆ met with BEARA and POPOVIĆ at the Zvornik Brigade HQ to coordinate the detention and murder of the prisoners.**

2667. As outlined above at paras. 654-660, on the morning of 14 July, **NIKOLIĆ** met with **BEARA** and **POPOVIĆ** at the Zvornik Brigade HQ. At the time of this meeting, **NIKOLIĆ** knew about the murder operation.<sup>5632</sup> **BEARA** had spent much of the day on 13 July organising the murder operation in Bratunac and would have informed **NIKOLIĆ** and **POPOVIĆ** of the details of the operation at this time.

2668. **NIKOLIĆ**, as the Zvornik Brigade Assistant Commander for Security and the officer most familiar with the Zvornik area, would have actively contributed to the meeting by making proposals on suitable locations for detaining, executing and burying the prisoners who had arrived at Orahovac the previous night and the thousands of additional prisoners who arrived from Bratunac later that morning.

2669. As outlined at paras. 657-659, the arrival of those additional prisoners, and the logistical preparations for the executions and burials, also would have been discussed. In particular, engineering equipment was secured from the Zvornik Brigade Engineering Company at, or shortly after, this meeting. At around this time, a telegram was also sent to the 1<sup>st</sup> Battalion advising them of the arrival of the prisoners.<sup>5633</sup>

**Birčaković's testimony that NIKOLIĆ told him the prisoners were to be exchanged was an attempt to minimise his own knowledge of the murder operation.**

2670. In cross-examination, MP Milorad Birčaković gave evidence that after the meeting, **NIKOLIĆ** told him that "there would be some people coming in for exchange,"<sup>5634</sup> that he "did not know anything about that beforehand,"<sup>5635</sup> and "he was not consulted beforehand but was only ordered to find some accommodation for these

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<sup>5632</sup> See paras. 2648-2666.

<sup>5633</sup> See paras. 2676-2684.

<sup>5634</sup> M.BIRČAKOVIĆ, T.11120.

<sup>5635</sup> M.BIRČAKOVIĆ, T.11120.

people.”<sup>5636</sup> This evidence was an attempt by Birčaković to minimise his own knowledge of, and significant involvement in, the murder operation.

2671. First, **NIKOLIĆ** had known as of the night of 13 July that the prisoners were coming to Zvornik to be murdered, not exchanged.<sup>5637</sup> Second, **BEARA** and **POPOVIĆ** had no reason to lie to their fellow security officer **NIKOLIĆ** by telling him that the prisoners were to be exchanged. Third, it would have been obvious to Birčaković when he arrived at the School on the morning of 14 July that the prisoners were not to be exchanged.<sup>5638</sup> Fourth, Birčaković himself was deeply involved in the murder operation at Orahovac on 14 July as he escorted prisoners to the execution site.<sup>5639</sup> Given the significant evidence to the contrary, this part of Birčaković’s testimony was not credible.

### **Conclusion**

2672. **NIKOLIĆ**, **BEARA** and **POPOVIĆ** all knew of, and were involved in, the murder operation at the time of this meeting and in the subsequent days. The only reason why these officers would have met on the morning of 14 July was to coordinate the detention, transport, execution and burial of the prisoners.

**(ccxvii) On the morning of 14 July, NIKOLIĆ coordinated the movement of buses containing prisoners to Orahovac knowing that these prisoners would be murdered.**

2673. After his meeting with **BEARA** and **POPOVIĆ**, **NIKOLIĆ** and MP Milorad Birčaković drove to the Vidikovac Hotel,<sup>5640</sup> about two kilometres from Zvornik.<sup>5641</sup> **NIKOLIĆ**’s trip to the Hotel Vidikovac, which is near Divić, is corroborated by the vehicle log for the Opel Rekord signed out to Milorad Birčaković.<sup>5642</sup> The entry for 14 July records a trip to Divić. **NIKOLIĆ** signed off on this entry.

2674. Approximately five minutes after **NIKOLIĆ** and Birčaković arrived at the Vidakovac Hotel,<sup>5643</sup> at least five to ten buses arrived at the Hotel<sup>5644</sup> with Muslim prisoners on board.<sup>5645</sup> **NIKOLIĆ** would have learned where and when to meet these buses at his meeting with **POPOVIĆ** and **BEARA** earlier that morning.

<sup>5636</sup> M.BIRČAKOVIĆ, T.11120.

<sup>5637</sup> See paras. 2648-2666.

<sup>5638</sup> See paras. 2653-2658, which describes the circumstances and the conditions of detention which would have placed everyone at the School on notice that these prisoners were not going to be exchanged.

<sup>5639</sup> See para. 714.

<sup>5640</sup> M.BIRČAKOVIĆ, T.11017.

<sup>5641</sup> M.BIRČAKOVIĆ, T.11017.

<sup>5642</sup> Exh. P00296, Vehicle Log for Opel Rekord P-4528, 1-31 July 1995.

<sup>5643</sup> M.BIRČAKOVIĆ, T.11018.

<sup>5644</sup> M.BIRČAKOVIĆ, T.11018.

<sup>5645</sup> M.BIRČAKOVIĆ, T.11019.

2675. **NIKOLIĆ** told Birčaković to get on the first bus<sup>5646</sup> and go to Orahovac.<sup>5647</sup> **NIKOLIĆ** then drove away in the Opel Rekord.<sup>5648</sup> **NIKOLIĆ** knew that the prisoners on these buses were to be murdered. Birčaković confirmed that the convoy of buses went to the Orahovac School.<sup>5649</sup> The prisoners were transferred to the Orahovac School gym and murdered later that day.

**(ccxviii) Between 10:00 and 11:30 hours on 14 July, NIKOLIĆ called the 1<sup>st</sup> Battalion to follow up a telegram ordering that soldiers be sent to the Kula School to secure prisoners and directed the 1<sup>st</sup> Battalion Security Officer to go to the Kula School.**

2676. As described above at paras. 871-876, Slavko Perić was the Assistant Commander for Intelligence and Security in the 1<sup>st</sup> Battalion of the Zvornik Brigade.<sup>5650</sup> Perić testified that on the morning of 14 July, the 1<sup>st</sup> Battalion's Deputy Commander told the members of the 1<sup>st</sup> Battalion Command that someone at the Zvornik Brigade had told Pelemiš that around 200 prisoners would be arriving and were to be detained in the Kula School.<sup>5651</sup>

2677. Shortly thereafter, a telegram arrived at the 1<sup>st</sup> Battalion Command.<sup>5652</sup> Rajko Babić recalled that the telegram was entitled "from the Command of the Zvornik Brigade to the 1<sup>st</sup> Battalion."<sup>5653</sup> In addition to the information provided by Capt. Pelemiš, the telegram indicated that the prisoners were from Srebrenica<sup>5654</sup> and ordered personnel to secure access to the Kula School.<sup>5655</sup> Rajko Babić testified that he read the communication sometime between 07:00 and 09:00 hours.<sup>5656</sup> This was around the time that **BEARA, POPOVIĆ** and **NIKOLIĆ** were meeting at the Zvornik Brigade HQ.<sup>5657</sup>

2678. Slavko Perić testified that approximately one hour after the telegram arrived, he received a telephone call from Drago **NIKOLIĆ**. They had a conversation in which **NIKOLIĆ** addressed matters similar in nature to the content of the telegram.<sup>5658</sup> Perić testified that during this conversation, **NIKOLIĆ** specifically told him:

<sup>5646</sup> M.BIRČAKOVIĆ, T.11018.

<sup>5647</sup> M.BIRČAKOVIĆ, T.11055.

<sup>5648</sup> M.BIRČAKOVIĆ, T.11018.

<sup>5649</sup> M.BIRČAKOVIĆ, T.11123.

<sup>5650</sup> S.PERIĆ, T.11369:4-5; S.PERIĆ, T.11371:4.

<sup>5651</sup> S.PERIĆ, T.11375:25 - 11376:3.

<sup>5652</sup> R.BABIĆ, T.10216:25 - 10217:5, 10241:6-16 (after the executions, Babić discovered that the page in the logbook containing the order/telegram had gone missing).

<sup>5653</sup> R.BABIĆ, T.10215:25 - 10216:2.

<sup>5654</sup> R.BABIĆ, T.10216:7; 10221:11-12.

<sup>5655</sup> R.BABIĆ, T.10216:15-20.

<sup>5656</sup> R.BABIĆ, T.10217:8-21.

<sup>5657</sup> See paras. 654-660.

<sup>5658</sup> S.PERIĆ, T.11376:2-14.

it would be a good idea, regardless of who the deputy commander appoints to go down there, for ŠyouČ to be there as well to avoid any problems with the surrounding citizenry because it is an inhabited area and ŠyourČ house is perhaps 100 metres from that school.<sup>5659</sup>

2679. As the 1<sup>st</sup> Battalion's Assistant Commander for Intelligence and Security, Perić was directly subordinated to the Battalion Commander, Milan Stanojević, and his Deputy Capt. Pelemiš.<sup>5660</sup> Nevertheless, Perić was unsure of whether he informed Capt. Pelemiš about his conversation with **NIKOLIĆ**.<sup>5661</sup> According to VRS regulations,<sup>5662</sup> **NIKOLIĆ** was Perić's immediate superior along the security chain,<sup>5663</sup> and Perić was in regular in contact with him.<sup>5664</sup>

2680. Despite the relevant VRS regulations and Perić's professional relationship with **NIKOLIĆ**, Perić testified that he did not consider the conversation he had with **NIKOLIĆ** to be an order.<sup>5665</sup> However, the subsequent actions of the 1<sup>st</sup> Battalion Command belie this claim and establish that **NIKOLIĆ** was, at the very least, conveying an order, if not confirming it.

2681. First, Deputy Battalion Commander Capt. Pelemiš did, in fact, select some ten to fifteen 1<sup>st</sup> Battalion soldiers<sup>5666</sup> to go to the Kula School in anticipation of the prisoners' arrival.<sup>5667</sup> Second, according to Perić, these soldiers had been tasked with "avoiding any disruption with the people who lived in the area,"<sup>5668</sup> as ostensibly indicated by **NIKOLIĆ** in the telephone conversation. Third, together with Rajko Babić and Dragan Pantić of the 1<sup>st</sup> Battalion Command, Perić personally went to the Kula School<sup>5669</sup> as **NIKOLIĆ** expressly indicated he should do. Fourth, and most tellingly, Perić characterised **NIKOLIĆ**'s instruction as an order during his testimony:

I'm really sorry that the commander was not there at the battalion headquarters, because he was the kind of man who would be able not to comply with the *order* from the brigade command. Had he

<sup>5659</sup> S.PERIĆ, T.11376:11-18.

<sup>5660</sup> S.PERIĆ, T.11369:8-9 and 15.

<sup>5661</sup> S.PERIĆ, T.11379:2-5.

<sup>5662</sup> Exh. 1D01175, Expert Report by Petar Vuga, dated 31 March 2008, para. 2.81 (noting the hierarchical structure in specialist control within the Security Administration extends vertically through the Assistant Commanders of Security at the brigade level, through the battalion level).

<sup>5663</sup> S.PERIĆ, T.11369:9-10 (Perić referred to this as, "an indirect chain through which we contacted with the assistant brigade commander for intelligence and security").

<sup>5664</sup> S.PERIĆ, T.11369:10-14.

<sup>5665</sup> S.PERIĆ, T.11378:7-9 (Perić stated that as the Assistant Commander for Security for the Zvornik Brigade, **NIKOLIĆ** "could not give me any orders"). In response to whether he could have refused to go, Perić responded legalistically and evasively, stating that "[t]here was nothing to refuse, because I didn't receive any orders." See S.PERIĆ, T.11378:11.

<sup>5666</sup> S.PERIĆ, T.11381:1-5; S.PERIĆ, T.11383:21

<sup>5667</sup> R.BABIĆ, T.10219:16-10222:23 (Additional men, including a signalman, guard, and logistics man were also sent).

<sup>5668</sup> S.PERIĆ, T.11377:12-15.

<sup>5669</sup> S.PERIĆ, T.11380:16-20.

been there and had we received the *order* to go to the school, it is quite possible that we would not have complied with this *order*.<sup>5670</sup>

2682. According to Perić, the 1<sup>st</sup> Battalion soldiers were dispatched about an hour or two after his conversation with Drago **NIKOLIĆ**.<sup>5671</sup>

2683. **NIKOLIĆ**'s telephone call to the 1<sup>st</sup> Battalion Command following its receipt of a telegram concerning the detention of Muslim prisoners is also significant because it mirrors the pattern of conduct when **NIKOLIĆ** called the 2<sup>nd</sup> Battalion on the early morning of 15 July after the 2<sup>nd</sup> Battalion received two telegrams ordering the formation of an execution squad.<sup>5672</sup>

### **Conclusion**

2684. Both the nature of **NIKOLIĆ**'s call and his specific direction to Perić clearly demonstrate his knowledge of the prisoners who were to be detained at the Kula School. **NIKOLIĆ**'s telephone call also shows that he coordinated Zvornik Brigade resources in order to secure them. At the time of his conversation with Slavko Perić, **NIKOLIĆ** knew that the prisoners who would soon arrive at the Kula School were to be murdered.<sup>5673</sup>

### **(ccxix) On 14 July, NIKOLIĆ was at the Orahovac School overseeing the MPs and coordinating the detention, transport and murder of the prisoners.**

2685. **NIKOLIĆ** was at the Orahovac School throughout the day on 14 July, coordinating and overseeing the detention and murder of the prisoners and their transport to the execution site. The witnesses who testified about **NIKOLIĆ**'s presence at the School include Milorad Birčaković,<sup>5674</sup> [REDACTED] PW-142,<sup>5675</sup> [REDACTED] PW-143,<sup>5676</sup> Stanoje Birčaković,<sup>5677</sup> and Dragoje Ivanović,<sup>5678</sup> Tanačko Tanić,<sup>5679</sup> and [REDACTED] PW-101.<sup>5680</sup>

2686. **NIKOLIĆ**'s presence in Orahovac on 14 July is corroborated by the Opel Rekord vehicle log signed out to his driver, Milorad Birčaković.<sup>5681</sup> The entry for 14 July reads: "Standard – Orahovac – Divić – Orahovac – Ročević – Orahovac – Zvornik – Standard

<sup>5670</sup> S.PERIĆ, T.11380:10-14 (emphasis added).

<sup>5671</sup> S.PERIĆ, T.11378:13-14.

<sup>5672</sup> See paras. 2738-2762.

<sup>5673</sup> See paras. 2647-2666.

<sup>5674</sup> M.BIRČAKOVIĆ, T.11022.

<sup>5675</sup> [REDACTED] PW-142, T.6451-6452, 6484.

<sup>5676</sup> [REDACTED] PW-143, T.6536-6538, 6602-6603.

<sup>5677</sup> S.BIRČAKOVIĆ, T.10748; Exh. IC00-0095.

<sup>5678</sup> D.IVANOVIĆ, T.14544, 14546, 14548.

<sup>5679</sup> TANIĆ, T.10337.

<sup>5680</sup> [REDACTED] PW-101, T.7564-7565.

<sup>5681</sup> Exh. P00296, Vehicle Log for Opel Rekord P-4528, 1-31 July 1995.

– Local.” These entries are consistent with **NIKOLIĆ**’s trip to Orahovac at 08:00 hours to coordinate the changeover of security at the School; his subsequent trip to the Hotel Vidikovac at Divić; and his later return to Orahovac. **NIKOLIĆ** signed off on this entry.

**At around 08:00 hours, NIKOLIĆ coordinated a security changeover at the School.**

2687. MP Dragoje Ivanović testified that at approximately 08:00 hours on 14 July, Drago **NIKOLIĆ** arrived at the Orahovac School<sup>5682</sup> with his driver.<sup>5683</sup> Shortly afterwards, 20-40 soldiers arrived as replacements for the MPs who had guarded the prisoners overnight.<sup>5684</sup> **NIKOLIĆ** told Lt. Jasikovac, Commander of the MP Company, that the soldiers were there to take over the prisoners<sup>5685</sup> and that the MPs who guarded the prisoners overnight were free to go.<sup>5686</sup> However, **NIKOLIĆ** instructed Jasikovac that those MPs should “be ready and close by with the minibus.”<sup>5687</sup> MP Stanoje Birčaković testified that Jasikovac passed on **NIKOLIĆ**’s instruction to the MPs, ordering them to stay around and “to be at the ready.”<sup>5688</sup>

2688. This evidence shows that **NIKOLIĆ** coordinated the changeover of security from the MPs who guarded the prisoners overnight to the soldiers who replaced them. **NIKOLIĆ** also provided instructions to Jasikovac on how the MPs should be deployed and Jasikovac passed on those instructions. **NIKOLIĆ** clearly coordinated and oversaw the detention of the prisoners at the School. The reinforcements brought in were also under **NIKOLIĆ**’s control and under the overall command of the Zvornik Brigade.

**Between 11:00 and 15:00 hours, NIKOLIĆ met senior VRS officers at the School.**

2689. MP Milorad Birčaković testified that at approximately 11:00 hours, **NIKOLIĆ** arrived at the School in the Opel Rekord which Birčaković had left him with at the Hotel Vidakovac earlier that morning.<sup>5689</sup> On that occasion, **NIKOLIĆ** stayed at the School for approximately one hour<sup>5690</sup> and spoke with Jasikovac and others.<sup>5691</sup>

2690. During the afternoon hours, **NIKOLIĆ** was seen on numerous other occasions at the School speaking with senior VRS officers who were not from the Zvornik Brigade.

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<sup>5682</sup> D.IVANOVIĆ, T.14544.

<sup>5683</sup> D.IVANOVIĆ, T.14551, 14564.

<sup>5684</sup> S.BIRČAKOVIĆ, T.10747; D.IVANOVIĆ, T.14544.

<sup>5685</sup> D.IVANOVIĆ, T.14544-14545.

<sup>5686</sup> D.IVANOVIĆ, T.14544:10-14.

<sup>5687</sup> D.IVANOVIĆ, T.14544:12-13.

<sup>5688</sup> S.BIRČAKOVIĆ, T.10747. See also D.IVANOVIĆ, T.14545:9-11.

<sup>5689</sup> M.BIRČAKOVIĆ, T.11022.

<sup>5690</sup> M.BIRČAKOVIĆ, T.11023.

<sup>5691</sup> M.BIRČAKOVIĆ, T.11022.

2691. Between 12:00 and 15:00 hours,<sup>5692</sup> MP [REDACTED] PW-142 saw **NIKOLIĆ** up to three separate times<sup>5693</sup> standing on the road outside the School talking to some senior, higher-ranking officers.<sup>5694</sup> During the same time period,<sup>5695</sup> MP Stanoje Birčaković, who heard that senior non-Zvornik Brigade officers were present at the School,<sup>5696</sup> saw **NIKOLIĆ** in the schoolyard standing close to the road with another person.<sup>5697</sup> MP Dragoje Ivanović also saw **NIKOLIĆ** and Lt. Jasikovac speaking with a senior VRS officer who was around 50 years old.<sup>5698</sup>

2692. MP [REDACTED] PW-143 saw **NIKOLIĆ** during the afternoon hours speaking with a senior VRS officer who was not from the Zvornik Brigade, whom Simić described as tall, older, with grey hair and wearing glasses.<sup>5699</sup> This is consistent with the description of **BEARA** at the time.<sup>5700</sup> The only senior non-Zvornik Brigade officers known to have been in the Zvornik Brigade area at the time were **POPOVIĆ** and **BEARA**.

2693. **NIKOLIĆ**'s various meetings with Lt. Jasikovac and these senior VRS officers at the Orahovac School on 14 July show that he played a key role in coordinating the detention, transport and execution of prisoners at that site.

**NIKOLIĆ had to have known about the preparations for the executions and the murders at the School.**

2694. As described above at paras. 2648-2658, **NIKOLIĆ** knew as of the night of 13 July that the prisoners were to be murdered, not exchanged. The ongoing preparations for the executions at the Orahovac School while **NIKOLIĆ** was there during the early to mid afternoon hours on 14 July would have made it even more obvious that the prisoners were to be murdered. As described at paras. 692-698 and 702-704, blindfolds and ligatures were in the process of being made; trucks to transport the prisoners to the execution site were obtained; and engineering equipment was secured with which to bury their bodies. The large "Rovokopač" backhoe excavator which dug the graves at Orahovac stopped outside the School for five minutes just before midday and would have been clearly visible to everyone outside the School.

<sup>5692</sup> [REDACTED] PW-142, T.6451-6452, 6484.

<sup>5693</sup> [REDACTED] PW-142, T.6452.

<sup>5694</sup> [REDACTED] PW-142, T.6451-6452, 6484.

<sup>5695</sup> S.BIRČAKOVIĆ, T.10750.

<sup>5696</sup> S.BIRČAKOVIĆ, T.10767-10768.

<sup>5697</sup> S.BIRČAKOVIĆ, T.10748; Exh. IC00-0095.

<sup>5698</sup> D.IVANOVIĆ, T.14546, 14548.

<sup>5699</sup> [REDACTED] PW-143, T.6536-6538, 6602-6603.

<sup>5700</sup> See e.g., Exh. P03636, Photograph showing Ljubiša **BEARA** and others.

2695. Around this time, the Serb soldiers removed at least two prisoners from the school and executed them. Their bodies were clearly visible outside the School throughout the afternoon. As outlined at para. 700, **NIKOLIĆ** would have seen these two bodies. The deliberate murder of two prisoners who had been guarded by Zvornik Brigade MPs could only have occurred with the knowledge and authorisation of Drago **NIKOLIĆ**.

**Drago NIKOLIĆ coordinated and supervised the work of the Zvornik Brigade MPs at Orahovac as they secured the prisoners, blindfolded them, placed them on trucks and escorted them to the execution site.**

2696. **NIKOLIĆ**'s role with respect to the military police was to make proposals to his commander on the most effective use of the military police and recommend what their tasks should be.<sup>5701</sup> Once the commander issued an order, **NIKOLIĆ** would provide direction and instructions to Lt. Jasikovac on how best to implement the commander's order.<sup>5702</sup> [REDACTED]. The critical role performed by the Zvornik Brigade MPs in the detention and transport of the prisoners at Orahovac on 13 and 14 July<sup>5703</sup> leave no doubt that **NIKOLIĆ** coordinated and supervised the detention, transport and execution of the prisoners detained there.

2697. Zvornik Brigade MPs secured the Muslim prisoners at the Orahovac School as of the night of 13 July where they were deployed by Lt. Jasikovac and Drago **NIKOLIĆ**.<sup>5704</sup> Additional Zvornik Brigade MPs were deployed to the School on the morning of 14 July and **NIKOLIĆ** instructed the Zvornik Brigade MPs who had arrived the previous night to stay in the area.<sup>5705</sup> The newly-arrived MPs used wire to create a corridor for the soon-to-arrive prisoners to direct them into the gym.<sup>5706</sup>

2698. Throughout the day, Zvornik Brigade MPs were positioned around the School providing security.<sup>5707</sup> Zvornik Brigade MPs guarded prisoners who went out to fetch water.<sup>5708</sup> Zvornik Brigade MPs Goran Bogdanović and Ćedo Jović prevented civilians from approaching the School.<sup>5709</sup>

<sup>5701</sup> Exh. P00694 at para. 122; Exh. P00707 at para. 12; BUTLER, T.19637.

<sup>5702</sup> BUTLER, T.19638. *See also* [REDACTED] PW-165, T.10012:17-20 "“The military police commander received orders from his security officer, the security officer received orders from the main commander, and that way up and down the chain.”"

<sup>5703</sup> Described in detail at paras. 646-653 and 667-767.

<sup>5704</sup> *See* paras. 646-653.

<sup>5705</sup> *See* paras. 668-671.

<sup>5706</sup> [REDACTED] PW-142, T.6446-6447.

<sup>5707</sup> [REDACTED] PW-142, T.6453; M.BIRČAKOVIĆ, T.11123; RISTANOVIĆ, Exh. P02256, at T.5369.

<sup>5708</sup> [REDACTED] PW-142, T.6452, 6485. *See also* [REDACTED] PW-143, T.6534.

<sup>5709</sup> TANIĆ, T.10337, 10407:5-6.



2699. When the trucks started transporting prisoners to the execution site, three or four Zvornik Brigade MPs would remain at the gym's entrance while two Zvornik Brigade MPs plus one or two soldiers and the truck driver were around the truck.<sup>5710</sup> Zvornik Brigade MP Nada Stojanović held the blindfolds and provided prisoners with their last cup of water.<sup>5711</sup> Zvornik Brigade MPs then escorted the prisoners onto the truck.<sup>5712</sup>

2700. The trucks were always escorted to the execution site by soldiers from the Zvornik Brigade.<sup>5713</sup> [REDACTED] PW-142 testified that on at least one occasion, Zvornik Brigade MPs escorted the trucks to the execution site.<sup>5714</sup> Zvornik Brigade MP Milorad Birčaković, who was **NIKOLIĆ**'s driver, admitted that he (Birčaković) personally escorted several trucks carrying prisoners to the execution site.<sup>5715</sup> Milorad Birčaković, and the other Zvornik Brigade MPs, had to have known that these prisoners were being murdered.

2701. The Zvornik Brigade MPs at the Orahovac School played a critical role in facilitating the execution of the Muslim prisoners at Orahovac on 14 July. They did so under **NIKOLIĆ**'s supervision and with his full knowledge and authorisation.

2702. The Zvornik Brigade MP roster was later altered in an attempt to cover up the MPs' involvement in the murder operation at Orahovac.<sup>5716</sup> The alteration of this official document constitutes further compelling evidence that the Zvornik Brigade MPs, and the officers who oversaw their work at the Orahovac School, Lt. Jasikovac and Drago **NIKOLIĆ**, knew of and were fully engaged in the murder operation.

**NIKOLIĆ was at the School after the transport of prisoners to the execution site had commenced, coordinating the ongoing detention and transport of the prisoners.**

2703. As outlined at paras. 705, the transport of prisoners from the Orahovac School to the execution site commenced by 13:30 hours, at the latest. Several MP witnesses testified that throughout the afternoon of 14 July, shots and "bursts of fire" could be heard at the School coming from the direction where the trucks were taking the prisoners.<sup>5717</sup>

<sup>5710</sup> [REDACTED] PW-142, T.6454.

<sup>5711</sup> See paras. 709.

<sup>5712</sup> [REDACTED] PW-143, T.6539; [REDACTED] PW-142, T.6454; [REDACTED] PW-101, T.7579.

<sup>5713</sup> [REDACTED] PW-142, T.6455, 6456:9-13, 6456:21-25 – 6457:1-3.

<sup>5714</sup> [REDACTED] PW-142, T.6457:2-3.

<sup>5715</sup> See paras. 713-714.

<sup>5716</sup> See paras. 671.

<sup>5717</sup> [REDACTED] PW-142, T.6455; [REDACTED] PW-143, T.6541; S.BIRČAKOVIĆ, T.10755. See also M.BIRČAKOVIĆ, T.11037.

2704. MP [REDACTED] PW-142 also heard the escorts of one truck, who were either soldiers or MPs from the Zvornik Brigade,<sup>5718</sup> say that the prisoners who had been taken away in the truck had been executed.<sup>5719</sup> During this period, there were open attempts at the School to recruit Zvornik Brigade member Tanacko Tanić and ten soldiers from the 4<sup>th</sup> Battalion to carry out the executions.<sup>5720</sup>

2705. The evidence of [REDACTED] witnesses -- [REDACTED] PW-143, Stanoje Birčaković, [REDACTED], Milorad Birčaković and [REDACTED] PW-101 -- places Drago **NIKOLIĆ** at the School after the transport of prisoners had commenced. During this period, **NIKOLIĆ** coordinated the detention and transport of the prisoners.

*[REDACTED] PW-143*

2706. Zvornik Brigade MP [REDACTED] PW-143 testified that when **NIKOLIĆ** was at the School he was “moving around in different directions” and that **NIKOLIĆ** continued “moving around” after the trucks started leaving with prisoners and returning empty:

Q. And during this time when the trucks are leaving full of prisoners and returning empty, during that period did you see Drago Nikolić leave the School at any time?

A. The whole time while Drago Nikolić was there he was moving around in different directions. I -- *I think at that time he was also moving around*, but I don't know where.<sup>5721</sup>

*Stanoje Birčaković*

2707. [REDACTED] PW-143's testimony that **NIKOLIĆ** was at the School after the transport of prisoners had commenced is corroborated by the evidence of his fellow MP, Stanoje Birčaković. Stanoje Birčaković testified that the removal of prisoners commenced approximately between 10:00 hours and 11:30 hours<sup>5722</sup> and that he saw **NIKOLIĆ** at the School between 12:00 and 14:00 hours.<sup>5723</sup> Despite Stanoje Birčaković's claim that he could not say with certainty whether **NIKOLIĆ** was at the School after the trucks started transporting the prisoners,<sup>5724</sup> the timeline he gave speaks for itself and it is clear that he saw **NIKOLIĆ** after the transport of prisoners from the School had commenced.

<sup>5718</sup> [REDACTED] PW-142, T.6456:9-13.

<sup>5719</sup> [REDACTED] PW-142, T.6455-6456.

<sup>5720</sup> See paras. 729-730.

<sup>5721</sup> [REDACTED] PW-143, T.6540 (emphasis added).

<sup>5722</sup> S.BIRČAKOVIĆ, T.10754.

<sup>5723</sup> S.BIRČAKOVIĆ, T.10750.

<sup>5724</sup> S.BIRČAKOVIĆ, T.10767.

[REDACTED]

2708. [REDACTED].<sup>5725 5726</sup>

2709. Lazar Ristić acknowledged that he went to the Orahovac School that afternoon but claimed that he did not see Drago **NIKOLIĆ** at the School and that he sent the 4<sup>th</sup> Battalion soldiers home. As described at paras. 729-735, Lazar Ristić's testimony is unreasonable and is contradicted by the evidence that 4<sup>th</sup> Battalion platoon commander Sgt. Gojko Simić led the execution squad at Orahovac later that night.

*Milorad Birčaković*

2710. MP Milorad Birčaković testified that **NIKOLIĆ** returned to the Orahovac School just before nightfall<sup>5727</sup> and stayed at the School for up to one hour.<sup>5728</sup> Birčaković also testified that just after nightfall (*i.e.*, after **NIKOLIĆ** had returned to the School but before he and Birčaković left the School), an ULT loader arrived at the School, stopped for five or ten minutes and then left in the direction of Križevici.<sup>5729</sup> As described at para. 744, this ULT loader went to the execution site and the executions continued under lights from the ULT and the other excavator present.

2711. Given that the executions continued after the ULT loader has left the School and arrived at the execution site, the transport and execution of prisoners were obviously occurring while the ULT arrived at the School. The ULT arrived at the School just *after* nightfall. This means that when **NIKOLIĆ** returned to the Orahovac School just *before* nightfall, the transport of prisoners and the executions were still occurring and, in fact, were far from over.

[REDACTED] PW-101

2712. As outlined above at paras. 736-737, Zvornik Brigade [REDACTED] PW-101 went to the Orahovac School shortly after 20:30 hours on 15 July. This was around the same time, just before nightfall, that Milorad Birčaković saw **NIKOLIĆ** at the School. [REDACTED] PW-101 testified that he ([REDACTED] PW-101) was at the School for approximately 10-15 minutes. During this period, [REDACTED] PW-101 saw Drago **NIKOLIĆ** coordinating the transport of the blindfolded and ligatured prisoners:

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<sup>5725</sup> [REDACTED].

<sup>5726</sup> [REDACTED].

<sup>5727</sup> M.BIRČAKOVIĆ, T.11023, 11039.

<sup>5728</sup> M.BIRČAKOVIĆ, T.11039.

<sup>5729</sup> M.BIRČAKOVIĆ, T.11041.

He was there listening and issuing orders and other people were carrying out his orders.<sup>5730</sup>

Let me tell you, those were not really orders. *I think that they planned and coordinated how to do it systematically.* There was no need for him to constantly give instructions. *People knew it; it had been all pre-planned.*<sup>5731</sup>

2713. [REDACTED] PW-101's evidence proves that, long after the executions had started, **NIKOLIĆ** was still coordinating and overseeing the detention and transport of the prisoners at the Orahovac School. As an admission against his own interest, [REDACTED] PW-101's evidence placing himself at a major crime scene with specific knowledge that elements of his military unit were involved in the execution of Muslim prisoners, is reliable. Also, [REDACTED] PW-101 had no reason to lie and falsely implicate **NIKOLIĆ**.

2714. During the Prosecution's case-in-chief, **NIKOLIĆ** made a concerted effort to show that [REDACTED] PW-101 was not at the School that night.<sup>5732</sup> [REDACTED].<sup>5733</sup> The inconsistent nature of Drago **NIKOLIĆ**'s defence on this point further supports the conclusion that **NIKOLIĆ** was at the School during this period, coordinating the ongoing detention and transport of the prisoners to the execution site.

### Conclusion

2715. **NIKOLIĆ** had known since the night of 13 July that the prisoners detained in the Orahovac School were to be murdered. On the night of 13 July or the morning of 14 July, prior to the start of the executions, **NIKOLIĆ** could have called UNPROFOR and told them where the prisoners were being detained. He could have called the ICRC. He could have called a television station anonymously and had someone film the prisoners, which would have made it impossible to murder them in secrecy. He could have made lists of the prisoners' names. He could have arranged food and medical care and sufficient water and basic hygiene. **NIKOLIĆ** consciously chose not to do any of these things.

2716. Instead, knowing that the prisoners were to be killed, **NIKOLIĆ** personally coordinated their security at the School. **NIKOLIĆ** personally oversaw the work of the MPs at the School, who performed a critical role in the executions by guarding the

<sup>5730</sup> [REDACTED] PW-101, T.7573:6-8.

<sup>5731</sup> [REDACTED] PW-101, T.7573:24 – 7574:2.

<sup>5732</sup> **NIKOLIĆ** suggested that the Zvornik Brigade had no fruit juice (T.7632-7633) or pastries for [REDACTED] PW-101 to deliver as he testified to (T.7644-7645); [REDACTED]; and [REDACTED]. **NIKOLIĆ** also elicited contradictory responses from the MP witnesses when asking whether they received food: [REDACTED] PW-142 did not remember a vehicle coming to the school that day to bring food for the detainees or for himself (T.6486); Stanoje Birčaković stated that nobody brought any food (T.10771); Dragoje Ivanović did not get any food (T.14565); and [REDACTED] PW-143 did not remember a van bringing food to the School, but did remember being given some food during the day "something quite meagre...perhaps a quarter of a loaf of bread and something to go with it" (T.6594).

<sup>5733</sup> [REDACTED].

prisoners, blindfolding them, placing them on trucks and escorting them to the execution site. **NIKOLIĆ** met with Jasikovac and senior VRS officers at the School to coordinate the murder of these prisoners. **NIKOLIĆ** personally coordinated the transport of prisoners from the School to the execution site. As outlined below at paras. 2721-2734, **NIKOLIĆ** also went to the execution site where he directed the prisoners off the truck whereupon they were executed. **NIKOLIĆ** intended the deaths of these prisoners.

**(ccxx) NIKOLIĆ met with BEARA near the Petkovci School on the afternoon of 14 July when both officers were fully engaged in the murder operation.**

2717. As described above at paras. 779-786, at approximately 16:00 or 17:00 hours on 14 July, **NIKOLIĆ** met with Col. **BEARA** at the crossroads leading to the Petkovci School. **NIKOLIĆ** did not contest that this meeting occurred.<sup>5734</sup>

2718. On 13 July, **BEARA** had coordinated the murder operation in Bratunac. On 14 July, **BEARA** was in the Zvornik area coordinating the murder operation. This included a meeting with **NIKOLIĆ** and **POPOVIĆ** on the morning of 14 July<sup>5735</sup> [REDACTED].<sup>5736</sup> Thus, when **BEARA** was outside the Petkovci School, from which hundreds of Muslim men were taken to the Dam and murdered later that night, there can be no doubt that **BEARA** was coordinating and overseeing the murder operation at that location.

2719. **NIKOLIĆ** had known that **BEARA** was coordinating the murder operation since the night of 13 July.<sup>5737</sup> When **NIKOLIĆ** was with **BEARA** outside the Petkovci School on the afternoon of 14 July, he *had* to have known that **BEARA** was fully engaged in the murder operation at the time. Moreover, **BEARA** had no reason to lie to **NIKOLIĆ**, his subordinate officer along professional lines, about the reasons for his presence in Petkovci or the intended fate of those prisoners. **NIKOLIĆ**'s meeting with **BEARA** on the afternoon of 14 July outside the Petkovci School, where men were detained in appalling conditions prior to being murdered,<sup>5738</sup> shows that **NIKOLIĆ** was completely engaged in the murder operation at the time.

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<sup>5734</sup> This was explicitly confirmed at T.11723:17-19, when counsel for Drago **NIKOLIĆ** stated: "Your Honours, in the course of cross-examination by this Defence team, this witness (Ostoja Stanišić) was never the object of any suggestion that he made anything up."

<sup>5735</sup> See paras. 654-660.

<sup>5736</sup> [REDACTED].

<sup>5737</sup> See paras. 2615-2646.

<sup>5738</sup> See paras. 773-778.

2720. Following this meeting, **NIKOLIĆ** returned to the Orahovac School just before nightfall where he continued to coordinate the detention and transport of prisoners. Shortly thereafter, as described below, **NIKOLIĆ** went to the Orahovac execution site and continued to coordinate the murder of the prisoners there.<sup>5739</sup>

**(ccxxi) At around nightfall, NIKOLIĆ was at the Orahovac execution site, coordinating the execution of the prisoners.**

2721. As described above at paras. 2712-2714, [REDACTED] PW-101 saw **NIKOLIĆ** at the Orahovac School sometime after 20:30 hours on 14 July. [REDACTED].<sup>5740</sup> [REDACTED]. [REDACTED] PW-101 followed the truck carrying prisoners to the execution site.<sup>5741</sup>

2722. At the execution site, the prisoners were escorted off the truck in two or three groups and shot by approximately four to six soldiers who were present.<sup>5742</sup> [REDACTED] PW-101 saw a Lt. Colonel at the execution site who matched the contemporaneous description of Vujadin **POPOVIĆ**. **POPOVIĆ** was at the Orahovac School that day and was present at at least one other execution site in July 1995; at Bišina. [REDACTED] PW-101's testimony about seeing an officer who fit **POPOVIĆ**'s description supports the reliability of his testimony about his ([REDACTED] PW-101's) presence at the execution site.

2723. [REDACTED] PW-101 also saw **NIKOLIĆ** at the execution site.<sup>5743</sup> [REDACTED] PW-101 described how **NIKOLIĆ** was directing the soldiers who escorted the prisoners off the truck:<sup>5744</sup>

He was there because the men who were escorting prisoners from the trucks, he was to direct them. Because the other men who were there were executing people, firing at them, and that was their job. Whereas, Drago was with these others. He wasn't yelling at them or anything of that kind. He was simply directing them what to do.<sup>5745</sup>

*[REDACTED] PW-101's evidence is consistent with NIKOLIĆ's supervisory role at the School.*

2724. The evidence has shown that **NIKOLIĆ** coordinated the detention of the prisoners at the Orahovac School that day. [REDACTED] PW-101's description of the manner in **NIKOLIĆ** coordinated the transport of prisoners at the School and directed

<sup>5739</sup> See paras. 2710-2734.

<sup>5740</sup> [REDACTED].

<sup>5741</sup> [REDACTED] PW-101, T.7580.

<sup>5742</sup> [REDACTED] PW-101, T.7580.

<sup>5743</sup> [REDACTED] PW-101, T.7590.

<sup>5744</sup> [REDACTED] PW-101, T.7590.

<sup>5745</sup> [REDACTED] PW-101, T.7590.

the soldiers who removed the prisoners from the truck at the execution site is entirely consistent with the supervisory role **NIKOLIĆ** performed at the School. It is also logical that **NIKOLIĆ**'s work at the School in overseeing the MPs guarding the prisoners would have extended to supervising the execution of those prisoners. This is particularly the case given that Zvornik Brigade MPs, including **NIKOLIĆ**'s driver Milorad Birčaković, escorted many of the prisoners from the Orahovac School to the execution site.<sup>5746</sup>

*[REDACTED] PW-101's evidence is consistent with the testimony of Milorad Birčaković.*

2725. [REDACTED] PW-101's evidence that **NIKOLIĆ** was at the Orahovac execution site at around nightfall on 14 July is consistent with the evidence of Milorad Birčaković. Birčaković testified that he drove **NIKOLIĆ** past the Orahovac execution site, twice, just after nightfall.<sup>5747</sup> The evidence had shown that the executions continued long after nightfall;<sup>5748</sup> thus, **NIKOLIĆ** and Birčaković were in the immediate proximity of the execution site while the executions were ongoing. Birčaković claimed that he and **NIKOLIĆ** did not stop at the execution site; however, this was likely an attempt by Birčaković to cover up the true extent of his own involvement in the murder operation.

*[REDACTED] PW-101's evidence is consistent with the testimony of [REDACTED] PW-143.*

2726. [REDACTED] PW-101's testimony that **NIKOLIĆ** was present at the execution site on 14 July is consistent with the evidence of MP [REDACTED] PW-143. [REDACTED] PW-143 saw **NIKOLIĆ** driving from the School in the direction of the execution site that day.<sup>5749</sup> The only reason why **NIKOLIĆ** would have driven in that direction on 14 July was to go to the execution site.

*Defence witness [REDACTED] 3DW-PW10 was not credible*

2727. [REDACTED] PW-101 described how during the time when he and Drago **NIKOLIĆ** were at the execution site, a seven-year old Muslim boy, [REDACTED] PW-105, emerged alive but wounded from the pile of murdered prisoners.<sup>5750</sup> [REDACTED] PW-101 testified that he took [REDACTED] PW-105 to the Zvornik Hospital, where he observed the boy receiving an anaesthetic injection and being taken for a bath.<sup>5751</sup>

<sup>5746</sup> See para. 2683.

<sup>5747</sup> M.BIRČAKOVIĆ, T.11041-11043.

<sup>5748</sup> See paras. 743-750.

<sup>5749</sup> See para. 715.

<sup>5750</sup> [REDACTED] PW-101, T.7580-7590. See also [REDACTED] PW-105, T.7744-7750;

<sup>5751</sup> [REDACTED] PW-101, T.7591-7593.

2728. Defence witness [REDACTED] 3DW-PW10 claimed that, contrary to [REDACTED] PW-101's evidence, he collected the child from the execution site. [REDACTED] 3DW-PW10 testified that he was ordered to go to Orahovac at around 16:00 or 17:00 hours "to take some people for an exchange."<sup>5752</sup> When [REDACTED] 3DW-PW10 arrived at the School, he claims that he was again told to take some soldiers to be exchanged but, incongruously, conceded that "there were people who were dead."<sup>5753</sup> [REDACTED].<sup>5754</sup> [REDACTED] 3DW-PW10 stated that he had no idea who put the child on his truck.<sup>5755</sup> [REDACTED].<sup>5756</sup>

2729. [REDACTED] 3DW-PW10's evidence was a clear attempt to conceal **NIKOLIĆ**'s presence at the execution site and was not credible. By 16:00 hours on 14 July, it was patently obvious that the prisoners were being murdered, not exchanged. Moreover, [REDACTED] 3DW-PW10's claims that he did nothing to assist the wounded, bleeding child for an hour; that he had no idea who put the child on his truck; and that he never heard [REDACTED] PW-101's well-known story about what happened to the child,<sup>5757</sup> were so unreasonable that [REDACTED] 3DW-PW10's testimony actually supports a reasonable inference to the contrary.

*[REDACTED] PW-101's evidence is consistent with the evidence that NIKOLIĆ personally executed prisoners at Orahovac.*

2730. [REDACTED] PW-101's testimony that **NIKOLIĆ** was at the Orahovac execution site is consistent with the evidence that **NIKOLIĆ** personally executed prisoners at Orahovac. [REDACTED].<sup>5758</sup>

2731. [REDACTED].<sup>5759 5760 5761 5762 5763 5764</sup>

2732. [REDACTED] PW-108 confirmed that one day in July 1995, he went to the Zvornik Brigade HQ with [REDACTED] where they met Drago **NIKOLIĆ**.<sup>5765</sup> [REDACTED] went into an office and had a conversation with **NIKOLIĆ** for 10-15

<sup>5752</sup> [REDACTED] 3DW-PW10, T.25662.

<sup>5753</sup> [REDACTED] 3DW-PW10, T.25664.

<sup>5754</sup> [REDACTED].

<sup>5755</sup> [REDACTED] 3DW-PW10, T.25703.

<sup>5756</sup> [REDACTED].

<sup>5757</sup> [REDACTED] 3DW-PW10, T.25688-25689.

<sup>5758</sup> [REDACTED].

<sup>5759</sup> [REDACTED].

<sup>5760</sup> [REDACTED].

<sup>5761</sup> [REDACTED].

<sup>5762</sup> [REDACTED].

<sup>5763</sup> [REDACTED].

<sup>5764</sup> [REDACTED].

<sup>5765</sup> [REDACTED] PW-108, T. 14747.



minutes.<sup>5766</sup> After that conversation, [REDACTED] and [REDACTED] PW-108 drove back to Serbia.<sup>5767</sup> [REDACTED] told [REDACTED] PW-108 that “they were doing all sorts of things and that only madmen could do that kind of thing.”<sup>5768</sup>

2733. [REDACTED].<sup>5769</sup>

### **Conclusion**

2734. [REDACTED] PW-101 had no reason to lie about his own presence at the execution site. [REDACTED] PW-101 had no reason to falsely implicate **NIKOLIĆ**. **NIKOLIĆ** was at the execution site on 14 July, personally directing prisoners off a truck whereupon they were executed. A large scale execution like this required the personal presence of an officer to coordinate the executions and order the troops to execute the Muslims and make sure those orders were carried out. That officer was 2<sup>nd</sup> Lt. Drago **NIKOLIĆ**. **NIKOLIĆ** wilfully and intentionally coordinated the execution of these Muslim men.

### **(ccxxii) An intercepted conversation between Dragan Jokić and Col. BEARA at 21:02 hours on 14 July shows that Drago NIKOLIĆ was engaged in the murder operation.**

2735. At 21:02 hours, the Zvornik Brigade Duty Operations Officer Major Dragan Jokić spoke with Col. **BEARA**, who was at the Bratunac Brigade HQ.<sup>5770</sup> Jokić informed **BEARA** that: “We have huge problems over here...There are big problems. Well with the people, I mean, with the parcel.”<sup>5771</sup> The “people” to whom Jokić referred were the prisoners. The reference to “the parcel” was a coded reference to those same prisoners. **BEARA**’s response was not noted, then Jokić stated: “Who? Drago is nowhere around. I don’t know where the others are all day.”<sup>5772</sup>

2736. **NIKOLIĆ** had spent much of the day overseeing the detention and murder of prisoners at Orahovac.<sup>5773</sup> **NIKOLIĆ** also had met with **BEARA** at the Zvornik Brigade HQ that morning<sup>5774</sup> and near the Petkovci School that afternoon.<sup>5775</sup> Thus, Major Jokić’s reference to “Drago” in this conversation with **BEARA** had to have been a reference to

<sup>5766</sup> [REDACTED] PW-108, T. 14747.

<sup>5767</sup> [REDACTED] PW-108, T. 14747.

<sup>5768</sup> [REDACTED] PW-108, T. 14747.

<sup>5769</sup> [REDACTED].

<sup>5770</sup> Exh. P01164(a), intercept dated 14 July at 21:02 hours.

<sup>5771</sup> Exh. P01164(a).

<sup>5772</sup> Exh. P01164(a).

<sup>5773</sup> See paras. 2685-2716.

<sup>5774</sup> See paras. 654-660 and 2667-2672.

<sup>5775</sup> See paras. 2717-2720.

Drago NIKOLIĆ. The reason why NIKOLIĆ was “nowhere around” at 21:02 hours on the evening of 14 July was because he was at the Orahovac School and the Orahovac execution site, coordinating the murders of the Muslim prisoners there.

2737. Jokić’s report to BEARA about problems with the prisoners, and the reference to NIKOLIĆ in the same context, corroborates the other evidence that BEARA and NIKOLIĆ were involved in coordinating and overseeing the ongoing detention and murder of the prisoners.

**(ccxxiii) On the morning of 15 July, the Zvornik Brigade’s 2<sup>nd</sup> Battalion received two coded telegrams from the Zvornik Brigade HQ ordering the formation of an execution squad and Drago NIKOLIĆ called the Commander of the 2<sup>nd</sup> Battalion, Srećko Aćimović, to ensure that the order was carried out.**

**Between 01:00 and 03:00 hours, the 2<sup>nd</sup> Battalion received two telegrams from the Zvornik Brigade HQ ordering the formation of an execution squad.**

2738. Between 01:00 and 02:00 hours on the morning of 15 July,<sup>5776</sup> the Zvornik Brigade’s 2<sup>nd</sup> Battalion received a coded telegram over the telephone from the Zvornik Brigade HQ.<sup>5777</sup> The coded telegram was recorded in the notebook by the induction telephone in the command.<sup>5778</sup> The coded telegram ordered<sup>5779</sup> that a platoon of soldiers should be assembled and used for the execution of prisoners.<sup>5780</sup>

2739. Given the criminal nature of the order to assemble an execution squad, it is entirely logical that codes were used over the induction telephone line.

2740. 2<sup>nd</sup> Battalion Commander Srećko Aćimović was asleep when the telegram was received.<sup>5781</sup> The battalion duty officer woke up Aćimović and Aćimović went to the duty officer’s office and read the telegram, which had by then been decoded.<sup>5782</sup> Mitar

<sup>5776</sup> S.AĆIMOVIĆ, T.12944; M.LAZAREVIĆ, T.13373:25 – 13374:2.

<sup>5777</sup> S.AĆIMOVIĆ, T. 12945; M.LAZAREVIĆ, T.13374. At T.13398, Mitar Lazarević described that a coded telegram would use numbers: “I think it went using numbers. You’re asking me about the means of communication. It was in coded text. They will you certain numbers, you write them down, and I really don’t know how to explain it. That’s a coded message.”

<sup>5778</sup> M.LAZAREVIĆ, T.13374:9-10, 13397:5-7.

<sup>5779</sup> S.AĆIMOVIĆ, T. 12946:19; M.LAZAREVIĆ, T.13379:1-3.

<sup>5780</sup> S.AĆIMOVIĆ, T. 12945; M.LAZAREVIĆ, T.13374:4-5, 13375:12-14. *See also* Dragan Jović, who testified that while he never heard of a telegram for an execution platoon (at T.18086:15-25), when he and Aćimović went to the School on 15 July: “I think that it was maybe *through a telegram or some other sort of communications device*, he had known already of these prisoners” (at T.18090:1-6) (emphasis added).

<sup>5781</sup> S.AĆIMOVIĆ, T. 12945.

<sup>5782</sup> S.AĆIMOVIĆ, T. 12946. *See also* M.LAZAREVIĆ at T.13402:12-13, who testified that he was there when the telegram was received, and that Aćimović subsequently arrived.

Lazarević, an officer in the 2<sup>nd</sup> Battalion Command, testified that everyone who was present knew about the telegram and actually saw it.<sup>5783</sup>

2741. Approximately 45 minutes to an hour later, the 2<sup>nd</sup> Battalion received another telegram.<sup>5784</sup> The second telegram also asked for personnel to be gathered for the purpose of executing the prisoners.<sup>5785</sup> This second telegram ordered that the 2<sup>nd</sup> Battalion company commanders should be informed about the contents of the telegram.<sup>5786</sup> Srećko Aćimović contacted the commander of the 1<sup>st</sup> Infantry Company and the commanders or the deputy commanders of the 2<sup>nd</sup> and 3<sup>rd</sup> Infantry Companies<sup>5787</sup> and confirmed that they also had received the telegrams.<sup>5788</sup> Mitar Lazarević did not recall a second telegram arriving that night;<sup>5789</sup> however, he did recall that the company commanders were informed about the order from the Zvornik Brigade HQ.<sup>5790</sup>

2742. Dragan Stevanović, the Commander of the 2<sup>nd</sup> Battalion communications unit,<sup>5791</sup> testified about the receipt of a coded telegram at the 2<sup>nd</sup> Battalion on or around 13 July. Stevanović claimed he could not decode this telegram with the use of either the “Razgovornik” code table or the code book from the Battalion Command.<sup>5792</sup> Stevanović also recalled the receipt of a second telegram some 40 minutes later, which ordered that the information in the first telegram be sent to the company commanders.<sup>5793</sup>

2743. Given the obvious similarities between the events described by Dragan Stevanović and Srećko Aćimović, it is clear that they were both describing the same incident. Stevanović’s testimony about the date on which these telegrams were received and his alleged inability to decode the first telegram was an attempt to minimise his own knowledge of the murder operation. Significantly, contrary to Stevanović’s testimony that he was deployed to Maričići on 13 July,<sup>5794</sup> the 2<sup>nd</sup> Battalion Roster shows that he was present at the 2<sup>nd</sup> Battalion Command on 14 July;<sup>5795</sup> *i.e.*, around the same time that the telegrams ordering the formation of an execution squad were received. Thus, Stevanović was either mistaken about the dates or deliberately changed the dates to put

<sup>5783</sup> For example, Mitar Lazarević testified that: “*Everyone who was there knew about the telegram*” (at T.13402:24); “*The telegram arrived and everyone saw it*” (at T.13405:2); [REDACTED].

<sup>5784</sup> S.AĆIMOVIĆ, T.11947:18-20.

<sup>5785</sup> S.AĆIMOVIĆ, T.11947:18-20.

<sup>5786</sup> S.AĆIMOVIĆ, T.11947:21-25.

<sup>5787</sup> S.AĆIMOVIĆ, T.12948:7-10, 12948:1-8.

<sup>5788</sup> S.AĆIMOVIĆ, T.12948:9-10.

<sup>5789</sup> M.LAZAREVIĆ, T.13405:17-23.

<sup>5790</sup> M.LAZAREVIĆ, T.13377:13-17, 13406.

<sup>5791</sup> D.STEVANOVIĆ, T.32807.

<sup>5792</sup> D.STEVANOVIĆ, T.32820-32821.

<sup>5793</sup> D.STEVANOVIĆ, T.32863-32865.

<sup>5794</sup> D.STEVANOVIĆ, T.32842-32843.

<sup>5795</sup> Exh. P00312, Attendance for Zvornik Bde 2nd Battalion Command Staff.

distance between himself and the executions. In any event, Stevanović's evidence confirms that coded telegrams arrived at the 2<sup>nd</sup> Battalion.

**At approximately 02:30 and 07:00 or 08:00 hours, Drago NIKOLIĆ called the 2<sup>nd</sup> Battalion twice and repeated the order to form an execution squad.**

2744. Some 10 minutes after the second telegram was received by the 2<sup>nd</sup> Battalion,<sup>5796</sup> at approximately 02:30 hours,<sup>5797</sup> Srećko Aćimović received a telephone call on the civilian telephone line from Drago NIKOLIĆ.<sup>5798</sup> NIKOLIĆ told Aćimović that the order "had to be carried out."<sup>5799</sup>

He told me that the order had come from above, using these words, and that this should be done. A platoon had to be allocated for that. He put a pressure on me. He told me that I had to carry out that order, that I could not refuse to carry out that order.<sup>5800</sup>

2745. According to Aćimović, he told NIKOLIĆ that the 2<sup>nd</sup> Battalion did not have enough people for that and that they would not carry out the order.<sup>5801</sup> NIKOLIĆ then told Aćimović that everything should be done to allocate men for that purpose; that the deadline was 07:00 hours; and that he would speak with Aćimović again at around 07:00 or 08:00 hours to check what Aćimović had done in this regard.<sup>5802</sup> The whole conversation lasted approximately 10 minutes.<sup>5803</sup>

2746. The occurrence of this conversation is corroborated by the evidence of Mitar Lazarević. Lazarević testified that after the 2<sup>nd</sup> Battalion responded negatively to the telegram sent by the Zvornik Brigade, Srećko Aćimović had an argument with an unknown person over the telephone during which he was shouting and cursing.<sup>5804</sup>

2747. At approximately 07:00 or 08:00 hours, NIKOLIĆ called Srećko Aćimović again and asked whether the order had been executed.<sup>5805</sup> Aćimović claimed that he resisted NIKOLIĆ's demand.<sup>5806</sup> NIKOLIĆ finished the conversation by telling Aćimović to meet him at the Roćević School at either 09:00 or 10:00 hours.<sup>5807</sup>

2748. Whether Aćimović actually resisted NIKOLIĆ's requests as he testified is difficult to tell. What is clear, however, is that about 1,400 Muslims were held at the

<sup>5796</sup> S.AĆIMOVIĆ, T.12950:11.

<sup>5797</sup> S.AĆIMOVIĆ, T.12950:6.

<sup>5798</sup> S.AĆIMOVIĆ, T.12950:1-3. At T.13066, Aćimović confirmed he could recognise NIKOLIĆ's voice.

<sup>5799</sup> S.AĆIMOVIĆ, T.12950:14-15.

<sup>5800</sup> S.AĆIMOVIĆ, T.12950:20-23.

<sup>5801</sup> S.AĆIMOVIĆ, T.12950:14-19.

<sup>5802</sup> S.AĆIMOVIĆ, T.12951:15-20.

<sup>5803</sup> S.AĆIMOVIĆ, T.12951:4.

<sup>5804</sup> M.LAZAREVIĆ, T.13377:18 – 13378:18, 13392-13393.

<sup>5805</sup> S.AĆIMOVIĆ, T.12951:23-24.

<sup>5806</sup> S.AĆIMOVIĆ, T.12951:24 – 12912:1.

<sup>5807</sup> S.AĆIMOVIĆ, T.12953-12954.

Ročević School and murdered in the space of only two days in an extremely efficient and organised manner. Had any of the Battalion Commanders in the operation resisted in any significant way, these murders could not have been carried out with such speed and efficiency. It is also clear that **NIKOLIĆ** called and make these requests and Aćimović had no reason to incriminate himself by making these admissions. Significantly, the evidence shows that at least two 2<sup>nd</sup> Battalion members, Zoran Simonić and Milorad Ristanović, went to Kozluk and executed prisoners there later that day.<sup>5808</sup>

2749. **NIKOLIĆ**'s telephone calls to the 2<sup>nd</sup> Battalion following its receipt of a telegram concerning the execution of Muslim prisoners is also consistent with **NIKOLIĆ**'s telephone call to the Zvornik Brigade's 1<sup>st</sup> Battalion on the morning of 14 July following up a telegram which the 1<sup>st</sup> Battalion had received from the Zvornik Brigade Command regarding the detention of prisoners at the Kula School.<sup>5809</sup>

2750. During his cross-examination of Aćimović, Counsel for **NIKOLIĆ** did not contest the existence of these phone calls.<sup>5810</sup> Instead, Counsel asked a series of questions aimed at eliciting evidence diminishing **NIKOLIĆ**'s role in passing on this criminal order and insisting that it be carried out:

And would I be right in saying that at the time you believed Drago **NIKOLIĆ** was transmitting an order which came from somebody else?<sup>5811</sup>

I'll just suggest to you that it was your impression at the time that Drago **NIKOLIĆ** was under pressure and that he had no choice but to pass the order or whatever message he passed to you. Would that be a fair statement?<sup>5812</sup>

In any event, Mr Aćimović, would I be correct in saying that you were very surprised to see Drago **NIKOLIĆ** involved in any of this?<sup>5813</sup>

Based on your knowledge of what happened, would you agree that Drago **NIKOLIĆ** was a small player and no more than a pawn in those events?<sup>5814</sup>

2751. The fact that Srećko Aćimović may or may not have believed that **NIKOLIĆ** was passing on an order, or was under pressure, or was "no more than a pawn," is irrelevant. **NIKOLIĆ** consciously passed on a criminal order. He knowingly and wilfully facilitated the execution of the prisoners held at the Ročević School.

<sup>5808</sup> See paras. 849-851.

<sup>5809</sup> See paras. 2676-2684.

<sup>5810</sup> At T.13046, Counsel for Drago **NIKOLIĆ** referred to the phone calls as "those conversations that you testified you say you had with Drago **NIKOLIĆ** on that night;" however, it was never suggested to Srećko Aćimović that these phone calls did not occur. This is in direct contrast to Counsel's [REDACTED] explicit suggestion to Aćimović that he did not call the Zvornik Brigade and ask for the Commander or the Chief of Staff on the morning of 15 July (see T.13139:11-13141:3).

<sup>5811</sup> Cross-examination of S.AĆIMOVIĆ, T.13046:17-18.

<sup>5812</sup> Cross-examination of S.AĆIMOVIĆ, T.13048:12-15.

<sup>5813</sup> Cross-examination of S.AĆIMOVIĆ, T.13049:5-6.

<sup>5814</sup> Cross-examination of S.AĆIMOVIĆ, T.13049:14-16.

**Drago NIKOLIĆ's defence case.**

*The 2<sup>nd</sup> Battalion had the capability to code and decode telegrams.*

2752. During his defence case, **NIKOLIĆ** sought to show that the VRS, and the 2<sup>nd</sup> Battalion in particular, did not have the capability of receiving and decoding coded telegrams. Defence witness Milisav Cvijetinović, who was a communicator in the 2<sup>nd</sup> Battalion,<sup>5815</sup> testified that codes were not used to encrypt telegrams;<sup>5816</sup> that there was no book in the communications centre which explained how to code or decode telegrams;<sup>5817</sup> that he personally was not trained in coding or decoding telegrams;<sup>5818</sup> and that the other 2<sup>nd</sup> Battalion communicators were not trained in coding or decoding telegrams.<sup>5819</sup> Cvijetinović also testified that he was not aware that the 2<sup>nd</sup> Battalion had received a telegram asking for soldiers to participate in the execution of prisoners.<sup>5820</sup>

2753. Cvijetinović's testimony is contradicted by a significant amount of evidence. First, while the use of coded telegrams was uncommon,<sup>5821</sup> there is clear evidence the 2<sup>nd</sup> Battalion could code and decode telegrams.<sup>5822</sup> This was explained by Dragan Stevanović as well as by Srećko Aćimović and Mitar Lazarević. Similarly, Marko Milošević, the Deputy Commander of the Zvornik Brigade's 6<sup>th</sup> Battalion, testified that the 6<sup>th</sup> Battalion Duty Officer received coded telegrams and that the decoder at the battalion knew how to decode them.<sup>5823</sup> Defence witness Djuro Rodić also explained that encrypted telegrams were used "when it was necessary to convey confidential information."<sup>5824</sup> It is hard to imagine a more confidential piece of information than a criminal order to assemble soldiers for an execution squad.

2754. Second, Dragan Stevanović testified that the 2<sup>nd</sup> Battalion communications centre had a "Razgovornik" code table which was used to decode encrypted messages<sup>5825</sup> and a

<sup>5815</sup> CVIJETINOVIC, T.25825-25826.

<sup>5816</sup> CVIJETINOVIC, T.25834:12-14.

<sup>5817</sup> CVIJETINOVIC, T.25834:15-17.

<sup>5818</sup> CVIJETINOVIC, T.25834:18-20.

<sup>5819</sup> CVIJETINOVIC, T.25834:12-14.

<sup>5820</sup> CVIJETINOVIC, T.25836:15 – 25839:3.

<sup>5821</sup> M.LAZAREVIC, T.13399:17; S.AĆIMOVIĆ, T.13021:16-17. *See also* [REDACTED]

D.STEVANOVIĆ, T.32818, who testified that the "Razgovornik" code table was "almost never" used for communications between the Battalion and Brigade Commands.

<sup>5822</sup> *See* D.STEVANOVIĆ, T.32808 – 32816, who explained that the 2<sup>nd</sup> Battalion had a "Razgovornik" code table which was used for coding and decoding encrypted messages.

<sup>5823</sup> M.MILOŠEVIĆ, T.13352:4-10.

<sup>5824</sup> D.RODIĆ, T.12092:18-20 ("Where necessary, confident – or rather, when it was necessary to convey confidential information, they were transmitted in coded, encrypted telegrams as was normally the case.")

<sup>5825</sup> *See also* Exh. P04467, Code tables entitled Jablan, *Krivaja-95*, which Dragan Stevanović identified (at T.32812-32813) as similar to the "Razgovornik" code table which was used in the 2<sup>nd</sup> Battalion.

code book which was kept in the Battalion Command.<sup>5826</sup> This contradicts Cvijetinović's testimony that the 2<sup>nd</sup> Battalion had no code books.

2755. Third, Dragan Stevanović testified that he and three other individuals in the 2<sup>nd</sup> Battalion communications unit (Ilić, Pisić and Perić) could use the "Razgovornik" code table.<sup>5827</sup> Stevanović testified that *all* the signalsmen were aware of the "Razgovornik" code table.<sup>5828</sup> Thus, Cvijetinović's testimony that his colleagues were not trained to code or decode telegrams is unfounded.

2756. Given that the fundamental premise of Cvijetinović's testimony (that the 2<sup>nd</sup> Battalion could not code or decode telegrams) has been discredited, Cvijetinović's claim that he was not aware that the 2<sup>nd</sup> Battalion had received coded telegrams ordering the formation of an execution squad should be given no weight.

*Credibility of Defence witnesses Milan Radić and Petko Tomić.*

2757. In July 1995, Milan Radić and Petko Tomić were the Commander and Deputy Commander of the 3<sup>rd</sup> Company of the 2<sup>nd</sup> Battalion of the Zvornik Brigade, respectively.<sup>5829</sup> Milan Radić was deployed to the field between 13 and 16 July and had no connection or communication with the 2<sup>nd</sup> Battalion or Srećko Aćimović during this period.<sup>5830</sup> Radić claims that he was not told of the existence of a telegram upon his return.<sup>5831</sup> Unlike Radić, Petko Tomić was present during this period but claimed that he "never heard about the existence of a telegram from the Zvornik Brigade Command requesting men to participate in executions."<sup>5832</sup>

2758. Incredibly, Milan Radić also claimed that he knew nothing about the execution of the prisoners held at Ročević until the trial of Vojislav Šešelj.<sup>5833</sup> Petko Tomić stated that he did not find out about the executions at Kozluk until six months or a year later when he heard about it in the press.<sup>5834</sup> Radić and Tomić also denied that members of the 3<sup>rd</sup> Company had any involvement in the transport or execution of these prisoners.<sup>5835</sup> However, the evidence has shown that at least two members of the 3<sup>rd</sup> Company, Milorad

<sup>5826</sup> D.STEVANOVIĆ, T.32820.

<sup>5827</sup> D.STEVANOVIĆ, T.32816.

<sup>5828</sup> D.STEVANOVIĆ, T.32868.

<sup>5829</sup> Exh. 3D00477, statement of Milan Radić; Exh. 3D00477, statement of Petko Tomić.

<sup>5830</sup> Exh. 3D00477, statement of Milan Radić.

<sup>5831</sup> Exh. 3D00477, statement of Milan Radić.

<sup>5832</sup> Exh. 3D00477, statement of Petko Tomić.

<sup>5833</sup> RADIĆ, T.26164:8-13.

<sup>5834</sup> TOMIĆ, T.26182.

<sup>5835</sup> RADIĆ, T.26170; TOMIĆ, T.26192:8-12.

Ristanović and Ljubo “Stanka” Ristanović,<sup>5836</sup> were present at the Ročević School and/or the Kozluk execution site on 15 July.<sup>5837</sup>

2759. As the former Commander and Deputy Commander of the 3<sup>rd</sup> Company of the 2<sup>nd</sup> Battalion, Radić and Tomić would have been fully informed of the detention and murder of the prisoners in the 2<sup>nd</sup> Battalion’s area of responsibility at the time. Zvornik Brigade MP [REDACTED] PW-142 testified that it was “an open secret” that the prisoners were taken from Ročević School to Kozluk and executed there.<sup>5838</sup> Radić’s and Tomić’s repeated insistence that they had no contemporaneous knowledge of these events is so unreasonable that their evidence about the telegrams, and the involvement of the 2<sup>nd</sup> Battalion in the murder operation, can only be seen as an attempt to cover up the truth.

*Credibility of Srećko Aćimović and Mitar Lazarević.*

2760. As noted above at para. 812, Srećko Aćimović clearly left out details from his testimony which he felt would incriminate himself. [REDACTED].<sup>5839</sup>

2761. Nonetheless, Srećko Aćimović’s and Mitar Lazarević’s testimony that they knew about the murder operation at the Ročević School in advance of it happening is reliable. Not only does their testimony on this point largely corroborate each other, their collective testimony is further corroborated by the evidence of Dragan Stevanović. Stevanović’s attempt to distance himself from the telegrams actually provides the Trial Chamber with evidence that these telegrams were received in the manner described by Srećko Aćimović and Mitar Lazarević.

**Conclusion**

2762. On the morning of 15 July, the 2<sup>nd</sup> Battalion of the Zvornik Brigade received two telegrams from the Zvornik Brigade Command ordering the formation of an execution squad. **NIKOLIĆ** made two telephone calls following up this criminal order and insisting on its implementation. This is clear proof of **NIKOLIĆ**’s role in coordinating the murder of the Muslim men from Srebrenica.

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<sup>5836</sup> See RADIĆ, T.26165-26166 and TOMIĆ, T.26190-26192, who confirmed that Milorad Ristanović and Ljubo “Stanka” Ristanović were members of the 3<sup>rd</sup> Company.

<sup>5837</sup> See para. 863.

<sup>5838</sup> [REDACTED] PW-142, T.6464. See also M. BIRČAKOVIĆ, T.11049.

<sup>5839</sup> [REDACTED].



**(ccxxiv) On the morning of 15 July, NIKOLIĆ met with BEARA at the Zvornik Brigade HQ to coordinate the ongoing murder operation.**

2763. An intercepted conversation at 22:18 hours on 14 July recorded an unidentified interlocutor (X) asked a second unidentified interlocutor to have **NIKOLIĆ** call someone called "Đukić."<sup>5840</sup> X also asked for **NIKOLIĆ** to call him (X) when **NIKOLIĆ** returned and stated: "Tell him we'll meet there, where you are. Tomorrow morning at 09:00. There, where you are."

2764. In what clearly is a related event, the Zvornik Brigade Duty Operations Officer Notebook records the following entry made on the evening of 14 July:

from **BEARA**  
-Drago to report  
Mane - Đukić  
0900 **BEARA** is coming.<sup>5841</sup>

2765. When considered together, the intercepted conversation and the Notebook entry show that **BEARA**, or someone calling on his behalf, left a message with the Zvornik Brigade Duty Operations Officer for **NIKOLIĆ** to report to **BEARA** upon his return to the Zvornik Brigade HQ that night.

2766. The intercept conversation and the Notebook entry also show that **BEARA** intended to meet with **NIKOLIĆ** at the Zvornik Brigade HQ at 09:00 hours on 15 July ("tell him we'll meet there.") As outlined below, **BEARA** did, in fact, go to the Zvornik Brigade HQ on the morning of 15 July where he met with **NIKOLIĆ** and procured additional resources for the murder operation.

2767. The summary of an intercepted conversation at 09:52 hours on 15 July shows that **BEARA** left a message for Gen. Živanović to call him at extension 139.<sup>5842</sup> Extension 139 was the Zvornik Brigade's extension for the Chief of Security.<sup>5843</sup> Thus, not only was **BEARA** at the Zvornik Brigade HQ as promised, he was actually present in **NIKOLIĆ**'s office. **BEARA** clearly met with **NIKOLIĆ** that morning.

2768. In an intercepted conversation just eight minutes later, at 10:00 hours, **BEARA** spoke with Gen. Krstić about his need to obtain resources for the executions that day: "But I need 30 men just like it was ordered...But I don't have any here. I need them today

<sup>5840</sup> Exh. P01165a, intercept dated 14 July 1995 at 22:18 hours.

<sup>5841</sup> Exh. P00377 at ERN: 0293-5752.

<sup>5842</sup> Exh. P01177, intercept dated 15 July 1995 at 09:52 hours

<sup>5843</sup> Exh. P00368, Zvornik Brigade Telephone List.

and I'll give them back tonight.”<sup>5844</sup> **BEARA** asked for the additional resources to be sent to “Drago’s.” **BEARA**’s request to “have them go to Drago’s” could only have been a reference to Drago **NIKOLIĆ** and the Zvornik Brigade HQ.<sup>5845</sup>

2769. **NIKOLIĆ** coordinated the murder of the prisoners at Ročević / Kozluk on 15 July. This is evidenced by his robust efforts that morning to arrange an execution squad from the Zvornik Brigade’s 2<sup>nd</sup> Battalion<sup>5846</sup> and his physical presence at the Ročević School later that day.<sup>5847</sup> **BEARA**’s conversation with Gen. Krstić asking for men to be sent to “Drago’s” in order to carry out executions that day constitutes further compelling evidence of **NIKOLIĆ**’s involvement in coordinating the execution of the Muslim men.

(ccxxv) Sometime between 11:30 hours and 17:00 hours on 15 July, Drago NIKOLIĆ and Milorad Trbić went to the Ročević School and issued orders to the MPs.

2770. **NIKOLIĆ** was the Zvornik Brigade’s Duty Operations Officer from approximately 11:45 hours on 15 July through most of the day.<sup>5848</sup> At one point during the day, most likely prior to the commencement of his shift as the Duty Officer, **NIKOLIĆ** went to the Ročević School with his deputy, Milorad Trbić.

2771. MP [REDACTED] PW-165 was at a checkpoint outside the Ročević School from approximately 11:30 hours to 17:00 hours.<sup>5849</sup> During that time, a car drove through the checkpoint, coming from the direction of the main road towards the School.<sup>5850</sup> The MP who was with [REDACTED] PW-165 at the checkpoint told [REDACTED] PW-165 that **NIKOLIĆ** and Milorad Trbić had arrived.<sup>5851</sup> [REDACTED] PW-165 claimed that he did not personally see **NIKOLIĆ**, but he did see Milorad Trbić<sup>5852</sup> across from the checkpoint in the School yard.<sup>5853</sup>

2772. **NIKOLIĆ**’s presence in Ročević on 15 July is corroborated by the Opel Rekord vehicle log signed out to Milorad Birčaković.<sup>5854</sup> Two entries for 15 July record a total of five trips to Ročević and Kozluk. The first entry reads: “Karakaj – Ročević – Local –

<sup>5844</sup> Exh. P01179a, intercept dated 15 July 1995 at 10:00 hours.

<sup>5845</sup> BUTLER, T.19990.

<sup>5846</sup> See paras. 2738-2762.

<sup>5847</sup> See paras. 2770-2775.

<sup>5848</sup> Exh. P00377 at ERN:0293-5758-0293-5760.

<sup>5849</sup> [REDACTED] PW-165, T.9913:1-2.

<sup>5850</sup> [REDACTED] PW-165, T.9923:16-18.

<sup>5851</sup> [REDACTED] PW-165, T.9923:2-11.

<sup>5852</sup> [REDACTED] PW-165, T.9960:7-10.

<sup>5853</sup> [REDACTED] PW-165, T.9961.

<sup>5854</sup> Exh. P00296, Vehicle Log for Opel Rekord P-4528, 1-31 July 1995.

Standard – Divić – Zvornik.” The second entry reads: “Standard – Kozluk – Standard – Ročević – Kozluk – Local.” **NIKOLIĆ** signed off on both of these entries.

2773. Aščerić’s testimony about whether or not he personally saw **NIKOLIĆ** was evasive to the point that it supports a reasonable inference that [REDACTED] PW-165 *did* personally see **NIKOLIĆ** at the School. It also showed [REDACTED] PW-165’s bias in favour of **NIKOLIĆ**.

2774. Despite his obvious reluctance to incriminate **NIKOLIĆ**, [REDACTED] PW-165 testified that he was later informed by one of his fellow MPs that **NIKOLIĆ** and Trbić had “checked what the situation is like and *issued orders* that no civilians were to be allowed to approach.”<sup>5855</sup> According to [REDACTED] PW-165, **NIKOLIĆ** and Trbić also told the MPs that “everything must be kept under control.”<sup>5856</sup> [REDACTED] PW-165 stated that, “since they’d issued those *orders* and checked what the situation was like there, they went through the check-point again, by the byroad, to reach the main road.”<sup>5857</sup>

2775. [REDACTED] PW-165’s testimony that **NIKOLIĆ** and his deputy Trbić “issued orders” at the Ročević School clearly shows that these security officers oversaw the detention of the prisoners there. [REDACTED] PW-165’s testimony that **NIKOLIĆ** coordinated the work of the MPs at the Ročević School is also consistent with the evidence that **NIKOLIĆ** coordinated and oversaw the MPs at Orahovac the previous day. **NIKOLIĆ** oversaw the detention of the prisoners and the work of the MPs at the Ročević School knowing that the Muslim prisoners detained there were to be murdered.

(ccxxvi) [REDACTED].

2776. [REDACTED].<sup>5858</sup> 5859 [REDACTED].<sup>5860</sup>

2777. [REDACTED].<sup>5861</sup> Dragan Jokić had known of **NIKOLIĆ**’s involvement in the murder operation since 14 July. Jokić was the Duty Operations Officer on 14 July when **BEARA**, **POPOVIĆ** and **NIKOLIĆ** met at the Zvornik Brigade HQ to coordinate the murder operation.<sup>5862</sup> Jokić also made two entries in the Duty Operations Officer

<sup>5855</sup> [REDACTED] PW-165, T.9925:9-10 (emphasis added).

<sup>5856</sup> [REDACTED] PW-165, T.9923:6-8.

<sup>5857</sup> [REDACTED] PW-165, T.9924:1-3 (emphasis added).

<sup>5858</sup> [REDACTED].

<sup>5859</sup> [REDACTED].

<sup>5860</sup> [REDACTED].

<sup>5861</sup> [REDACTED].

<sup>5862</sup> See paras. 654-660.

Notebook on 14 July which show that he was fully aware that **NIKOLIĆ** and **BEARA** were working together during this period.<sup>5863</sup>

2778. [REDACTED]. [REDACTED].

**(ccxxvii) NIKOLIĆ knew of the murder operation at Pilica on 16 July.**

2779. On 15 July, an entry in the Duty Operations Officer Notebook records that “**Drago** and Lieutenant Colonel **POPOVIĆ** are to report to Major **GOLIĆ** early in the morning.”<sup>5864</sup> This entry shows that **POPOVIĆ** was expected to be in the Zvornik area on the morning of 16 July. It also shows that **POPOVIĆ** was expected to meet with **NIKOLIĆ** and report together with **NIKOLIĆ** to Golić. **NIKOLIĆ** would have known that **POPOVIĆ** was coming to the Zvornik area on 16 July to oversee the execution of prisoners detained at the Kula School and the Pilica Dom.

2780. On the morning of 16 July, **NIKOLIĆ** was the Zvornik Brigade Duty Operations Officer. **NIKOLIĆ** wrote an entry in the Duty Operations Officer Notebook reflecting the 1<sup>st</sup> Battalion’s request for fifty litres of oil and twenty litres of gasoline “for transport of troops to Kula.” The 1<sup>st</sup> Battalion also requested “ten crates of 7.62 mm ammunition,”<sup>5865</sup> amounting to over 11,000 bullets.<sup>5866</sup> A follow-up entry at 06:00 hours states “0600 1<sup>st</sup> pb – situation under control.”<sup>5867</sup>

2781. These references to the transport of troops to Kula and “situation under control” can only have related to the detention of the prisoners at the Kula School. There was no combat activity in the area of the 1<sup>st</sup> Battalion at that time. No significant operations were taking place in the 1<sup>st</sup> Battalion’s area other than the planned executions.<sup>5868</sup> The ammunition was automatic rifle ammunition and must have been used for the mass executions planned that day at the Branjevo Farm. The 1<sup>st</sup> Battalion was far from any significant combat at the time and had no other need for so much rifle ammunition.

2782. Given his contacts with the 1<sup>st</sup> Battalion, **NIKOLIĆ** would have been fully appraised of the situation at the Kula School, including the murder of prisoners there.

<sup>5863</sup> Exh. P00377 at ERN: 0293-5744 “Colonel Salapura called – **Drago** and **BEARA** are to report to Golić;” and at ERN: 0293-5752 “from **BEARA** – **Drago** to report Mane - Đukići.”

<sup>5864</sup> Exh. P00377 at ERN: 0293-5761.

<sup>5865</sup> Exh. P00377 at ERN: 0293-5761.

<sup>5866</sup> **PANDUREVIĆ**, T.31304:25-31305:2 (acknowledging that one crate of such ammunition could contain either 1,260 bullets or 1,140 bullets).

<sup>5867</sup> P00377, at p (ERN 0293-5762)

<sup>5868</sup> R.BUTLER, T. 20006:16-19 (“... No corresponding combat activity or any other activity of the nature that would call for that fuel”).

**NIKOLIĆ** also would have known that these prisoners were to be taken to the Branjevo Farm later that day and executed.

**(ccxxviii) On or around 26 July, Drago NIKOLIĆ coordinated the murders of the four “Branjevo Farm Survivors.”**

2783. As outlined at paras. 1056-1059, four Muslim victims -- Sakib Kivirić, Emin Mustafić, Fuad Đozić and Almir Halilović -- survived the mass executions at Branjevo Farm. They were subsequently captured and interrogated by Zvornik Brigade MPs and **NIKOLIĆ**. After **NIKOLIĆ** discovered that the four Muslims had survived the Branjevo Farm executions, he informed **PANDUREVIĆ**. The four Muslim victims, one of whom was only 14 years old, were then summarily executed. These four victims were in the custody of **NIKOLIĆ** and their murders could only have been carried out with **NIKOLIĆ**'s knowledge and authority.

**(ccxxix) Drago NIKOLIĆ knew of the reburial operation.**

2784. [REDACTED].<sup>5869 5870 5871 5872</sup>

**(WW) NIKOLIĆ KNEW OF, SIGNIFICANTLY CONTRIBUTED TO, AND SHARED THE INTENT WITH THE OTHER JCE MEMBERS TO PARTICIPATE IN THE JCE TO FORCIBLY REMOVE THE MUSLIM POPULATION FROM SREBRENICA AND ŽEPA**

**(ccxxx) NIKOLIĆ planned, facilitated and oversaw the transportation of Muslim men from Bratunac to detention sites in the Zvornik area.**

2785. [REDACTED].<sup>5873 5874 5875</sup>

2786. On the night of 13 July, the first group of Muslim men were transferred from Bratunac to Zvornik where they were detained by Zvornik Brigade MPs under **NIKOLIĆ**'s supervision.<sup>5876</sup> On the morning of 14 July, **NIKOLIĆ** met buses containing additional Muslim men from Bratunac and directed them to Orahovac.<sup>5877</sup> Also on 14 July, **NIKOLIĆ** personally arranged the detention of Muslim men coming

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<sup>5869</sup> [REDACTED].

<sup>5870</sup> [REDACTED].

<sup>5871</sup> [REDACTED].

<sup>5872</sup> [REDACTED].

<sup>5873</sup> [REDACTED].

<sup>5874</sup> [REDACTED].

<sup>5875</sup> [REDACTED].

<sup>5876</sup> See paras. 2631-2633.

<sup>5877</sup> See paras. 2673-2675.

from Bratunac at the Kula School near Pilica.<sup>5878</sup> On 15 July, he coordinated the security for Muslim men who had been transferred from Bratunac to the Ročević School.<sup>5879</sup>

### **Conclusion**

2787. The Muslim men transferred from Bratunac to the Zvornik area on the evening of 13 July and the morning of 14 July had been lawfully present in the Srebrenica enclave and were forcibly removed from that area. The movement of these men from Bratunac to the Zvornik area was part of the continuing expulsion of these men from the enclave. These men were the victims of forcible transfer. **NIKOLIĆ** significantly contributed to the forcible transfer of the Muslim population from Srebrenica by planning, facilitating and overseeing the transfer of Muslim men from Bratunac to Zvornik and their detention in schools in the Zvornik area.

**(ccxxxi) Through his involvement in coordinating the murder of the Muslim men from Srebrenica, NIKOLIĆ significantly contributed to the removal of the Muslim population from the Žepa enclave.**

2788. The fate of the men from Srebrenica was a key factor in the removal of the Muslim population from Žepa. Hamdija Torlak testified that the Žepa Muslims had heard rumours about the separations in Potočari as early as 13 July.<sup>5880</sup> [REDACTED] PW-111, who survived the Kravica Warehouse executions, arrived in Žepa on or around 17 July<sup>5881</sup> and his horrific experience would have been widely known shortly thereafter.

2789. By 19 July, the central problem which featured in the negotiations between the Muslims and the VRS was the fate of the Muslim military-aged men. The Muslims wanted to be taken out of the enclave by helicopter to be exchanged rather than surrender in Žepa to the VRS, whom they feared would kill the prisoners. This fear was fuelled by reports which had filtered back from Srebrenica about the events there.<sup>5882</sup>

2790. It was clearly foreseeable that the separation and murder of the Muslim men from Potočari, and the capture and murder of thousands more Muslim men fleeing the Srebrenica enclave, would contribute to the climate of fear in Žepa which resulted in the forcible transfer of the Muslim population from that area. Accordingly, by coordinating

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<sup>5878</sup> See paras. 2676-2684.

<sup>5879</sup> See paras. 2770-2775.

<sup>5880</sup> TORLAK, T.9726-9728.

<sup>5881</sup> [REDACTED] PW-111, T.7012-7013.

<sup>5882</sup> TORLAK, T.9731, 9762, 9854, 9863; Exh. P02499, Memorandum from David Harland to John Ryan titled "Meeting on Prisoner Exchange and evacuation of Žepa," 20 July 1995, p.2 (English); Exh. P02945, Notes of Meeting between Gen. Smith and Minister Muratović, 23 July 1995, p.2, para.6 (English); Exh. P02946, Report titled, "The Situation in Žepa, Summary as at 0800hrs 28 July 95," p.1, para.2.

the murder of thousands of Muslim men in Srebrenica, **NIKOLIĆ** significantly contributed to the forcible transfer of the Muslim population from Žepa.

**(XX) CONCLUSION OF THE TWO JOINT CRIMINAL ENTERPRISES.**

2791. Drago **NIKOLIĆ** is individually criminally responsible under Article 7(1) of the Statute for the crimes with which he is charged in the Indictment as a member of the Joint Criminal Enterprise to forcibly remove the Muslim populations of Srebrenica and Žepa<sup>5883</sup> and the Joint Criminal Enterprise to murder the Muslim men of Srebrenica.<sup>5884</sup> As described above, **NIKOLIĆ** made significant contributions to the execution of the common purpose of both JCEs and shared the intent with the other members of the JCE to commit the crimes which fell within the common purpose of the JCEs.

**(YY) OTHER FORMS OF LIABILITY UNDER ARTICLE 7(1) OF THE STATUTE**

2792. In addition to his criminal liability for the crimes charged in the Indictment as a member of two Joint Criminal Enterprises, Drago **NIKOLIĆ** is criminally responsible for ordering, planning, instigating and otherwise aiding and abetting the commission of the crimes charged in the Indictment. **NIKOLIĆ**'s criminal responsibility for ordering and planning the crimes charged is briefly outlined below.

2793. **NIKOLIĆ** ordered the commission of the crimes for which he is charged in the Indictment. Of particular importance in this respect is that a person knowingly relaying illegal orders from superiors to subordinates is also individually responsible for the crime ordered.<sup>5885</sup> **NIKOLIĆ** passed on orders and issued instructions regarding the detention, transport, execution and burial of Muslim prisoners at Orahovac, Petkovci, Ročević / Kozluk and Pilica to Lt. Jasikovac and the Zvornik Brigade military police and other soldiers under the derived authority of his commander, **PANDUREVIĆ**, or in his absence, Obrenović. **NIKOLIĆ** passed on an order to 1<sup>st</sup> Battalion security officer Slavko Perić to send soldiers to the Kula School to guard prisoners. **NIKOLIĆ** passed on an order to Srećko Aćimović to form an execution squad. **NIKOLIĆ** passed on an order that the four Branjevo Farm Survivors be murdered. **NIKOLIĆ** shared the intent of his superior officers when he passed on these orders. **NIKOLIĆ** is individually responsible for the crimes committed by the individuals who implemented those orders.

<sup>5883</sup> See para. 80 of the Indictment.

<sup>5884</sup> See para. 42 of the Indictment.

<sup>5885</sup> *Milutinović* TJ (Vol. 1), para. 87; *Kupreškić* TJ, para. 862; *Kupreškić* AJ, para. 451.

2794. **NIKOLIĆ** also assisted in the planning (which may include organising)<sup>5886</sup> of the detention, transport and execution of the Muslim men at Orahovac, Petkovci, Ročević / Kozluk and Pilica. **NIKOLIĆ** met with **BEARA** and **POPOVIĆ** on the morning of 14 July at the Zvornik Brigade HQ to organise the murder operation. **NIKOLIĆ** met with **BEARA** on the afternoon of 14 July near the Petkovci School to organise the murder operation. **NIKOLIĆ** met with Lt. Jasikovac and senior VRS officers at the Orahovac School on 14 July to organise the detention, transport, execution and burial of the prisoners detained there. **NIKOLIĆ** organised the detention of the prisoners at the Kula School. **NIKOLIĆ** went to the Ročević School and organised the detention of prisoners there. **NIKOLIĆ** also organised the murders of the four Branjevo Farm Survivors. **NIKOLIĆ** is individually responsible for planning the crimes charged in the Indictment.

**(ZZ) DRAGO NIKOLIĆ INTENDED TO COMMIT GENOCIDE.**

2795. Drago **NIKOLIĆ** intended to bring about the destruction of the Bosnian Muslim people of Eastern Bosnia.

**(ccxxxii) NIKOLIĆ's intent to commit genocide is evidenced by the evidence of a genocidal plan and NIKOLIĆ's central involvement in it.**

2796. The existence of a plan is not an element of the crime of genocide; however, the existence of a plan may lead to the establishment of the specific intent for genocide.<sup>5887</sup> The genocidal plan for Srebrenica evolved from a policy directive and subsequent decisions by members of the RS and VRS leadership. It culminated in the forcible removal of the Muslim populations of Srebrenica and Žepa and the murder of Muslim men of Srebrenica. **NIKOLIĆ** knew of the existence of this plan and actively sought to participate in the plan. His deliberate acts and omissions -- most notably his personal and active coordination and oversight of the murder of thousands of Muslim men -- emphatically confirms his intent to destroy, in part, the Bosnian Muslim population.

2797. **NIKOLIĆ**'s known involvement in the genocidal plan began on the night of 13 July [REDACTED].<sup>5888</sup> As noted at para. 2646, **NIKOLIĆ** could have refused to participate in the plan. [REDACTED].

2798. In the subsequent days, **NIKOLIĆ** coordinated and oversaw the detention, transport and execution of prisoners at Orahovac.<sup>5889</sup> He met with **BEARA** and

<sup>5886</sup> *Akayesu* TJ, para. 473.

<sup>5887</sup> *Jelišić* AJ, para. 48.

<sup>5888</sup> See paras. 2615-2646.



**POPOVIĆ** to plan the logistics of the murder operation.<sup>5890</sup> He directed buses carrying Muslim prisoners to the Orahovac School where they were detained in deplorable conditions prior to being murdered.<sup>5891</sup> He coordinated the detention of prisoners at the Kula School prior to their murders.<sup>5892</sup> **NIKOLIĆ** met with **BEARA** near the Petkovci School, from where Muslim prisoners were taken and murdered that night.<sup>5893</sup> **NIKOLIĆ** was at the Orahovac execution site where prisoners were murdered in his presence.<sup>5894</sup> **NIKOLIĆ** passed on an order for the Zvornik Brigade's 2<sup>nd</sup> Battalion to participate in an execution of prisoners and insisted on the fulfilment of the order.<sup>5895</sup> **NIKOLIĆ** also was involved in the reburial operation in September 1995 to cover up the genocidal plan which he had helped to implement.<sup>5896</sup>

2799. **NIKOLIĆ**'s intent to kill these thousands of Muslim men and thereby destroy, the Muslim population of Eastern Bosnian was exemplified by his role in the murders of the four Branjevo Farm Survivors.<sup>5897</sup> These four victims, one of whom was only 14 years old, survived the nightmare of the Branjevo Farm executions. They were subsequently assisted by two Zvornik Brigade soldiers. **NIKOLIĆ**'s response was to organise the murders of these four Muslim victims and institute proceedings against the two Zvornik Brigade soldiers for their act of basic humanity.

2800. **NIKOLIĆ** performed a critical role in the organisation and coordination of the genocidal plan. This body of evidence alone supports the finding that Drago **NIKOLIĆ** intended the destruction of the Bosnian Muslims of Eastern Bosnia.

**(ccxxxiii) NIKOLIĆ's's intent to commit genocide is evidenced by his personal use of derogatory language towards Muslims.**

2801. Evidence of genocidal intent can also be shown through the Accused's use of derogatory language towards members of the targeted group.<sup>5898</sup> As outlined at paras. 1568-1576, the Zvornik Brigade, had a culture in which officers and soldiers were able to express their ethnic bias towards Muslims with impunity.

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<sup>5889</sup> See paras. 2632-2633 and 2685-2695.

<sup>5890</sup> See paras. 2667-2672.

<sup>5891</sup> See paras. 2673-2675.

<sup>5892</sup> See paras. 2676-2684.

<sup>5893</sup> See paras. 2717-2720.

<sup>5894</sup> See paras. 2721-2734.

<sup>5895</sup> See paras. 2738-2762.

<sup>5896</sup> See paras. 2784-2784.

<sup>5897</sup> See para. 2783.

<sup>5898</sup> *Kayishema* TJ, para. 93.

2802. On 15 July, the day of the Ročević / Kozluk executions, **NIKOLIĆ** used derogatory language towards Muslims when he handwrote the following entries in the Duty Operations Officer Notebook: “The *Turks* fired a hand-held rocket launcher and hit out trench;”<sup>5899</sup> and “A large group of armed and unarmed *Turks* is blocked in the wider area of Potočani.”<sup>5900</sup> Also on 15 July, **NIKOLIĆ** handwrote the following entries in the Official Duty Operations Officer Diary: “Advance elements of the *Turks* column retreating from the Srebrenica crossed the Zvornik-Crni Vrh road and they are in the wider area of Potočani;” and “Some elements of unit returned from Žepa and they joined the action of blocking and destroying the group of *Turks*.”<sup>5901</sup>

2803. **NIKOLIĆ**’s use of an ethnically derogatory term for Muslims on the same day that he coordinated the murders of some 1,400 Muslims at Ročević / Kozluk, and the day after he had organised the murders of 1,000 Muslims at Orahovac, is an unmistakable sign of **NIKOLIĆ**’s ethnic hatred towards that ethnic group.

2804. An intercepted conversation between **NIKOLIĆ** and **POPOVIĆ** on 20 April 1995 shows that **NIKOLIĆ**’s ethnic bias was not limited to just Muslims.<sup>5902</sup> This conversation concerns the decision of the Drina Corps to send two Polish volunteers to the Zvornik Brigade. **NIKOLIĆ**, who was clearly irritated with the decision, stated, “ŠwĆhat the hell am I going to do with Catholic peasants? ... I’ll be forced here to decide to slit their throats and dump them in the Drina.”<sup>5903</sup> **NIKOLIĆ**’s use of an ethnically derogatory term with a superior officer is indicative of the culture of ethnic bias against Muslims which pervaded many parts of the VRS.<sup>5904</sup> **NIKOLIĆ**’s attitude of ethnic bias was shared and tolerated by his commander, **PANDUREVIĆ**, and his superior along professional lines, **POPOVIĆ**.

**(ccxxxiv) NIKOLIĆ’s knew that murder of the Muslim men from Srebrenica and the forcible transfer of the Muslim population would create conditions that would contribute to the destruction of the Muslim population of Eastern Bosnia.**

As a Bosnian Serb, **NIKOLIĆ** understood the attachment of the Bosnian Muslims to their land, their homes, their religious monuments, their families and their communities.

<sup>5899</sup> Exh. P00377 at ERN: 0293-5758.

<sup>5900</sup> Exh. P00377 at ERN: 0293-5760.

<sup>5901</sup> Exh. 7DP00378, Zvornik Brigade duty operations officer diary, for the period 12 February 1995 through 3 January 1996, entry for 15 July at 06:30 hours.

<sup>5902</sup> Exh. P02352(a), Intercept dated 20 April 1995, at 19:10 hours; *see also* Exh. P02352(e), Transcription of Audio Tape of Intercept dated 20 April 1995 at 19:10 hours.

<sup>5903</sup> Exh. P02352(a).

<sup>5904</sup> *See e.g.*, M.NIKOLIĆ, T.33032:16-17 (noting that nearly all VRS officers used the term “balija” to refer to Muslims); Exh. 1126(a), Intercept dated 13 July at 09:05 hours ( a conversation in which X and Y in which X states, “Fuck ‘em. They weren’t human beings”).

**NIKOLIĆ** also understood the patriarchal structure of the Bosnian Muslim community. **NIKOLIĆ** knew that murdering thousands of Bosnian Muslim men from Srebrenica and forcibly transferring the Muslim population from Srebrenica and Žepa would create conditions that would contribute to the destruction of the Bosnian Muslim population of Eastern Bosnia.<sup>5905</sup>

(ccxxxv) **Other factors from which NIKOLIĆ's genocidal intent can be inferred.**

2805. Other facts from which **NIKOLIĆ**'s intent to commit genocide can be inferred include the high level of planning and coordination which went into the murder operation,<sup>5906</sup> which was done primarily by **NIKOLIĆ**, **BEARA** and **POPOVIĆ**; the systematic nature of the killings;<sup>5907</sup> and the systematic nature in which the bodies of the murdered Muslim men were buried and then reburied.<sup>5908</sup>

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<sup>5905</sup> See paras. 1105-1128.

<sup>5906</sup> See *Sikirica* TJ, paras 46 and 61; *Kayishema and Ruzindana*, TJ, para. 93.

<sup>5907</sup> See *Sikirica* TJ, paras 46 and 61.

<sup>5908</sup> See *Sikirica* TJ, paras 46 and 61.

### (XIII) APPLICABLE LEGAL PRINCIPLES

#### (AAA) ARTICLE 4, GENOCIDE

2806. The Accused **PANDUREVIĆ**, **BEARA**, **POPOVIĆ**, **NIKOLIĆ** and **BOROVČANIN** are responsible for the crime of genocide (Count 1) under Article 4(3)(a) of the Statute of the Tribunal, as members of joint criminal enterprises to forcibly transfer the Bosnian Muslim population of Srebrenica and Žepa, and to murder the able-bodied Muslim men from Srebrenica.<sup>5909</sup> The Accused are charged on the basis of Article 7(1); **PANDUREVIĆ** and **BOROVČANIN** are also charged on the basis of superior responsibility under Article 7(3).

#### (ccxxvi) Legal Standard

2807. The offence of genocide under Article 4(2) of the Statute comprises two components. First, the *actus reus* or material element of the offence consists of one or more of the acts enumerated under Article 4(2). Second, the *mens rea* of the offence comprises both (a) the direct or indirect intent for these acts; and (b) the specific “intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such.”<sup>5910</sup>

#### (ccxxvii) One or several acts enumerated in Article 4(2)

2808. Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) killing members of the group;
- (b) causing serious bodily or mental harm to members of the group;
- (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) imposing measures intended to prevent births within the group;
- (e) forcibly transferring children of the group to another group.

2809. The *actus reus*, or genocidal conduct, with which the Accused are charged in the Indictment falls within each of the acts listed in Article 4(2)(a)-(d).<sup>5911</sup> Specifically, paragraph 26 of the Indictment provides that the Accused, with intent to destroy a part of the Bosnian Muslim people as a national, ethnical, or religious group:

- a) killed members of the group by summary execution, including both planned and opportunistic summary executions, as described in this Indictment; and
- b) caused serious bodily harm or mental harm to both female and male members of the Bosnian Muslim population of Srebrenica and Žepa, including but not limited to the separation of the

<sup>5909</sup> Accused **MILETIĆ** and **GVERO** are responsible solely for “opportunistic killings” under Counts 4 and 6.

<sup>5910</sup> *Krstić* TJ, para. 542; *See also Jelisić* TJ, para. 62.

<sup>5911</sup> *See* Indictment paras. 26, 33.

able-bodied men from their families and the forced movement of the population from their homes to areas outside the RS.

2810. In addition, Paragraph 33 provides that:

The **forcible transfer** of the women and children from Srebrenica and Žepa as described in this Indictment **created conditions known to the Accused that would contribute to the destruction of the entire Muslim population of Eastern Bosnia**, including but not limited to **the failure of the population to live and reproduce normally**. (emphasis added)

**Article 4(2)(a): Killing Members of the Group**

2811. Article 4(2)(a) comprises three specific elements: first, the killing of one or more persons; second, that such person or persons belonged to a particular national, ethnical, racial or religious group; and third, the intent to kill the person or persons.

**Article 4(2)(b): Causing Serious Bodily or Mental Harm to One or More Persons**

2812. Article 4(2)(b) comprises three specific elements: first, the causing of serious bodily or mental harm to one or more persons; second, that such person or persons belonged to a particular national, ethnical, racial or religious group; and third, the intent to cause harm to the person or persons.

2813. The *Krstić* Trial Judgement defined “serious bodily or mental harm” as used in Article 4(2)(b) as follows:

Serious bodily or mental harm for purposes of Article 4 *actus reus* is an intentional act or omission causing serious bodily or mental suffering. The gravity of the suffering must be assessed on a case by case basis and with due regard for the particular circumstances. In line with the *Akayesu* Judgement, the Trial Chamber states that serious harm need not cause permanent and irremediable harm, but it must involve harm that goes beyond temporary unhappiness, embarrassment or humiliation. It must be harm that results in a grave and long-term disadvantage to a person’s ability to lead a normal and constructive life. In subscribing to the above case-law, the Chamber holds that inhuman treatment, torture, rape, sexual abuse and deportation are among the acts which may cause serious bodily or mental injury.<sup>5912</sup>

2814. Other acts recognised by the Tribunal that may cause serious bodily or mental harm<sup>5913</sup> include “harm ... that causes disfigurement or serious injury,”<sup>5914</sup> “interrogations combined with beatings”<sup>5915</sup> and “threats of death.”<sup>5916</sup> The *Krstić* Trial Chamber found that “the wounds and trauma suffered by those few individuals who managed to survive the mass executions” perpetrated subsequent to the fall of the Srebrenica enclave, constituted serious bodily and mental harm within the meaning of Article 4(2)(b).<sup>5917</sup>

<sup>5912</sup> *Krstić* TJ, para. 513 (citations omitted). This definition was not challenged on appeal. See also *Akayesu* TJ, paras. 502, 504; *Kayishema and Ruzindana* TJ, paras. 108-109.

<sup>5913</sup> See *Blagojević* TJ, para. 645.

<sup>5914</sup> *Brdanin* TJ, para. 690.

<sup>5915</sup> *Blagojević* TJ, para. 646.

<sup>5916</sup> *Blagojević* TJ, para. 646.

<sup>5917</sup> *Krstić* TJ, para. 514. See also *Blagojević* TJ, paras. 647, 650 (“The fear of being captured, and, at the moment of separation, the sense of utter helplessness and extreme fear for their family and friends’ safety as

**Article 4(2)(c): Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part**

2815. “Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part” means “the methods of destructions by which the perpetrator does not immediately kill the members of the group, but which, ultimately, seek their physical destruction.”<sup>5918</sup> This destruction must be material, and can be either physical or biological.<sup>5919</sup> However, proving a violation of Article 4(2)(c) does not require evidence of the physical destruction in whole or in part of the targeted group.<sup>5920</sup> The group upon which the conditions are inflicted must be protected under the Genocide Convention and the conditions must be inflicted deliberately.<sup>5921</sup> No specific time frame is required, but courts have considered length of time and scale of the conditions in determining whether Article 4(2)(c) is satisfied.<sup>5922</sup>

2816. Article 4(2)(c) seeks to punish methods of destruction apart from direct killings and the creation of circumstances that would lead to a slow death.<sup>5923</sup> The jurisprudence of the Tribunal establishes that the systematic expulsions of members of the group from their homes,<sup>5924</sup> the lack of proper housing,<sup>5925</sup> subjection to a subsistence diet<sup>5926</sup> or denial of proper clothing, hygiene, and medical care<sup>5927</sup> constitute conditions of life calculated to bring about physical destruction of a group in whole or in part.

**Article 4(2)(d): Imposing measures intended to prevent births within the group**

2817. To satisfy the terms of Article 4(2)(d), measures must be imposed on one or more members of the group, the measures must be imposed intentionally, and the measures must be intended to prevent births within the group. The measures may be physical or mental.<sup>5928</sup> The forced separation of the males and females of a group constitutes a “measure intended to

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well as for their own safety, is a traumatic experience from which one will not quickly – if ever – recover.... Furthermore, the Trial Chamber is convinced that the forced displacement of women, children, and elderly people was itself a traumatic experience, which, in the circumstances of this case, reaches the requisite level of causing serious mental harm under Article 4(2)(b)”).

<sup>5918</sup> *Akayesu* TJ, para. 504.

<sup>5919</sup> *Brdanin* TJ, para. 694; *Krstić* AJ, para. 25; Report of the International Law Commission on the Work of its Forty-Eighth Session, 6 May-26 July 1996, UN Doc.A/51/10, pp. 90-91.

<sup>5920</sup> *Brdanin* TJ, para. 691; *Stakić* TJ, para. 517.

<sup>5921</sup> *Brdanin* TJ, para. 692.

<sup>5922</sup> *Kayishema and Ruzindana* TJ, para. 548 (The Tribunal found that the time periods during which these deprivations occurred were not of sufficient length or scale to bring about the destruction of the group.)

<sup>5923</sup> *Brdanin* TJ, para. 691; *See also Stakić* TJ, para. 517, *Akayesu* TJ, paras. 505-506, *Rutaganda* TJ, para.

52, *Kayishema and Ruzindana* TJ, paras. 115-116.

<sup>5924</sup> *Brdanin* TJ, para. 691, *Rutaganda* TJ, para. 51, *Akayesu* TJ, para. 505.

<sup>5925</sup> *Brdanin* TJ, para. 691, *Kayishema and Ruzindana* TJ, paras. 114-116.

<sup>5926</sup> *Brdanin* TJ, para. 691, *Rutaganda* TJ, para. 51, *Akayesu* TJ, para. 505.

<sup>5927</sup> *Brdanin* TJ, para. 691, *Kayishema and Ruzindana* TJ, paras. 114-116, *Akayesu* TJ, para. 505.

<sup>5928</sup> *Akayesu* TJ, paras. 506-508.

prevent births within the group.”<sup>5929</sup> The measures need not actually prevent births so long as they are intended to do so.

**(ccxxxviii) The specific intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such**

2818. The Prosecution must prove beyond a reasonable doubt that the conduct listed under Article 4(2) was committed with the “intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such.”

**The degree or quality of the requisite mental state: “with intent to destroy”**

2819. The intent to commit genocide has, at times, been described as special intent, specific intent, *dolus specialis*, particular intent and genocidal intent.<sup>5930</sup> However, Trial Chambers have made clear that the definitions associated with these terms in various domestic jurisdictions must not be used to alter the requisite intent explicitly prescribed by Article 4 and ICTY jurisprudence.<sup>5931</sup>

2820. The *Jelisić* Appeals Chamber and the *Sikirica* Trial Chamber both found that the intent to commit genocide must not be reduced to theories of intent such as “conscious desire.”<sup>5932</sup> The *Sikirica* Trial Chamber made clear that nothing additional should be read into the intent requirement in the chapeau to Article 4(2)<sup>5933</sup> and both Chambers emphasised that the correct test is whether “the perpetrator, by one of the prohibited acts enumerated in

<sup>5929</sup> *Rutaganda* TJ, para. 52; see also *Akayesu* TJ, para. 506 (citing “separation of sexes”).

(I) <sup>5930</sup> *Jelisić* AJ, para. 45; see also *Krstić* TJ, paras. 569-580, referring to special intent, specific intent and *dolus specialis*; *Krstić* Appeal Judgement, paras. 80-134, referring to genocidal intent and specific intent; *Seromba* AJ, paras. 174-181, referring to specific intent; *Musema* TJ, paras 164-167, p. 56-58, which refer to specific intent and *dolus specialis* interchangeably; *Kayishema and Ruzindana* TJ, paras. 87-92, referring to specific intent and *dolus specialis*; *Akayesu* TJ, para. 498, which refers to genocidal intent; *Kambanda* TJ, para. 16, referring to specific intent and *dolus specialis*; The International Law Commission refers to specific intent (A/51/10), p. 87.

<sup>5931</sup> *Sikirica*, Judgement On Defence Motions To Acquit, para. 58 (“In contradistinction to the manner in which many crimes are elaborated in treaties and, indeed, in the domestic law of many States, Article 4 expressly identifies and explains the intent that is needed to establish the crime of genocide”). See also *Jelisić* AJ, paras. 42-52. Motive is not a constituent element of the crime. *Jelisić* AJ, para. 49.

<sup>5932</sup> See *Jelisić* AJ, para. 46; *Sikirica*, Judgement On Defence Motions To Acquit, paras. 46-51. In both these cases, the Prosecution had proposed a three-prong approach to genocidal intent, whereby an accused could possess the requisite *mens rea* for genocide in three alternative ways: (1) he consciously desired the acts to result in the destruction of the group; (2) he knew his acts were destroying the group; or (3) being an aider and abettor to an ongoing genocide, he knew that the likely consequence of his conduct would be to destroy, in whole or in part, the group, as such. *Jelisić* AJ, para. 42; *Sikirica*, Judgement On Defence Motions To Acquit, paras. 27, 57.

<sup>5933</sup> *Sikirica*, Judgement On Defence Motions To Acquit, para. 58 (stating that “Article 4 expressly identifies and explains the intent that is needed to establish the crime of genocide”) and para. 60 (“In the light ... of the explanation that the provision itself gives as to the specific meaning of intent, it is unnecessary to have recourse to theories of intent.”).

Article 4 of the Statute, *seeks to achieve* the destruction, in whole or in part, of a national, ethnical, racial or religious group, as such.”<sup>5934</sup>

2821. In *Krstić*, the Trial Chamber thoroughly reviewed legal precedent and commentary in order to formulate a definition of the intent to commit genocide which best reflected customary international law during the relevant time period.<sup>5935</sup> The Trial Chamber reiterated that the intent to commit genocide does not require a showing of “conscious desire.” An accused possesses the requisite *mens rea* to commit genocide when he or she commits acts “with the *goal* of destroying all or part of a group.”<sup>5936</sup>

2822. The *Krstić* and *Jelisić/Sikirica* definitions of *mens rea* apply to this case. The evidence demonstrates, beyond a reasonable doubt, that the accused committed acts of genocide with the *goal* of destroying or *seeking to* destroy the Bosnian Muslim people of Eastern Bosnia.

2823. The *Krstić* Trial Chamber cautioned that genocidal acts need not be premeditated over a long period of time; rather, the goal of destruction of a group might be formulated at some later point during the implementation of a military operation whose primary objective was totally unrelated to the fate of the group.<sup>5937</sup> The existence of a plan or policy is not a legal ingredient of the crime.<sup>5938</sup>

**The scope of the requisite mental state: “a... group, as such”**

2824. The Trial Judgements of *Krstić*,<sup>5939</sup> *Akayesu*<sup>5940</sup> and *Kayishema and Ruzindana*<sup>5941</sup> endorse and adopt the following definition of a “group, as such,” set forth by the Draft Code of the International Law Commission:

The group itself is the ultimate target or intended victim of this type of massive criminal conduct. [...] the intention must be to destroy the group “as such,” meaning as a separate and distinct entity.<sup>5942</sup>

<sup>5934</sup> *Sikirica*, Judgement On Defence Motions To Acquit, fn. 165, citing *Jelisić* Appeal Judgement, para. 46 (italics added).

<sup>5935</sup> *Krstić* Trial Judgement, paras. 569-571.

<sup>5936</sup> *Krstić* Trial Judgement, para. 571. In determining whether one acted with the intent, national jurisprudence allows certain inferences to be drawn. For example, in the United States, it may be inferred that one intends the natural and probable consequences of one’s acts knowingly done. *U.S. v. Martin*, 772 F. 2d 1442, 1445- (8th Cir., 1985) (“You may consider it reasonable to draw the inference and find that a person intends the natural and probable consequences of acts knowingly done”); *U.S. v. Cotton*, 770 F. 2d 940 (11th Cir., 1985); *U.S. v. Johnson*, 735 F. 2d 373 (9th Cir., 1984); *U.S. v. Ross*, 626 F. 2d 77 (9th Cir., 1980); See also *Gonzales v. Duenas-Alvarez*, 549 U.S. 183, 190 (2007) (“an aider and abettor is criminally responsible not only for the crime he intends, but also for any crime that “naturally and probably” results from his intended crime”).

<sup>5937</sup> *Krstić* TJ, para. 572.

<sup>5938</sup> *Jelisić* AJ, para. 48.

<sup>5939</sup> *Krstić* TJ, para. 552.

<sup>5940</sup> *Akayesu* TJ, paras. 521-522.

<sup>5941</sup> *Kayishema and Ruzindana* TJ, para. 98.

<sup>5942</sup> *Draft Code of the International Law Commission*, 1996 at 88.



2825. As the *Krstić*<sup>5943</sup> and *Jelisić*<sup>5944</sup> Trial Judgements further note, the element pertaining to groups “as such” makes genocide an exceptionally grave crime. The *Niyitegeka* Appeals Chamber<sup>5945</sup> held that the term “as such” drew a clear distinction between mass murder and crimes in which the perpetrator targeted a specific group because of its nationality, race, ethnicity or religion. The *Stakić* Appeals Chamber held that the term “as such” has “great significance, for it shows that the offence requires intent to destroy a collection of people who have a particular group identity.”<sup>5946</sup>

**The term “in whole or in part”**

2826. To be liable under Article 4, a perpetrator of genocide need not have sought to destroy the entire group. As explained by the Appeals Chamber in *Krstić*:

The intent requirement of genocide under Article 4 of the Statute is ... satisfied where evidence shows that the alleged perpetrator intended to destroy at least a substantial part of the protected group.<sup>5947</sup>

2827. The determination of when the targeted part is substantial enough involves a number of considerations, including: the numeric size of the targeted part of the group; the number of individuals targeted (to be evaluated not only in absolute terms, but in relation to the overall size of the entire group); the prominence of a targeted portion within a group; and whether a specific part of the group is emblematic of the overall group, or is essential to the group’s survival.<sup>5948</sup> Another relevant consideration is the “area of the perpetrators’ activity and control, as well as the possible extent of their reach,” which can inform the analysis on whether the targeted group is substantial.<sup>5949</sup> The listed factors to be considered are “neither exhaustive nor dispositive,” and their applicability will vary depending on the circumstances of a particular case.<sup>5950</sup>

2828. Applying these considerations the *Krstić* Appeals Chamber upheld the *Krstić* Trial Chamber’s finding that the perpetrators intended to destroy all Bosnian Muslims of Srebrenica as a substantial part of the targeted group.<sup>5951</sup>

**Means to infer the requisite intent under Article 4**

2829. As a matter of practical necessity, specific intent must generally be inferred from certain facts and circumstances, including, among other things, the general context of the

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<sup>5943</sup> *Krstić* TJ, para. 553.

<sup>5944</sup> *Jelisić* TJ, para. 79.

<sup>5945</sup> *Niyitegeka* AJ, para. 53.

<sup>5946</sup> *Stakić* AJ, para. 20.

<sup>5947</sup> *Krstić* AJ, para. 12.

<sup>5948</sup> *Krstić* AJ, para. 12.

<sup>5949</sup> *Krstić* AJ, para. 13.

<sup>5950</sup> *Krstić* AJ, para. 14 (footnotes omitted).

<sup>5951</sup> See *Krstić* AJ, paras. 19-23.

perpetration of other genocidal acts, and whether or not those acts were committed by the Accused or by others.<sup>5952</sup>

2830. The *Blagojević* Trial Chamber held that “it is not sufficient that the perpetrator simply knew that the underlying crime would inevitably or likely result in the destruction of the group. The destruction, in whole or in part, must be the aim of the underlying crime(s).”<sup>5953</sup>

2831. The two International Criminal Tribunals have determined that the specific intent for genocide may be inferred from facts such as:

- the seriousness of discriminatory acts;<sup>5954</sup>
- the gravity of the “ethnic cleansing;”<sup>5955</sup>
- the general political doctrine giving rise to the acts;<sup>5956</sup>
- acts which violate or which the perpetrators themselves consider to violate the very foundation of the group;<sup>5957</sup>
- the destruction or attacks on cultural and religious property and symbols of the targeted group;<sup>5958</sup>
- destruction or attacks on houses belonging to members of the group;<sup>5959</sup>
- the desired destruction of a more limited number of persons selected for the impact that their disappearance would have on the survival of the group as such which would constitute an intention to destroy the group “selectively;”<sup>5960</sup>
- the perpetration of other acts systematically directed against the same group,<sup>5961</sup> whether these acts were committed by the same offender or by others;<sup>5962</sup>
- the scale of atrocities committed, their general and widespread nature, in a region or a country;<sup>5963</sup>

<sup>5952</sup> *Jelisić* AJ, para.47; *Krstić* AJ, para. 34. *Kayishema and Ruzindana* TJ, para. 93 (emphasis added) (“Regarding the requisite intent the Trial Chamber acknowledges that it may be difficult to find explicit manifestations of intent by the perpetrators. The perpetrator’s actions, *including circumstantial evidence*, however may provide sufficient evidence of intent”); *Kayishema and Ruzindana* AJ (Reasons), para. 159 (“As noted by the Trial Chamber, explicit manifestations of criminal intent are, for obvious reasons, often rare in the context of criminal trials. In order to prevent perpetrators from escaping convictions simply because such manifestations are absent, the requisite intent may normally be inferred from relevant facts and circumstances.”) The Commission of Experts in the Final Report on the Situation in Rwanda, noting the practical necessity of inferring specific intent, suggested the requisite specific intent could be inferred from sufficient facts, such as the number of victims from the group. *Final Report of the Commission of Experts established pursuant to Security Council Resolution 935 (1994)*, Annex to the Letter from the Secretary-General to the President of the Security Council transmitting the final report of the Commission of Experts, UN Doc.S/1994/1405, 9 December 1994, paras 160-168. *See also Revised and Updated Report on the Question of the Prevention and Punishment of the Crime of Genocide*, UN Doc.E/CN.4/Sub.2/1985/6, para. 29 (“relative proportionate scale of the actual or attempted destruction of a group, by any of the means listed in Articles II and III of the Convention, is certainly strong evidence to prove the necessary intent to destroy a group, in whole or in part.”)

<sup>5953</sup> *Blagojević* TJ, para. 656.

<sup>5954</sup> *Nikolić*, Rule 61 Decision, para. 34.

<sup>5955</sup> *Karadžić and Mladić*, Rule 61 Decision, para. 94.

<sup>5956</sup> *Karadžić and Mladić*, Rule 61 Decision, para. 94; *Sikirica* TJ, paras. 46, 61.

<sup>5957</sup> *Karadžić and Mladić*, Rule 61 Decision, para. 94.

<sup>5958</sup> *Krstić* TJ, paras. 580, 595.

<sup>5959</sup> *Krstić* TJ, para. 595.

<sup>5960</sup> *Jelisić* TJ, para. 82, *Krstić* TJ, para. 595.

<sup>5961</sup> *Jelisić* AJ, para. 47; *Akayesu* TJ, paras. 728 and 726.

<sup>5962</sup> *Akayesu* TJ, paras 523, 726,728.

- systematically targeting victims on account of their membership of a particular group while excluding the members of other groups;<sup>5964</sup>
- the repetition of destructive and discriminatory acts;<sup>5965</sup>
- the existence of a plan or policy;<sup>5966</sup>
- the scale of the actual or attempted destruction;<sup>5967</sup>
- the methodical way of planning the killings;<sup>5968</sup>
- the systematic manner of killing<sup>5969</sup> and disposal of bodies;<sup>5970</sup>
- the discriminatory nature of the acts;<sup>5971</sup>
- the discriminatory intent of the accused;<sup>5972</sup>
- all acts or utterances of the accused,<sup>5973</sup> in particular the use of derogatory language towards members of the targeted group;<sup>5974</sup>
- a pattern of purposeful action.<sup>5975</sup>

## ii) Genocide was Committed

2832. The *Krstić* Appeals Chamber stated that “the law condemns, in appropriate terms, the deep and lasting injury inflicted, and calls the massacre at Srebrenica by its proper name: genocide.”<sup>5976</sup> The Prosecution has proven beyond a reasonable doubt that genocide was committed against the Bosnian Muslim population of Srebrenica.

2833. As demonstrated at paras. 212-1129, the VRS and MUP forces engaged in all of the acts enumerated under Article 4(2), including killing over 7,000 Bosnian Muslim men from Srebrenica; causing serious bodily or mental harm to both the female and male members of the Bosnian Muslim population of Srebrenica and Žepa; creating conditions contributing to the destruction of the Muslim population of Srebrenica and Žepa, and contributing to the failure of the Muslim population of Srebrenica and Žepa to live and reproduce normally. These acts were committed with the goal of destroying the Bosnian Muslim people of Eastern Bosnia.

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<sup>5963</sup> *Akayesu* TJ, para. 522. See also *Musema* TJ, para. 166; *Rutaganda* TJ, paras. 61, 398; *Bagilishema* TJ, para. 62.

<sup>5964</sup> *Akayesu* TJ, para. 523. See also *Musema* TJ, para. 166; *Rutaganda* TJ, paras. 61, 398; *Bagilishema* TJ, para. 62.

<sup>5965</sup> *Jelisić* AJ, para. 47; *Karadžić and Mladić* Rule 61 Decision, para. 94.

<sup>5966</sup> *Jelisić* AJ, para. 48.

<sup>5967</sup> *Jelisić* AJ, para. 48.

<sup>5968</sup> *Sikirica* TJ, para. 84; *Kayishema and Ruzindana* TJ, para. 93.

<sup>5969</sup> *Sikirica* TJ, paras. 61, 232.

<sup>5970</sup> *Sikirica* TJ, paras. 84, 103.

<sup>5971</sup> *Sikirica* TJ, paras. 126.

<sup>5972</sup> *Sikirica* TJ, paras. 232.

<sup>5973</sup> *Akayesu* TJ, para. 726; *Kayishema and Ruzindana* TJ, paras. 93, 527; *Bagilishema* TJ, para. 63.

<sup>5974</sup> *Kayishema and Ruzindana* TJ, para. 93.

<sup>5975</sup> *Kayishema* TJ, para. 527; *Bagilishema* TJ, para. 63.

<sup>5976</sup> *Krstić* AJ, paras. 36-37; *Blagojević* TJ, paras. 671-676 (finding that the underlying acts of genocide have been established).

2834. As demonstrated in this Brief,, the Prosecution has proven that the five Accused, by their acts and omissions, are responsible for genocide, and that they had the goal of destroying the Bosnian Muslim people of Eastern Bosnia.

**(BBB) ARTICLE 4 CONSPIRACY TO COMMIT GENOCIDE**

2835. The Accused **PANDUREVIĆ**, **BEARA**, **POPOVIĆ**, **NIKOLIĆ** and **BOROVČANIN** committed the crime of conspiracy to commit genocide (Count 2) under Article 4(3)(b) of the Statute of the Tribunal, as members of joint criminal enterprises to forcibly transfer the Bosnian Muslim population of Srebrenica and Žepa, and to murder the able-bodied Muslim men from Srebrenica.<sup>5977</sup> The Accused are charged under Article 7(1); **PANDUREVIĆ** and **BOROVČANIN** are also charged on the basis of superior responsibility under Article 7(3).

2836. The Appeals Chamber has defined the elements of the crime of conspiracy to commit genocide in the following way:

Conspiracy to commit genocide under Article 2(3)(b) of the Statute has been defined as “an agreement between two or more persons to commit the crime of genocide”. The existence of such an agreement between individuals to commit genocide (or “concerted agreement to act”) is its material element (*actus reus*); furthermore, the individuals involved in the agreement must have the intent to destroy in whole or in part a national, ethnical, racial or religious group as such (*mens rea*).<sup>5978</sup>

**(ccxxxix) Actus Reus: Agreement between two or more persons to commit genocide**

2837. The *actus reus* of conspiracy to commit genocide can be proved by evidence of meetings to plan genocide, but it can also be inferred from other evidence. As the Appeals Chamber explained:

...a concerted agreement to commit genocide may be inferred from the conduct of the conspirators. However, as in any case where the Prosecutor seeks, on the basis of circumstantial evidence, to prove a particular fact upon which the guilt of the accused depends, the existence of a conspiracy to commit genocide must be the only reasonable inference based on the totality of the evidence.

The Appeals Chamber takes the view that the concerted or coordinated action of a group of individuals can constitute evidence of an agreement. The qualifiers “concerted or coordinated” are important: as the Trial Chamber recognized, these words are “the central element that distinguishes conspiracy from unconscious parallelism.”<sup>5979</sup>

2838. In *Niyitegeka* the Tribunal outlined a number of circumstances where it had inferred the existence of a conspiracy to commit genocide based on circumstantial evidence such as

<sup>5977</sup> Accused **MILETIĆ** and **GVERO** are responsible solely for “opportunistic killings” under Counts 4 and 6.

<sup>5978</sup> *Nahimana et al.* AJ, para. 894, referring in particular to *Ntagerura et al.* AJ, para. 92 (other internal references omitted).

<sup>5979</sup> *Nahimana et al.* AJ, paras. 896-897.

the accused's participation and attendance at meetings to discuss the killings; the accused's planning of attacks; the accused's leadership role in conducting and speaking at the meetings.<sup>5980</sup>

2839. The Appeals Chamber has stressed that while the agreement to commit genocide "need not be a formal one" and a tacit agreement will suffice,<sup>5981</sup> it is fundamental that "the existence of a conspiracy to commit genocide must be the only reasonable inference based on the totality of the evidence."<sup>5982</sup>

2840. Conspiracy to commit genocide is an inchoate crime.<sup>5983</sup> There is no need to prove that any of the acts listed at Article 4(2) were in fact committed as a result of the conspiracy. It is the agreement itself that is the crime. In other words, it is the process ("*procédé*") of conspiracy which is punishable and not its result.<sup>5984</sup>

**(ccxl) *Mens Rea*: The specific intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such**

2841. As concluded by the *Nahimana* Appeals Chamber and the *Musema* Trial Chamber, the *mens rea* for conspiracy to commit genocide is the same as that required for the substantive offence, the *dolus specialis* of genocide.<sup>5985</sup>

**(ccxli) Convictions for genocide and for conspiracy to commit genocide can be cumulated**

2842. While the jurisprudence of cumulative convictions has been inconsistently applied to genocide and conspiracy to commit genocide in the ICTR,<sup>5986</sup> the cumulative conviction jurisprudence of this Tribunal is most in line with the *Kambanda* ICTR Appeals Chamber judgement which upheld a conviction of both genocide and conspiracy to commit genocide and allowed the defendant's sentence to incorporate both crimes.<sup>5987</sup>

<sup>5980</sup> *Niyitegeka* TJ, paras. 427-428.

<sup>5981</sup> *Nahimana* AJ, para. 898.

<sup>5982</sup> *Nahimana* AJ, para. 896.

<sup>5983</sup> *Nahimana et al.* AJ, para.720. See also *Musema* TJ, paras.193-194; *Niyitegeka* TJ, para. 423.

<sup>5984</sup> *Musema* TJ, paras 193-194; See also *Kajelijeli* TJ, para. 788; *Seromba* TJ, para. 345

<sup>5985</sup> *Nahimana et al.* AJ, para.894; *Musema* TJ, para. 192.

<sup>5986</sup> See e.g., *Musema* TJ, para. 198 (where the Trial Chamber found that "an accused cannot be convicted of both genocide and conspiracy to commit genocide"). This differs from the common law approach, however it was adopted in *Musema* for the reason that it is the definition most favourable to the Accused and the court failed to find a purpose in convicting for both substantive crimes.

<sup>5987</sup> *Kambanda* TJ, s.IV; *Kambanda* AJ, para. 112. "The Appellant pleaded guilty to six counts under Article 2 (Genocide) and Article 3 (Crimes against humanity) of the Statute, for which he was subsequently convicted. These acts were carried out in Rwanda during a specific time period (1994) and formed part of a single set of crimes related to the widespread and systematic attack against the Tutsi civilian population of Rwanda, the purpose of which was to kill them. The Appeals Chamber finds that this was therefore a case in which it was appropriate to impose a single sentence for the multiple convictions."

2843. As the Appeals Chamber recently confirmed in *Stakić*, the test for cumulative convictions adopted by the *Čelibići* Appeal Chamber is the well-settled jurisprudence of both the ICTY and the ICTR.<sup>5988</sup>

2844. Convictions for genocide and conspiracy to commit genocide can co-exist on the basis of the same acts and omissions in this case because each of these crimes has at least a legal element not required by the other. Conspiracy to commit genocide requires proof of an agreement, which is not required for the crime of genocide. Genocide requires that one of the acts enumerated under Article 4(2) of the Statute be committed, which is not required for the crime of conspiracy to commit genocide. Indeed, as explained above, conspiracy to commit genocide is a separate, inchoate offence which is punishable, even if the underlying genocide is never perpetrated.<sup>5989</sup>

2845. The fact that, in the present case, the Accused are charged with committing genocide through a joint criminal enterprise – which requires proof of an agreement just like conspiracy to commit genocide – is irrelevant for cumulative convictions. To assess whether convictions can be cumulated, one has to compare the legal elements of the crimes themselves, not the elements of the modes of liability.<sup>5990</sup>

**(ccxlii) The Accused Conspired to Commit Genocide**

2846. As demonstrated at paras. 212-1129 and in their individual liability sections of this Brief, the Prosecution has proven that the five Accused conspired to commit genocide with the goal of destroying the Bosnian Muslim people of Eastern Bosnia.

**(CCC) ARTICLE 5 CRIMES AGAINST HUMANITY**

2847. The Accused **PANDUREVIĆ, BEARA, POPOVIĆ, NIKOLIĆ, MILETIĆ, GVERO** and **BOROVČANIN** are responsible for the crimes of murder (Counts 4), persecutions (under Count 6), forcible transfer (under Count 7) and deportation (Count 7), all crimes against humanity under Article 5 of the Statute of the Tribunal, as members of joint criminal enterprises to forcibly transfer the Bosnian Muslim population of Srebrenica and

<sup>5988</sup> *Čelibići* AJ, paras. 412-413. See also *Stakić* AJ, para. 357, stating that where the test is clear, it is “unnecessary to deal with the peripheral submissions of the parties concerning tests in domestic jurisdictions on the underlying social values and interests reflected in particular crimes.”

<sup>5989</sup> See *Nahimana et al* AJ, para.720; *Musema* TJ para. 193, n. 37, quoting *Akayesu* TJ, para. 52, 194-198.

<sup>5990</sup> “Joint criminal enterprise and ‘conspiracy’ are two different forms of liability. Whilst conspiracy requires a showing that several individuals have agreed to commit a certain crime or set of crimes, a joint criminal enterprise requires, in addition to such a showing, that the parties to that agreement took action in furtherance of that agreement. In other words, while mere agreement is sufficient in the case of conspiracy, the liability of a member of a joint criminal enterprise will depend on the commission of criminal acts in furtherance of that enterprise.” *Ojdanić* JCE AD, para. 23.

Žepa, and to murder the able-bodied Muslim men from Srebrenica.<sup>5991</sup> Additionally, all the Accused, with the exception of **MILETIĆ** and **GVERO**, committed the crime of extermination (Count 3). The Accused are charged on the basis of Article 7(1); **PANDUREVIĆ** and **BOROVČANIN** are also charged on the basis of superior responsibility under Article 7(3).

**(ccxliii) Common to All Charged Offences Under Article 5**

2848. The common *chapeau* elements required to establish crimes against humanity are met in the cases against all seven Accused:

- a) The existence of an armed conflict;<sup>5992</sup>
- b) The existence of a widespread or systematic attack directed against a civilian population;
- c) The Accuseds' acts were part of a widespread or systematic attack directed against a civilian population;<sup>5993</sup>
- d) The Accused were aware that there is an attack on the civilian population and that their acts comprise part of that attack.<sup>5994</sup>

2849. As has been demonstrated at Sections II A and III D, at all times relevant to the Indictment, a state of armed conflict existed in the Republic of Bosnia and Herzegovina. The evidence set out above, describing the attack on Srebrenica and Žepa, makes clear that there also existed a widespread and systematic attack against a civilian population - the Bosnian Muslims of Srebrenica and Žepa - at the time of the crimes charged. The conduct of all Accused was related to these attacks on the civilian population. All the Accused were clearly aware that the attacks were carried out on the civilian population and that their acts comprised part of that attack. Moreover, all of the Accused were career VRS or MUP officers and, as such, would have been fully aware of the war in progress and the associated campaign to rid Srebrenica and Žepa of Muslims.

**(ccxliv) A state of armed conflict existed at all times relevant to this Indictment**

2850. The armed conflict may be internal or international.<sup>5995</sup> Article 5 does not impose any substantive connection between the crime charged and the armed conflict.<sup>5996</sup> It is sufficient that the acts coincide geographically and temporally with the armed conflict.<sup>5997</sup>

<sup>5991</sup> **MILETIĆ** and **GVERO** are responsible solely for "opportunistic killings" under Counts 4 and 6.

<sup>5992</sup> *Kunarac* AJ, para. 82; *Milutinović* TJ, para. 140.

<sup>5993</sup> *Kordić* AJ, para. 93; *Martić* AJ, paras. 302, 313-314.

<sup>5994</sup> *Kordić* AJ, para. 100; *Kunarac* AJ, para. 102; *Blaškić* AJ, para. 125; *Milutinović* TJ, para. 143.

<sup>5995</sup> *D. Tadić* Jurisdiction Decision, para. 142; *see also Kvočka* TJ, para. 127.

<sup>5996</sup> *D. Tadić* AJ, paras 249; *see also Galić* TJ, para. 139; *Kunarac* TJ, para. 413.

2851. As has been demonstrated above at Section II A (i), a state of armed conflict existed in the eastern Bosnian municipalities of Bratunac, Srebrenica, Višegrad and Zvornik from April 1992 until late fall 1995.

**(ccxlv) There was a widespread and systematic attack directed against the Bosnian Muslim civilian population of Srebrenica and Žepa**

**Legal Standard**

2852. “Attack” means a “course of conduct involving the commission of acts of violence” which is not limited to armed combat<sup>5998</sup> and which encompasses any mistreatment of the civilian population, or people inactive in hostilities, such as a detainee.<sup>5999</sup> An attack may be “composed of conduct causing physical or mental injury, as well as acts preparatory to such conduct.”<sup>6000</sup>

2853. The attack need not be both “widespread” and “systematic;” either of the two alternatives is sufficient.<sup>6001</sup> The term “widespread” refers to the large-scale nature of the attack and the number of targeted persons,<sup>6002</sup> regardless of geographic scope. The term “systematic” “signifies the organised nature of the acts of violence and the improbability of their random occurrence.”<sup>6003</sup> “Since a widespread attack targeting a large number of victims generally relies on some form of planning or organisation,”<sup>6004</sup> the fact that an attack was widespread could itself be evidence of the attack’s systematic nature.<sup>6005</sup>

2854. Proof of an overall plan or policy to victimise a population is not a requisite element for crimes against humanity.<sup>6006</sup> While evidence of a plan or policy may support the systematic nature of attack, other factors may indicate a widespread or systematic attack such as the consequences of the attack upon the targeted population, the number of victims, the

<sup>5997</sup> *Milutinović* TJ (Vol. 1), para. 140; *Kunarac* AJ, para. 83; *Stakić* TJ, paras. 623-24; *Naletilić* TJ, para. 233; *Tadić* AJ, paras. 239, 249, 251.

<sup>5998</sup> *Naletilić* TJ, para. 233; *Kunarac* TJ, paras 415-416; *See also Milutinović* TJ, (Vol. 1) para 144.

<sup>5999</sup> *See Blagojević* TJ, para. 543; *Kunarac* AJ, para. 86 (“the attack in the context of a crime against humanity is not limited to the use of armed force; it encompasses any mistreatment of the civilian population”); *Milutinović* TJ, (Vol. 1) para. 144; *Stakić* TJ, para. 623 (an attack “is not limited to the use of armed force, it encompasses any mistreatment of the civilian population”).

<sup>6000</sup> *Krajišnik* TJ, para. 706, *Haradinaj* TJ, para. 104.

<sup>6001</sup> *Kunarac* AJ, para 93 (citing *Tadić* AJ, para. 248); *Kordić* TJ, para. 178, *Milutinović* TJ (Vol. 1), para 150.

<sup>6002</sup> *Milutinović* TJ (Vol. 1), para. 150; *Blaškić* AJ, para. 101; *Kordić* AJ, para. 64; *Kunarac* AJ, para. 94.

<sup>6003</sup> *Milutinović* TJ (Vol. 1), para. 150; *Kunarac* TJ, para. 429; *See also Simić* TJ, para. 43; *Stakić* TJ, para. 625; *Naletilić* TJ, para. 236; *Kunarac* AJ, para. 94; *Krnjelac* TJ, para. 57; *Tadić* TJ, para. 648.

<sup>6004</sup> *Blaškić* TJ, para. 207.

<sup>6005</sup> *Tadić* TJ, para. 653; *Jelišić* TJ, para. 53.

<sup>6006</sup> *Milutinović* TJ (Vol. 1), para 151; *Blaškić* AJ, paras 100, 120; *Simić* TJ, para. 44; *Naletilić* TJ, para. 234; *Vasiljević* TJ, para. 36; *Kunarac* AJ, para. 98.



nature of the acts, the possible participation of officials or authorities and identifiable patterns of crimes.<sup>6007</sup>

2855. To establish that the attack was directed against a civilian population, it must be shown that the civilian population was the primary object of the attack.<sup>6008</sup> In other words, the civilian population “must be the primary rather than an incidental target of the attack.”<sup>6009</sup> In addition, the Chamber must be satisfied that, “the attack was in fact directed against a civilian population and not only against a limited number of individuals who were randomly selected.”<sup>6010</sup>

2856. As the Appeals Chamber has explained, “[T]he civilian population need only be *predominantly* civilian”<sup>6011</sup> (emphasis added). “The presence of combatants within the population at issue does not alter its civilian character.”<sup>6012</sup> A population may thus be considered “civilian” even if individuals actively participating in hostilities as well as persons *hors de combat* are present.<sup>6013</sup> The *Martić* Appeals Chamber established that “the status of victims of a crime against humanity is not restricted to ‘civilians’”<sup>6014</sup> and confirmed that persons *hors de combat* can be counted among the victims of Article 5 crimes provided that all conditions under the *chapeau* of Article 5 of the Statute are met.<sup>6015</sup> The fact that some Muslim men of military age, including some military personnel and persons *hors de combat*, were present in the Srebrenica and Žepa enclaves does not negate the civilian nature of these population for the purposes of Article 5.

<sup>6007</sup> *Stakić* TJ, para. 625; *Kunarac* AJ, paras 94-96, *Milutinović* TJ (Vol. 1), para 151.

<sup>6008</sup> *Mrkšić* AJ, para. 25.

<sup>6009</sup> See *Kunarac* AJ, paras. 91-92. To determine whether the civilian population was the primary object of the attack, a Trial Chamber must take into consideration “the means and method used in the course of the attack; the status of the victims; their number; the discriminatory nature of the attack; the nature of the crimes committed in its course of the attack; the resistance to the assailants at the time; and the extent to which the attacking force may be said to have complied or attempted to comply with the precautionary requirements of the laws of war.” *Id.*, para. 91. See also *Milutinović* TJ (Vol. 1), para. 149; *Mrkšić* AJ, para. 30.

<sup>6010</sup> *Stakić* AJ, para. 247, (quoting *Kunarac* AJ, para. 90); *Milutinović* TJ (Vol. 1), para 145; *Simić* TJ, para. 42; *Naletilić* TJ, para. 235. In addition, “[w]hen establishing whether there was an attack upon a particular civilian population, it is not relevant that the other side also committed atrocities against its opponent’s civilian population.” *Kunarac* AJ, para. 87

<sup>6011</sup> *Mrkšić* AJ, para. 25 (emphasis added). A population may be considered “civilian” even if individuals actively participating in hostilities as well as persons *hors de combat* are present. See *Kupreškić* TJ, para. 549 (“Thus the presence of those actively involved in the conflict should not prevent the characterisation of a population as civilian and those actively involved in a resistance movement can qualify as victims of crimes against humanity.”); see also *Blaškić* AJ, paras 113-115; *Kunarac* TJ, para. 425.

<sup>6012</sup> *Milutinović* TJ (Vol. 1), para. 146

<sup>6013</sup> See *Mrkšić* AJ, para. 29. See also *Kupreškić* TJ, para. 549 (“Thus the presence of those actively involved in the conflict should not prevent the characterisation of a population as civilian and those actively involved in a resistance movement can qualify as victims of crimes against humanity.”); *Milutinović* TJ (Vol. 1), para. 147; *Blaškić* AJ, paras 113-115; *Kunarac* TJ, para. 425.

<sup>6014</sup> *Martić* AJ, para. 309; *Mrkšić* AJ, paras. 29-33.

<sup>6015</sup> *Martić*, AJ, para. 313; See also *Mrkšić* AJ, paras. 31-32; *Milutinović* TJ (Vol. 1), para. 147; *Muhimana* TJ, para. 528 (“the attack must be directed against a civilian population. The presence of certain individuals within the civilian population who do not all fall within the definition of civilians does not change the civilian character of this population”).

2857. Notably, both the *Krstić* and *Blagojević* Trial Chambers found that the attack on Srebrenica was a widespread or systematic attack directed against a civilian population.<sup>6016</sup>

As the *Blagojević* Appeals Chamber concluded:

The totality of evidence relating to the forcible transfer and the detention and mistreatment in Bratunac town, in particular when coupled with the humanitarian crisis that followed the fall of the Srebrenica enclave, leaves no room for any other reasonable conclusion about the nature of the attack.<sup>6017</sup>

2858. Neither the facts nor the law have changed since the judgments in the *Krstić* and *Blagojević* Judgements were issued.

### **Application of Facts**

2859. The Prosecution in this case has proven that a widespread or systematic attack was directed against the Bosnian Muslim civilian population of Srebrenica and Žepa and their surroundings. The attack carried out by the VRS and MUP on the Srebrenica and Žepa enclaves was planned and defined in the “Krivaja” 95 Order.<sup>6018</sup> Moreover, the attack on the civilian population continued after the fall of the Srebrenica and Žepa enclaves and severely affected all of the people who were residing in the enclaves at the time.

2860. The evidence in this case has shown that at the time of the attack on the Srebrenica enclave, the overwhelming majority of persons in the enclave were civilians. Evidence has shown that the Bosnian Muslim population of Srebrenica totalled over 30,000 in 1995,<sup>6019</sup> with approximately 4,000-5,000 of these men being active military personnel or persons *hors de combat*.<sup>6020</sup> Evidence has also shown that only around one third of the men in the column of approximately 15,000 fleeing to Tuzla were Bosnian Muslim soldiers from the 28<sup>th</sup> Division.<sup>6021</sup> Accordingly, at the time of the attack on Srebrenica, the vast majority of the enclave’s population were civilians.

<sup>6016</sup> *Krstić* TJ, para. 482; *Blagojević* TJ, para. 543, 551-552; *Blagojević* AJ, para. 101.

<sup>6017</sup> *Blagojević* AJ, para. 101.

<sup>6018</sup> See paras. 276-280.

<sup>6019</sup> See *supra* at paras. 459 and 489.

<sup>6020</sup> Evidence has shown that anywhere from 1,000 to approximately 5,000 soldiers were present in the Srebrenica enclave in 1995. See e.g., BOERING, T. 2065-2068 (referring to his estimate of a “nucleus” of 1,000 well-trained soldiers in the Srebrenica enclave); Exh. 1D00020, UNMO Document, titled Postscript to Srebrenica dated 26 July 1995 (which reads: “Strength ABiH: not known, however the usual estimate of 10% of the population would give a force of approximately 4,000”); Exh. 3D00457, Internal memorandum from Ewa Tabeau to Peter McCloskey: ABiH Military Records Overlapping with 2005 OTP List of Srebrenica Missing, with Annexes 1, 2 and 3, dated 24 July 2008 (calculating that 5,371 men on the Srebrenica Missing and Dead List could also be found on the ABiH List, but also noting that, in OTP Demographic Unit’s assessment, the ABiH List is not reliable).

<sup>6021</sup> See *supra* at para. 313. See also Prosecution Adjudicated Fact 256. Only about a third of the column successfully made it across the road at Konjević Polje. Prosecution Adjudicated Fact 261. More than 5,000 men were captured from the column and detained together with the Bosnian Muslim men from Potočari. Almost all of them were subsequently executed.

2861. Similarly, while there are no firm figures concerning the numbers of BiH soldiers inside the Žepa enclave, evidence has shown that of the approximately 8,000 people living in Žepa in 1995 (many of whom had previously fled to Žepa as a result of VRS attacks in 1992),<sup>6022</sup> around 700 to 1,500 were active military personnel or persons *hors de combat*.<sup>6023</sup> Of the able-bodied men remaining in the enclave, although General Smith notes the problem of differentiating soldiers from civilian able-bodied men, or men otherwise *hors de combat*,<sup>6024</sup> there are estimates that only one half of them were armed.<sup>6025</sup> Accordingly, at the time of the attack on Žepa, the vast majority of the enclave's population were civilians.

2862. Finally, it is very clear from the way in which the VRS attacked the Srebrenica and Žepa enclaves that "the attack was in fact directed against a civilian population and not only against a limited number of individuals who were randomly selected."<sup>6026</sup> As has been demonstrated above, the humanitarian aid into the enclaves was restricted from the entire population; enclaves were indiscriminately shelled and sniped; all women, children and elderly were forced on to buses and transported out of the enclaves; and the men were either forcibly separated from their families while trying to board the buses or were forced to flee the enclaves into the woods where they were later captured or forced to surrender. The Bosnian Serbs indiscriminately targeted all Bosnian Muslim men of military age, regardless of their status as soldiers, *hors de combat* or civilians, without conducting any genuine screening for war criminals. The means and method of attack, the crimes committed and the attack's discriminatory nature provide further proof that the attack on the enclaves was directed against the civilian population.<sup>6027</sup>

**(ccxlv) The Accuseds' acts were part of the widespread or systematic attack directed against the Bosnian Muslim civilian population**

**Legal Standard**

2863. The acts of the Accused must form a part of the widespread or systematic attack.<sup>6028</sup> However, "the acts of the physical perpetrator need not be committed in the midst of an attack on a civilian population in order to be considered part of that attack."<sup>6029</sup> Rather,

<sup>6022</sup> See PALIĆ, T. 6909-6910, 6955.

<sup>6023</sup> See TORLAK, T. 9721 (noting that there were about 1,200 able-bodied men in Žepa, of whom only 600 to 700 were armed, and they were commanded by Colonel Palić). Approximately 5,000 civilians were forcibly transferred to Kladanj by the evening of 28 July. See DIBB, T. 16289 (estimating that close to 4,000 people were transported during two full days of forcible transfers from Žepa); [REDACTED].

<sup>6024</sup> Rupert Smith, T. 17541.

<sup>6025</sup> See TORLAK, T. 9721.

<sup>6026</sup> Stakić AJ, para. 247, quoting Kunarac AJ, para. 90); Simić TJ, para. 42; Naletilić TJ, para. 235.

<sup>6027</sup> Kunarac AJ, para. 91.

<sup>6028</sup> Mrkšić AJ, para. 41; Kunarac AJ, para. 99.

<sup>6029</sup> Milutinović TJ, (Vol. 1) para. 152; See also Mrkšić AJ, para. 41.

“[t]he acts of the accused need to objectively 'form part' of the attack by their nature or consequences, as distinct from being committed in isolation.”<sup>6030</sup> Thus, “a crime committed several months after, or several kilometres away from, the main attack against the civilian population could still, if sufficiently connected, be part of that attack.”<sup>6031</sup> Notably, in *Blagojević*, the Trial Chamber found that the Accused’s forcible transfer of the Muslim males from Srebrenica to Potočari and then on to temporary detention facilities was part of the attack against the civilian population.<sup>6032</sup>

### **Application of Facts**

2864. Evidence establishes that the Accuseds’ conduct, including their participation in the crimes of extermination, murder, persecutions and forcible displacement of the Bosnian Muslim population, formed part of a pattern of widespread or systematic crimes directed against the Muslim civilian population of Srebrenica and Žepa, and that such conduct was, by its very nature and the grave consequences thereof, part of the attack.

2865. The forced removals of the Muslim men were part and parcel of the displacement directed against the entire civilian population of Srebrenica and Žepa. The Bosnian males who fled Srebrenica, only to be separated out at Potočari or captured along the Bratunac-Konjević Polje road, were part of the same mass flight of women, children and elderly forced to leave Srebrenica as a result of the Bosnian Serb forces’ widespread and systematic attack on the civilian population of the Srebrenica and Žepa enclaves. The Bosnian Muslim males who left Žepa by swimming across the Drina River did so as a result of the Bosnian Serbs actively transferring the rest of the population away from the enclave. The displacement of the Muslim men was not independent from the general removal of the Muslim civilian population but rather an integral part of it. It was, therefore, part of the attack on the civilian population.

2866. Notably, the circumstances surrounding the Bosnian Muslim men who fled Srebrenica, only to be separated out at Potočari or captured along the Bratunac-Konjević Polje road, are distinguishable from the circumstances of the victims in the recently decided

<sup>6030</sup> *Brdanin* TJ, para. 132, quoting *D.Tadić* AJ, para. 248. See also *Kunarac* AJ, paras. 85, 99-101, *Milutinović* TJ (Vol. 1), para 152.

<sup>6031</sup> *Brdanin* TJ, para. 132, citing *Kunarac* TJ, para. 417, *et seq.* See also *Mrkšić* AJ, para. 41, *Milutinović* TJ (Vol. 1), para 152.

<sup>6032</sup> *Blagojević* TJ, para. 616. See also *Martić*, where military operations conducted against Croat villages in the SAO Krajina resulted in residents being forced to flee, being killed or beaten, the destruction of property, and the capture, detention and mistreatment of hundreds of non-Serb civilians, as well as members of the Croat armed forces. See *Martić* TJ, paras. 349, 351. The Appeals Chamber concluded that the Article 5 crimes against this last group, who were *hors de combat*, were part of the attack against the civilian population given “the timing, the perpetrators, and the fact that the crimes occurred in connection with the attack and with other similar crimes against civilians.” *Martić* AJ, para. 318.

*Mrkšić* Appeals Judgement.<sup>6033</sup> In *Mrkšić*, 93 percent of the *Mrkšić* victims were known to have been active in the armed forces.<sup>6034</sup> In the instant case, neither group of men fleeing the Srebrenica or Žepa enclaves comes close to approaching the ratio of military to civilian of 93:7 that legitimised the screening process in *Mrkšić* and found the connection between the separation and transfer of the men and the attack on the civilian population, lacking.

**(ccxlviii) The Accused had knowledge of the attack on the civilian population and their conduct formed part of that attack**

**Legal Standard**

2867. In *Milutinović*, the Trial Chamber formulated a two-prong approach to determining whether a perpetrator knew that his acts constituted part of a pattern of widespread or systematic crimes against a civilian population. A physical perpetrator, or the person who planned, ordered, or instigated his conduct has knowledge if he or she “(a) knows that there is a widespread or systematic attack on the civilian population and (b) knows or takes the risk that the conduct of the physical perpetrator comprises part of the attack.”<sup>6035</sup> However, it is well established that “the accused need not know the details of the attack, nor share the motive, intent, or purpose of those involved in the attack.”<sup>6036</sup> It is sufficient to show that the accused had a “knowledge of certain events, not necessarily every attack” in order for the Trial Chamber to conclude that “the perpetrator had notice of the wider context and nature of crimes.”<sup>6037</sup>

**Application of Facts**

2868. It is inconceivable that the very persons engaged in the attacks upon the Srebrenica and Žepa enclaves in July 1995 could have been unaware that these widespread attacks were

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<sup>6033</sup> In *Mrkšić*, the Appeals Chamber found that the Accused’s criminal acts with respect to victims who were non-Serb men of military age, were not sufficiently connected to the attack on the civilian population of Vukovar to constitute a crime against humanity (*Mrkšić* AJ, para. 42). However, in *Mrkšić*, “virtually all non-Serb males of military age had become involved in the Croat forces,” (*Mrkšić* TJ, para. 475). The charged crimes occurred only after the perpetrators had separated out non-Serb men of military age from the rest of the population at the Vukovar Hospital based on their involvement in the armed forces, (*Mrkšić* AJ, para. 42; *Mrkšić* TJ, para. 474) such that those particular victims could be seen as distinct from the Vukovar civilian population. By contrast, in this case, by the time of their separation or capture, the Bosnian Muslim men had already been the victims of forcible transfer, due to their earlier flight from Srebrenica. Their separation and capture at Potočari or along the Bratunac-Konjević Polje road was a continuation (and worsening) of the crimes that the Accused were committing against them and the rest of the Muslim population of Srebrenica.

Moreover, unlike in *Mrkšić*, the men who were separated in Potočari were either civilians or *hors de combat*. Of the men detained along the Bratunac-Konjević Polje road, two-thirds were civilians or unarmed military personnel, while the remainder were soldiers from the 28<sup>th</sup> Division.

<sup>6034</sup> *Mrkšić* AJ, para. 36, fn. 114.

<sup>6035</sup> *Milutinović* TJ (Vol. 1), para 160.

<sup>6036</sup> *Simić* TJ, para. 45; see also *Milutinović* TJ (Vol. 1), para 160; *Kordić* AJ, para. 99; *Blaškić* AJ, para. 124; *Kunarac* AJ, para. 103.

<sup>6037</sup> *Dragomir Milošević* TJ, para. 929, *Milutinović* TJ (Vol. 1), para 160.

taking place. Indeed, evidence establishes that all of the Accused must have been aware of these attacks owing to their intimate involvement in various, and in some cases all, aspects of the attacks including: first, the restrictions on food and aid from entering the enclaves; then, sniping and shelling the enclaves; further, forcibly displacing the Bosnian Muslim population of Srebrenica and Žepa; and finally, the mass murders of Muslim men. All of these components of the attack took place over a concentrated period of time. Tellingly, evidence has shown that the Accused were also involved in an operation to cover up the murders.

**(ccxlviii) Elements of Specific Crimes**

2869. For all of the specific crimes discussed below, criminal liability attaches if the Accused acted wilfully; that is, deliberately, and not by accident. This *mens rea* includes not only the Accused's intent to cause the result, but also the Accused acting with reckless disregard as to whether such a result would occur. As has been shown above, the *mens rea* has been proven in respect of each of the Accused.

**Article 5(a): Murder (Count 4)**

*Legal Standard*

2870. To establish murder in violation of Article 5(a), the Prosecution must prove: (a) the death of a victim; (b) caused by the accused's act or omission; with (c) the Accused's intention to kill or inflict serious injury in reckless disregard of human life.<sup>6038</sup>

2871. Both acts and omissions may satisfy the *actus reus*.<sup>6039</sup> The conduct of the Accused must be a "substantial cause" of the death of the victim.<sup>6040</sup> Conclusive proof of the victim's death may be proved either directly or circumstantially.<sup>6041</sup>

2872. The *mens rea* is satisfied where the Accused intended to kill or to inflict serious injury in reckless disregard of human life.<sup>6042</sup> This intent may be inferred from the circumstances, for instance, if death is a foreseeable consequence of the acts or omissions of the Accused or if the recklessness of the Accused is demonstrated by the taking of an excessive risk.<sup>6043</sup>

<sup>6038</sup> Čelebići AJ, para. 422-423; Brdanin TJ, para. 381; Stakić TJ, para. 584; Kvočka TJ, para. 132; Krstić TJ, para. 485; Blaškić TJ, para. 153; Kupreškić TJ, paras 560-561; Jelisić TJ, para. 35.

<sup>6039</sup> Čelebići TJ, para. 424.

<sup>6040</sup> Čelebići TJ, para. 424. See Brdanin TJ, para. 382.

<sup>6041</sup> ICTY jurisprudence has taken into consideration the impossibility of providing death certificates or even bodies to prove death, Krnojelac TJ, paras 326-327. See also Tadić TJ, para. 240.

<sup>6042</sup> See Strugar TJ, para. 236; Krnojelac TJ, paras 434; see also Akayesu TJ, para. 589.

<sup>6043</sup> Krnojelac TJ, para. 324; Blaškić TJ, para. 217; Čelebići TJ, para. 437; Akayesu TJ, para. 589.

*The Muslim Men of Srebrenica were Murdered*

2873. The Prosecution has proven that over 7,000 Muslim men from Srebrenica are dead or missing. The evidence overwhelmingly shows that these victims were killed both in planned mass executions and opportunistically. Accordingly, there can be no doubt that the deaths of these Muslim men were caused by the perpetrators' unlawful acts, with the intent to kill the victims. For a discussion of the killings, see Section III D and E. For a discussion of forensic and DNA evidence in relation to the killings, see Section IV (Ixi).

2874. The Prosecution has proven beyond a reasonable doubt that the Accused are responsible for murder as members of the two JCEs, having likewise proven that they fully intended the murder of these men.

**Article 5(b): Extermination (COUNT 3)**

*Legal Standard*

2875. Extermination under Article 5(b) "is the act of killing on a large scale."<sup>6044</sup> The elements of extermination are: (a) that Accused or his subordinates participated in the act of killing on a large scale or subjected people to conditions of living that would inevitably lead to death;<sup>6045</sup> and (b) that the act or omission was done with the intent to kill or the intent to cause serious bodily injury to the victim, which the perpetrator must have reasonably known was likely the result in death.<sup>6046</sup>

2876. The offence of extermination, as distinguished from the offence of murder, necessarily requires mass destruction.<sup>6047</sup> The term "mass" or "on a large scale" does not command a numerical imperative but may be determined on a case-by-case basis using a common sense approach.<sup>6048</sup> The *Krstić* Trial Judgement held that "extermination" could also be applied to the commission of a crime which is not "widespread" but "nonetheless consists of eradicating an entire population," (that is, the Bosnian Muslims of Srebrenica) resulting in a further finding that "while extermination generally involves a large number of victims, it may be constituted even where the number of victims is limited."<sup>6049</sup>

2877. Extermination requires that the victims be "certain named or described persons," meaning simply any group of individuals categorised in a certain way by the perpetrator.<sup>6050</sup>

<sup>6044</sup> *Ntakirutimana* AJ, para. 516; *See also Akayesu* TJ, paras. 590-591.

<sup>6045</sup> *Stakić* AJ, para. 259; *Brdanin* TJ, para. 388; *Stakić* TJ, para. 638; *Akayesu* TJ, para. 591.

<sup>6046</sup> *Stakić* AJ, para. 259; *Brdanin* TJ, para. 388; *Vasiljević* TJ, para. 229; *See also Stakić* TJ, para. 642; *Ntakirutimana* AJ, para. 522.

<sup>6047</sup> *Akayesu* TJ, para. 590-591.

<sup>6048</sup> *Krstić* TJ, para. 501; *Kayishema* TJ, para. 145.

<sup>6049</sup> *Stakić* AJ, para. 261; *Krstić* TJ, para. 501; *Ntakirutimana* AJ, para. 516.

<sup>6050</sup> *See e.g. Akayesu* TJ, para. 313.

Apart from the requirement that the victims be members of a civilian population, “described” individuals need not share common characteristics, and may comprise groups that exist as groups only in the mind of the perpetrator.<sup>6051</sup> Furthermore, as distinguished from genocide, the crime of extermination can be made out in cases where “the offender need not have intended to destroy the group or part of the group to which the victims belong.”<sup>6052</sup>

2878. The *Stakić* Appeal Judgement has made clear that the crime of extermination does not require “the intent to kill thousands in order to meet the threshold of severity and gravity of the crime.”<sup>6053</sup>

*The Muslim Men of Srebrenica were Exterminated*

2879. The evidence proves beyond a reasonable doubt that the Bosnian Serb forces killed Bosnian Muslim men from Srebrenica, on a massive scale, in a short time period of time following the fall of Srebrenica, with the requisite intention to do so. The Prosecution has also proven beyond a reasonable doubt that the Accused are responsible for murder as members of the two JCEs.

**Article 5(h): Persecution (COUNT 6)**

*Legal Standard*

2880. Persecution under Article 5(h) requires an act or omission which:

- (a) discriminates in fact and which denies or infringes upon a fundamental right laid down in international customary law or treaty law (*actus reus*); and
- (b) was carried out deliberately with the intention to discriminate on racial, religious, political or ethnic grounds (*mens rea*).<sup>6054</sup>

2881. The cumulative effect of all of the underlying acts or omissions of the crime of persecution must reach a level of gravity equivalent to that of other crimes against humanity.<sup>6055</sup> In *Kupreškić*, the Trial Chamber described persecutions as “gross or blatant denials, on discriminatory grounds, of a fundamental right, laid down in international customary or treaty law.”<sup>6056</sup> Persecutory acts include non-physical acts of an economic or judicial nature<sup>6057</sup> as well as physical acts (such as extermination, killings, beatings, torture,

<sup>6051</sup> *Ntakirutimana* AJ, para. 521 (“It is not an element ... that a precise identification of certain named or described persons’ be established”).

<sup>6052</sup> *Brdanin* TJ, para. 390; *Vasiljević* TJ, para. 222, 227; *Stakić* TJ, para. 639.

<sup>6053</sup> *Stakić* AJ, para. 261. Customary law does not require an intent to kill “a certain threshold number of victims.” See *id.* Para. 260.

<sup>6054</sup> *Kvočka* AJ, para. 320; *Nahimana* AJ, para. 985; *Kordić* AJ, paras. 950-951; *Krnjelac* AJ, paras. 47, 185.

<sup>6055</sup> *Nahimana* AJ, paras. 985, 987.

<sup>6056</sup> *Kupreškić* TJ, para. 621. The *Krstić* TJ refers to this passage in the *Kupreškić* TJ as a definition, and seems to accept it, see para. 534. See also *Tadić* TJ, para. 697, *Milutinović* TJ (Vol. 1), para. 175

<sup>6057</sup> *Tadić* TJ, paras 704-710; see also *Kupreškić* TJ, paras 610-613; *Krajišnik* TJ, paras 736, 741.



enslavement, imprisonment, and deportation).<sup>6058</sup> Although “persecution usually refers to a series of acts, a single act may be sufficient.”<sup>6059</sup> Destruction of personal property can also be a persecutory act.<sup>6060</sup>

2882. The Accused are charged with persecutions including murder and forcible transfer, which are covered by other Counts in the Indictment, as well as with cruel or inhumane treatment;<sup>6061</sup> terrorising the civilian population;<sup>6062</sup> and the destruction of personal property.<sup>6063</sup>

2883. The requirement of discriminatory intent is intended as an objective element, requiring the existence of discrimination “in fact.”<sup>6064</sup> In addition to being within the scope of the grounds enumerated in the Statute, the discriminatory intent must also rise to a degree slightly higher than the intent required of other crimes against humanity.<sup>6065</sup> In order to satisfy the *mens rea* requirement for persecution, the Accused “must consciously intend to discriminate.”<sup>6066</sup> It “is not sufficient for the accused to be aware that he is in fact acting in a way that is discriminatory.”<sup>6067</sup> However, the discriminatory intent “need not be the primary intent with respect to the act, it must be a significant one.”<sup>6068</sup> Moreover, there “is no requirement under persecution that a discriminatory policy exist or that, in the event that such a policy is shown to have existed, the accused has taken part in the formulation of such discriminatory policy or practice by a governmental authority.”<sup>6069</sup>

<sup>6058</sup> *Blaskić* AJ, para. 143, *Krnojelac* AJ, paras 221-222; *Kupreškić* TJ, paras. 594, 601.

<sup>6059</sup> *Krnojelac* TJ, para. 433.

<sup>6060</sup> Destruction is only justified if “rendered absolutely necessary by military operations” (Geneva Convention IV, Article 53).

<sup>6061</sup> Indictment, para. 48(b). Inhumane (and hence cruel) treatment causes serious mental or physical suffering or injury, or constitutes a serious attack on human dignity. Inhumane acts include: “beatings and other acts of violence” (*Tadić* TJ, paras 729-730) and “serious physical and mental injury” (*Blaškić* TJ, para. 239). Cruel treatment includes acts of severe beatings, forced drinking of urine, infliction of burns and acts of sexual violence (*Čelebići* TJ, paras 1018, 1058-1059, 1066), the use of human shields (*Blaškić* TJ, paras 742-743), beatings and trench-digging (*Kordić* TJ, paras. 777-778, 836), sexual mutilations, prolonged isolation and forced lack of communication (*Krnojelac* TJ, paras. 183, 236)).

<sup>6062</sup> Indictment, para. 48 (c). Terrorising involves establishing physical and psychological conditions designed to create an atmosphere of terror or panic among a civilian population. *See also*, *Krstić* TJ, para. 537 (where the Trial Chamber found that the humanitarian crisis in Potočari, the burning of homes in Srebrenica and Potočari, the terrorisation of Bosnian Muslim civilians, the murder of thousands of Bosnian Muslim civilians, in Potočari or in carefully orchestrated mass scale executions, and the forcible transfer of the women, children and elderly out of the territory controlled by the Bosnian Serbs, constitute persecutory acts).

<sup>6063</sup> Indictment, para. 48 (d).

<sup>6064</sup> *Krnojelac* AJ, para. 185. *Milutinović* TJ (Vol. 1), para. 177; *Naletilić* TJ, para. 636; *Krnojelac* TJ, para. 432.

<sup>6065</sup> *Kupreškić* TJ, paras. 632-636.

<sup>6066</sup> *Brđanin* TJ, para. 996; *Krnojelac* TJ, para. 435, *Milutinović* TJ (Vol. 1), para. 180.

<sup>6067</sup> *Krnojelac* TJ, para. 435.

<sup>6068</sup> *Krnojelac* TJ, para. 435.

<sup>6069</sup> *Krnojelac* AJ, para. 184, (“Discriminatory intent maybe inferred from such a context as long as, in view of the facts of the case, circumstances surrounding the commission of the alleged acts substantiate the existence of such intent.”); *see also* *Krnojelac* TJ, para. 435.

*Persecutions were committed*

2884. The evidence proves beyond a reasonable doubt the bases of persecution charged in the Indictment. The evidence has shown that all of the crimes which are charged as persecutions were committed by the Bosnian Serbs, against the Bosnian Muslims of Srebrenica and Žepa, solely on because of their nationality, in furtherance of a plan to rid Srebrenica and Žepa of their Muslim populations.

2885. The requisite discriminatory intent for persecutions can be inferred from, among other things, the general discriminatory nature of an attack characterised as a crime against humanity “as long as, in view of the facts of the case, circumstances surrounding the commission of the alleged acts substantiate the existence of such intent.”<sup>6070</sup> The only reasonable inference that can be drawn in light of the circumstances which existed in Srebrenica from 12 to 15 July 1995 was that Muslims were targeted for forcible transfers, detentions, abuse, and killings.

2886. Another way of showing discriminatory intent is to compare the treatment of different groups to determine if one group suffers from persecutory acts whilst the other does not. In the *Krnjelac* Appeal Judgement, the Appeals Chamber held that discriminatory intent could be inferred from the finding that abuses were meted out to non-Serb detainees but not to Serb detainees. The Appeals Chamber observed that the only reasonable finding that could be reached was that the beatings were inflicted upon the non-Serb detainees because of their political or religious affiliation and that, consequently, these unlawful acts were committed with the requisite discriminatory intent.<sup>6071</sup> In this case, it is absolutely clear that Serb forces perpetrated crimes against Muslims in Srebrenica and Žepa while sparing the Serbs in the same region.

2887. Although derogatory language of the perceived “enemy” may be common in war, the Prosecution submits that the repeated use of such words, in conjunction with other evidence of discriminatory behaviour, is relevant to show discriminatory intent for persecution. Moreover, the language demonstrates the perpetrator’s knowledge that the people being discussed (and abused and/or killed) were Muslim. There was plentiful evidence in this case demonstrating a pattern of ethnic bias in the words of VRS soldiers and officers, including the Accused

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<sup>6070</sup> *Krnjelac* AJ, para. 184.

<sup>6071</sup> *Krnjelac* AJ, paras. 184-186.

2888. The Prosecution has proven beyond a reasonable doubt that the Accused committed persecutions as members of the two JCEs, sharing the intent of their co-perpetrators to persecute the Muslims.

**Articles 5(d) and 5(i): Deportation and Forcible Transfer (Other Inhumane Acts)**

2889. As the *chapeau* requirements for crimes against humanity have already been established (*see paras.* 2848-2868), the following elements must be satisfied in order to prove the crimes of deportation and forcible transfer under Article 5(d) and (i) of the Statute, respectively:

- a) The forced displacement of a population;
- b) From an area which the population lawfully resided;
- c) With the Accused's intention to displace the population; and
- d) The transfer must be completed without grounds permitted under international law.<sup>6072</sup>

2890. While forcible transfer as an "other inhumane act,"<sup>6073</sup> punishable under Article 5(i), relates to displacements within a State; deportation, punishable under Article 5(d), presumes transfer beyond State borders or, in certain circumstances, a *de facto* border.<sup>6074</sup>

2891. The Prosecution has demonstrated that the Accuseds' forcible displacement of the Muslim population from Srebrenica and Žepa constituted forcible transfer and deportation under Articles 5(i) and 5(d).

**The displacement of the Muslim population from Srebrenica and Žepa was forced**

*Legal Standard*

2892. Both the *Krstić* and *Blagojević* Trial Chambers held that the Bosnian Muslims were forced to leave Srebrenica.<sup>6075</sup> In *Krstić* the Trial Chamber held that, "despite the attempts made by the VRS to make it look like a voluntary movement, the Bosnian Muslims of Srebrenica were not exercising a genuine choice to go, but reacted reflexively to a certainty that their survival depended on their flight."<sup>6076</sup>

<sup>6072</sup> *Stakić* AJ, paras. 278, 317; *Krajišnik* AJ, paras. 304, 308, 333.

<sup>6073</sup> *Kupreškić* TJ, para. 566; *see also Krstić* TJ, para. 523-532, *Milutinović* TJ (Vol. 1), para.170.

<sup>6074</sup> E.g. the Appeals Chamber has recognised that displacement from occupied territory is sufficient to amount to deportation. *See Stakić* AJ, paras. 278, 300; *Krajišnik* AJ, para. 304.

<sup>6075</sup> *Blagojević* TJ, paras.617-618; *Krstić* TJ, para. 530.

<sup>6076</sup> *Krstić* TJ, para. 530.

2893. The displacement of a population is considered forced when facts show that there was an absence of choice, making such displacement involuntary.<sup>6077</sup> Voluntary consent cannot be proven if induced by force or the threat of force.<sup>6078</sup>

2894. The Prosecution has established that the displacements of the Muslim population of Srebrenica and Žepa were the product of coercion. “Forced” in this context “is not limited to physical force but includes the threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power [...], or by taking advantage of a coercive environment.”<sup>6079</sup> Acts of coercion include “the shelling of civilian objects, the burning of civilian property, and the commission of [...] other crimes ‘calculated to terrify the population and make them flee the area with no hope of return.’”<sup>6080</sup>

### **Application of Facts**

2895. As has been demonstrated, the Bosnian Serb forces first instilled fear and terror in the civilian population by restricting aid to the enclaves and shelling civilian areas. The creation of such “severe living conditions” is itself a form of coercion.<sup>6081</sup> The next step in the Accuseds’ campaign to displace the population was the direct attack on the enclaves, including campaigns of indiscriminate sniping and shelling of the enclaves, resulting in the population of each enclave fleeing in literal fear for their lives, further demonstrating the forced nature of their removals.<sup>6082</sup> Finally, not content with having instigated the flight of tens of thousands of Bosnian Muslims, the Accused took the final step of physically expelling thousands of Bosnian Muslim women, children and elderly from both the Srebrenica and Žepa enclaves through organised transports. Such physical expulsions by definition constitute coercion.<sup>6083</sup> Even those Bosnian Muslims who wanted to get on the buses to leave the enclaves were not exercising a genuine choice to stay or to go given the prevailing climate of crime and terror.

2896. [REDACTED].<sup>6084</sup>

2897. As has been demonstrated, as with the Muslim women, children and elderly, the Muslim men in the Srebrenica and Žepa enclaves did not exercise a genuine choice to leave the enclave. The separations of the men from their families while they were trying to board

<sup>6077</sup> Stakić AJ, para. 279, citing Krnojelac AJ, para. 229; Brdanin TJ, para. 543; Milošević Decision on Motion for Judgement of Acquittal, paras 60, 73; Simić TJ, para. 125.

<sup>6078</sup> Stakić AJ, para. 279; Krnojelac TJ, para. 475, fn. 1435.

<sup>6079</sup> Krajišnik AJ, para. 319 (quoting Stakić AJ, para. 281).

<sup>6080</sup> Milutinović TJ, para. 165.

<sup>6081</sup> Krajišnik AJ, para. 319.

<sup>6082</sup> See Milutinović TJ, para. 165.

<sup>6083</sup> Krajišnik AJ, paras. 304, 319.

<sup>6084</sup> [REDACTED].

the buses in Potočari in order to escape the VRS attack on the enclave were marked by fear, force and distress. The able-bodied men who fled into the woods and joined the column of men or who fled from the Žepa enclave and swam across the Drina river to Serbia also did so in order to escape the VRS attack on the enclaves. There was no option for these men to surrender. Their attempt to leave the enclaves was not a result of a genuine choice to go, as their survival depended on their flight.

2898. UNMO observer Colonel Kingori witnessed first hand the flight of the terrified Bosnian Muslim population from the Srebrenica enclave, testifying that they did not flee the enclave of their own free will, but because they were looking for any way out of the enclave in order to survive.<sup>6085</sup>

2899. As for the men who swam across the Drina River, they knew from the experience of the 7,000 murdered Bosnian Muslim men from Srebrenica that they would die if they surrendered.<sup>6086</sup> They chose instead to risk their lives by attempting to cross the Drina River. This was not an organised retreat; this was men fleeing for their lives.<sup>6087</sup>

**The Muslim population were lawfully present in the enclaves**

2900. The Bosnian Muslim men, women and children were lawfully present<sup>6088</sup> in Srebrenica and Žepa prior to their displacement in that they were either long-term residents of the area or else were living there after having fled their homes from surrounding towns or

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<sup>6085</sup> See KINGORI, T. 19440-19442. Colonel Kingori's testimony is supported by the accounts of Bosnian Muslim survivors who had fled the enclaves and managed to survive the mass murder operation. See, e.g., testimonies of Ahmo Hasić, [REDACTED] (PW-106), [REDACTED] (PW-110), [REDACTED] (PW-111), [REDACTED] (PW-112), [REDACTED] (PW-117), [REDACTED] (PW-120) and [REDACTED] (PW-127). [REDACTED] PW-120, witness to the events surrounding the Cerska valley executions, testified that "the able-bodied men didn't go to Potočari; they went to the woods, because they didn't dare go into their hands... they went to the woods to try to save their lives." [REDACTED] PW-120, Exh. P02220, T. 2733, 2762. Like so many other Bosnian Muslim survivors, [REDACTED] PW-120 lost his father, brother, cousins, 14-year-old nephew and neighbours in the fall of Srebrenica in July 1995. *Id.* at T. 2759-2760.

<sup>6086</sup> See [REDACTED] PW-155, T. 6835: 5-10.

<sup>6087</sup> See e.g., [REDACTED] (PW-155), T. 6833: 19-6834: 5, 6838: 7-13, 6845: 4-20 ("I was afraid of what would happen to our families and to ourselves... It was quite clear already that there was this disaster looming.... There was this great fear of being captured, of torture. And sometimes I really thought I really wanted to just commit suicide... I was afraid for my life because all the able-bodied men, even children of age 14, were killed and taken off the convoy... It would be like suicide to stay and to go with my wife and children... There was no way that we could stay. I don't think that any of those people, the women who were transported, said anything about people asking them if they wanted to stay or not. There was no question of that. There were a lot of people who were killed. This was forcible transfer of those who had survived from other parts of Bosnia and Herzegovina").

<sup>6088</sup> Notably, this element imposes only the lesser requirement of "presence" rather than the more onerous requirement of "residence." The ordinary meaning of the term "present" is "being in the place in question or under consideration," (*Oxford English Dictionary*) which the the Bosnian Muslim population of Srebrenica and Žepa, including any Muslim military personnel who were present in Srebrenica and Žepa during the forcible operation, clearly were. Thus, this requirement has been established with respect to all the Bosnian Muslims at Srebrenica and Žepa.

villages in Bosnia.<sup>6089</sup> Many of them were already living in the enclaves when the attack occurred. Moreover, thousands of Bosnian Muslims who had fled to the Srebrenica enclave in 1993 as a result of the Bosnian Serb ethnic cleansing operation were residing in Srebrenica in 1995.<sup>6090</sup>

**The perpetrators intended to displace the Muslim population of Srebrenica and Žepa**

2901. One of the VRS's and MUP's central objectives in the conflict was to expel Muslim civilian population from Eastern Bosnia and to create a Serbian state. From the publishing of the six Strategic Objectives on 12 May 1992,<sup>6091</sup> through the 19 November 1992 Operational Directive 4;<sup>6092</sup> the 24 November 1992 Command Order 2-126;<sup>6093</sup> numerous combat orders;<sup>6094</sup> the 8 March 1995 Directive 7;<sup>6095</sup> the 31 March Directive 7/1; and culminating in the 2 July 1995 "Krivaja-95" Order, the goal of the Bosnian Serb forces to drive out the Bosnian Muslim civilian population out of the enclaves grew stronger and more explicit.

2902. As a result of his meetings with VRS representatives, Colonel Kingori confirmed that the civilian population was a target of the VRS attack on the enclaves:

I think one thing that was very clear in their minds and in most of the discussions that we had is that they would like the Muslims to leave the enclave... when they said they wanted the Muslims out, to them it was not just the military element. **It meant both the military and the civilian component.** So they had no doubts in their minds, in their utterances, in their discussions, that **they really wanted all the Muslims away from that enclave so that they can re-occupy the place as Serbs; because to them, it belonged to them.**<sup>6096</sup>

**The displacement was not permitted under international law**

*Legal standard*

2903. The customary rules of international law draw a clear distinction between the illegal act of forcible transfer and its legal counterpart known as evacuation. Pursuant to Article 49

<sup>6089</sup> See e.g. MALAGIĆ, Exh. P02218 at T.1940-1941; [REDACTED] (PW-121), Exh. P02226 at T.5748; IBIŠEVIĆ, Exh. P03235 at ERN 0096-8630, 0100-3629; [REDACTED] PW-125, T.3306-3307; S.OSMANOVIĆ, Exh. P03228 at ERN: 0096-9188; [REDACTED] PW-112, T. 3207-3208; [REDACTED] PW-155, T.6861, 6881.

<sup>6090</sup> See e.g. KRDŽIĆ, Exh. P03237 at ERN: 0096-8645; [REDACTED] PW-125, T..3304-3307; H. SALIHOVIĆ, Exh. P03232 at ERN 0100-3544; [REDACTED]; R.HUSIĆ, Exh. P02203 at ERN 0613-9632; [REDACTED]; [REDACTED] (PW-110), T.638-639; [REDACTED]; [REDACTED] (PW-120), T.2733; SALČINOVIĆ, Exh. P03233 at ERN 0096-9198; SULJIĆ, Exh. P03242 at ERN 0096-9283.

<sup>6091</sup> Exh. P02755, RS Decision 386 02-130/92 from Official Journal 1993 ("6 Strategic Objectives"), dated 12 May 1992.

<sup>6092</sup> Exh. P00029, VRS Main Staff Order 02/5-210, Operational Directive 4, dated 19 November 1992, p. 5.

<sup>6093</sup> Exh. P03029, Drina Corps Command Order No. 2-126, for further activities, signed by Milenko Živanović, dated 24 November 1992, para. 1.

<sup>6094</sup> Exh. P02742, Main Staff Combat Order No. 02/2-402, signed by Manojlo Milovanović, dated 1 May 1993, p. 6; Exh. P03177, Bratunac Brigade Order No. 04-1738-1/94, signed by Slavko Ogjenović, dated 4 July 1994, p. 3; Exh. P02667, Drina Corps Order No. 01/5-373, defining tasks from the briefing and urging their completion, signed by Milenko Živanović, dated 24 July 1994, p. 5.

<sup>6095</sup> Exh. P00005, RS Supreme Command Directive 7, dated 8 March 1995.

<sup>6096</sup> KINGORI, T. 19169-19170 (emphasis added).

of the Fourth Geneva Convention, evacuation is the only exception to the prohibition against deportation and forcible transfer.<sup>6097</sup> A lawful evacuation may be carried out in just two ways: (1) where the “security of the population” so demands,<sup>6098</sup> and (2) where “imperative military reasons” so demand.<sup>6099</sup> Displacements may be considered legitimate if they are based on the following grounds: the security of the population, imperative military reasons, or humanitarian reasons.<sup>6100</sup>

#### *Application of Facts*

2904. Given the Accused’s actual motivations, it is clear that they did not intend to displace the thousands of Bosnian Muslims for reasons permitted under international law. In the present case, none of these reasons motivated the Accused’s displacement of the Bosnian Muslims from Srebrenica and Žepa. Even if the displacement did remove the Muslims from a humanitarian crisis, the crisis was of the Accuseds’ own making. As such, it could not justify the subsequent removal of the population.<sup>6101</sup>

2905. Moreover, a legitimate displacement requires that the evacuated persons return to their homes as soon as hostilities have ceased.<sup>6102</sup> Yet no one who was displaced from Srebrenica or Žepa was ever returned to their homes by Bosnian Serb forces. The *Krstić* Trial Chamber found this last fact telling when reaching its conclusion that the transfer of the Bosnian Muslims from Srebrenica was unlawful.<sup>6103</sup>

2906. Relevantly, the defendants in *Naletilić* were unsuccessful in showing a lawful evacuation pursuant to military threat. The Trial Chamber held:

In this case no military threat was present following the taking of Srebrenica. The atmosphere of terror in which the evacuation was conducted proves, conversely, that the transfer was carried out in furtherance of a well-organised policy whose purpose was to expel the Bosnian Muslim population from the enclave. The evacuation was itself the goal and neither the protection of the civilians nor imperative military necessity justified the action.<sup>6104</sup>

2907. The Prosecution has further established that the Accused did not displace the Bosnian Muslim men as part of a transfer of prisoners of war to detention centres. Such a transfer

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<sup>6097</sup> “The prohibition is absolute and allows of no exceptions, apart from those stipulated in paragraph 2.” Commentary to the IVth Geneva Convention Relative to the Protection of Civilian Persons in Time of War 4-5, p. 279 (hereinafter “Geneva Convention Commentary”).

<sup>6098</sup> Article 49, Fourth Geneva Convention.

<sup>6099</sup> Article 49, Fourth Geneva Convention.

<sup>6100</sup> *Milutinović* TJ, para. 166 and fn. 308.

<sup>6101</sup> *Stakić* AJ, para. 287.

<sup>6102</sup> *Milutinović* TJ, para. 166.

<sup>6103</sup> *Krstić* TJ, para. 525.

<sup>6104</sup> *Naletilić* TJ, para. 527.

could be legitimate and thereby negate a charge of forcible transfer.<sup>6105</sup> However, the evidence reveals that the Bosnian Serb forces did not actually view the Muslim men as prisoners of war to be transferred to a detention facility. These men were not distinguishable as soldiers; they all wore civilian clothing. Once seized, the men were beaten and denied food and water. Their personal property and effects were destroyed, including their identification documents and valuables. The Bosnian Serbs' treatment of the Muslim men separated at Potočari belied any subsequent explanation that they were screening the men for war criminals or processing them as prisoners of war.

2908. Support comes from *Krnojelac*, where the Trial Chamber, when examining unlawful imprisonment, rejected the accused's assertion that the Muslim men detained in KP Dom were all prisoners of war and thus lawfully detained. Tellingly, the men were detained at KP Dom based solely on their ethnicity, with "no consideration [...] given to age, state of health or civilian status. The detainees ranged in age from 15 years to almost 80 years."<sup>6106</sup>

2909. The entire Bosnian Muslim population of the Srebrenica enclave, and the women, children and elderly Muslims from the Žepa enclave were forcibly displaced to other areas within Bosnia. These crimes should be classified as forcible transfer.<sup>6107</sup>

2910. The Bosnian Muslim men who swam from Žepa across the Drina River into Serbia were forcibly displaced across a national border. As a result, these crimes constitute deportation.<sup>6108</sup>

**Forcible transfer as an inhumane act**

2911. Because forcible transfer is not enumerated within Article 5, it must fall within the "other inhumane acts" category in Article 5(i) to qualify as a crime against humanity. The Appeals Chamber recently held that a Trial Chamber must determine whether the acts of forcible transfer in a particular case are serious enough to amount to "other inhumane acts."<sup>6109</sup> In other words, the "Trial Chamber has to be convinced that the forcible transfer is of a similar seriousness to other enumerated crimes against humanity."<sup>6110</sup> The four specific requirements for "other inhumane acts," are as follows:

- e) the conduct must cause serious mental or physical suffering to the victim or constitute a serious attack upon human dignity;

<sup>6105</sup> *Stakić* AJ, para. 284. See also *Mrkšić* TJ, para. 458 (stating that "deportation cannot be committed against prisoners of war").

<sup>6106</sup> *Krnojelac* TJ, para. 118.

<sup>6107</sup> *Milutinović* TJ, paras 164-165.

<sup>6108</sup> *Krajišnik* AJ, para. 304.

<sup>6109</sup> *Krajišnik* AJ, para. 330.

<sup>6110</sup> *Krajišnik* AJ, para. 331.



- f) the conduct must be of equal gravity to the conduct enumerated in Article 5; and
- g) the physical perpetrator must have performed the act or omission deliberately
- h) with the intent to inflict serious physical or mental harm upon the victim or commit a serious attack upon human dignity or with the knowledge that his act or omission would probably cause serious physical or mental harm to the victim or constitute a serious attack upon human dignity.<sup>6111</sup>

2912. In the present case, the crime of forcible transfer involved the forced departure of thousands of Bosnian Muslim men, women and children from Srebrenica and Žepa. The forcible transfer of the entire Bosnian Muslim population was marked with fear, force and violence. In addition to the dire living conditions and the random shelling and sniper attacks on the civilian population as a whole, various specific refugees were singled out for individual terrorisation and intimidation including murder, beatings and other particularised methods of physical cruelty. Moreover, the Bosnian Muslim population was expelled from the enclaves with no guarantees about returning in the future<sup>6112</sup> These forcible transfers thus amount to “other inhumane acts.”<sup>6113</sup>

**(DDD) ARTICLE 3 VIOLATIONS OF THE LAWS OR CUSTOMS OF WAR**

**(ccxlix) Murder (Count 5)**

2913. The Accused **PANDUREVIĆ, BEARA, POPOVIĆ, NIKOLIĆ, MILETIĆ, GVERO** and **BOROVČANIN** committed the crime of murder (Count 5),<sup>6114</sup> as a violation of the laws or customs of war pursuant to Article 3 of the Statute, as members of joint criminal enterprises to forcibly transfer the Bosnian Muslim population of Srebrenica and Žepa, and to murder the able-bodied Muslim men from Srebrenica.

2914. The Accused are charged on the basis of Article 7(1); **PANDUREVIĆ** and **BOROVČANIN** are also charged on the basis of superior responsibility under Article 7(3).

2915. The jurisprudence of the Tribunal has established that the following general requirements must be met for an offence to fall within the scope of Article 3 of the Statute:<sup>6115</sup>

- i) the existence of a state of internal or international armed conflict;
- j) the existence of a nexus the armed conflict and the criminal acts;
- k) the violation constitutes an infringement of a rule of international humanitarian law;
- l) the violation of the relevant rule must be serious; and

<sup>6111</sup> *Milutinović* TJ, paras. 170; *see also Kordić* AJ, paras. 117.

<sup>6112</sup> *Krajišnik* AJ, para. 331.

<sup>6113</sup> *See Krajišnik* AJ, para. 331.

<sup>6114</sup> Accused **MILETIĆ** and **GVERO** are responsible solely for “opportunistic killings” under this Count.

<sup>6115</sup> *Milutinović* TJ (Vol. 1), para. 124; *See also Tadić* Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, para. 94; *see also Orić* TJ, para. 257.

m) the violation must entail the individual criminal responsibility of the person breaching the rule.<sup>6116</sup>

2916. The evidence set out above demonstrates that there was an armed conflict, and also demonstrates a close nexus between the armed conflict and the criminal acts. The murder of persons not taking active part in the armed conflict fulfils “the gravity requirement,”<sup>6117</sup> and satisfies the three general legal requirement - requirements (c), (d), and (e) - for the applicability of Article 3.<sup>6118</sup>

2917. The expulsion and, ultimately, killing of Muslims from Srebrenica, one of the few remaining Muslim enclaves in Eastern Bosnia, was designed to and in fact did further this objective.

2918. The elements for murder as a violation of the laws or customs of war are identical to the elements of murder as a crime against humanity.<sup>6119</sup>

2919. The Prosecution has proven beyond a reasonable doubt that the seven Accused have committed murder as members of two joint criminal enterprises.

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<sup>6116</sup> *Tadić* Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, paras. 91, 94. *See also Milutinović* TJ (Vol. 1), para. 124; *Kunarac* AJ, para. 58-59.

<sup>6117</sup> *Milutinović* TJ (Vol. 1), para. 131-134. The gravity requirement includes that “a) the violation of the particular rule must entail the imposition of individual criminal responsibility and must constitute a breach of a rule protecting important values, and b) the breach must involve grave consequences for the victim,” para. 131.

<sup>6118</sup> *Milutinović* TJ (Vol. 1), para. 133.

<sup>6119</sup> *See Orić* TJ, paras. 345-346 (“The elements defining murder under Article 3 of the Statute are identical to those required for ‘wilful killing’ as a grave breach of the 1949 Geneva Conventions under Article 2 of the Statute and murder as a crime against humanity Article 5 of the Statute”). *See also id.*, paras 347-348. *See also Brdanin* TJ, para. 380; *Krstić* TJ, paras. 485.

**(XIV) SENTENCING****(EEE) OVERVIEW OF RECOMMENDED SENTENCES**

2806. Each of the Accused committed unspeakable crimes against the Muslim population of Srebrenica and Žepa. The vast scale of the crimes and the immense suffering inflicted on the Muslims of Srebrenica and Žepa is almost beyond comprehension; over 7,000 people were systematically murdered and the entire population was forcibly removed. The crimes committed by these men rank among the very worst acts of inhumanity. None of the Accused has shown a shred of remorse. All the Accused have been proven responsible for these crimes as charged in the Indictment.

2807. Based on the gravity of their criminal conduct, the Prosecution recommends the following sentences:

**Vinko PANDUREVIĆ:** The Prosecution recommends a sentence of life imprisonment and that the Accused serve 46 years in custody in the State where he serves his sentence before becoming eligible for early release;

**Ljubomir BOROVČANIN:** The Prosecution recommends a sentence of life imprisonment and that the Accused serve 46 years in custody in the State where he serves his sentence before becoming eligible for early release;

**Milan GVERO:** The Prosecution recommends a sentence of life imprisonment and that the Accused serve 30 years in custody in the State where he serves his sentence before becoming eligible for early release;

**Radivoje MILETIĆ:** The Prosecution recommends a sentence of life imprisonment and that the Accused serve 30 years in custody in the State where he serves his sentence before becoming eligible for early release;

**Ljubiša BEARA:** The Prosecution recommends a sentence of life imprisonment and that the Accused serve 46 years in custody in the State where he serves his sentence before becoming eligible for early release;

**Vujadin POPOVIĆ:** The Prosecution recommends a sentence of life imprisonment and that the Accused serve 46 years in custody in the State where he serves his sentence before becoming eligible for early release;

**Drago NIKOLIĆ:** The Prosecution recommends a sentence of life imprisonment and that the Accused serve 46 years in custody in the State where he serves his sentence before becoming eligible for early release;

2808. Penalties and sentencing factors are addressed in Article 24 of the Statute of the Tribunal and Rule 101 of the Rules. The factors to be considered by a Trial Chamber in determining a sentence include the gravity of the crimes committed;<sup>6120</sup> the individual circumstances of the convicted person;<sup>6121</sup> aggravating and mitigating circumstances,<sup>6122</sup> and the general sentencing practice of the former Yugoslavia.<sup>6123</sup> Prior sentencing practice of the ICTY may also be considered where the same offence is committed in substantially similar circumstances.<sup>6124</sup>

**(FFF) GRAVITY OF THE OFFENCES**

2809. The gravity of the crime is “by far the most important consideration” in determining a sentence.<sup>6125</sup> “The determination of the gravity of the crime requires a consideration of the particular circumstances of the case, as well as the form and degree of the participation of the Accused in the crime.”<sup>6126</sup>

2810. The Appeals Chamber in *Aleksovski* confirmed that “ŠćConsideration of the gravity of the conduct of the Accused is normally the starting point for consideration of an appropriate sentence. The practice of the International Tribunal provides no exception.”<sup>6127</sup> In *Galić*,<sup>6128</sup> *Aleksovski* and *Čelebići*, the Appeals Chamber increased, or recommended the increase of the sentence imposed on certain of the convicted persons,

<sup>6120</sup> Article 24(2) of the ICTY Statute.

<sup>6121</sup> Article 24(2) of the ICTY Statute.

<sup>6122</sup> Rule 101(B)(i) and (ii). *See also* *Blagojević* AJ, para. 320; *Čelebići* AJ, paras 429, 716; *Krstić* AJ, para. 267.

<sup>6123</sup> Rule 101(B)(iii), Article 24(1) of the ICTY Statute.

<sup>6124</sup> *Jelisić* AJ, para. 101; *Čelebići* AJ, paras. 756-57.

<sup>6125</sup> The gravity of the crime is “by far the most important consideration, which may be regarded as the litmus test for the appropriate sentence.” *Čelebići* AJ, para. 731 *citing* *Čelebići* TJ, para. 1225. *See also* *Galić* AJ, para. 442; *Blagojević* TJ, para. 832; *Krstić* TJ, para. 698. *See also* *Stakić* TJ, para. 892; *Milutinović* Trial Judgment (Vol. 3), para. 1147. *See also* *Plavšić* TJ, para. 25; *Kupreškić* TJ, para. 852; *Aleksovski* AJ, para. 182; *Todorović* TJ, para. 31.

<sup>6126</sup> *Čelebići* AJ, para. 731 (citing *Kupreškić* TJ, para. 852; *Aleksovski* AJ, para. 182). *See also* *Mrkšić* TJ, para. 684. On 20 July 2009, Milan Lukić was sentenced to life imprisonment upon being found guilty of extermination, persecutions, at least 132 murders, and inhumane acts as crimes against humanity, as well as murder and cruel treatment as a violation of the laws and customs of war. *See* *Lukić* TJ, paras. 1099-1101. Sredoje Lukić was sentenced to 30 years imprisonment upon being found guilty of committing, as well as aiding and abetting with respect to, inhumane acts and cruel treatment, as well as aiding and abetting persecutions and murder. *See* *Lukić* TJ, paras 1104-1106.

<sup>6127</sup> *Aleksovski* AJ, para. 182.

<sup>6128</sup> “Although the Trial Chamber did not err in its factual findings and correctly noted the principles governing sentencing, it committed an error in finding that the sentence imposed adequately reflects the level of gravity of the crimes committed by Galić and his degree of participation. The sentence rendered was taken from the wrong shelf. Galić’s crimes were characterized by exceptional brutality and cruelty, his participation was systematic, prolonged and premeditated and he abused his senior position of VRS Corps commander. In the Appeals Chamber’s view, the sentence imposed on Galić by the Trial Chamber falls outside the range of sentences available to it in the circumstances of this case. The Appeals Chamber considers that the sentence of only 20 years was so unreasonable and plainly unjust, in that it underestimated the gravity of Galić’s criminal conduct, that it is able to infer that the Trial Chamber failed to exercise its discretion properly.” *Galić* AJ, para. 455.

holding that the Trial Chamber had not given adequate weight to the gravity of the crimes for which they were convicted.<sup>6129</sup>

2811. The gravity of the crimes perpetrated by the Accused in this case is staggering; through the commission of the crimes charged in the Indictment, each Accused played a critical role in the premeditated and systematic destruction of the Muslim population of Srebrenica and Žepa through the murder of over 7000 people and the forcible removal of 25,000 to 35,000. The pain and damage inflicted upon the survivors, as chronicled in paras. 1105-1128, continues to this day. The individual culpability of each Accused for the commission of these war crimes and crimes against humanity, as set forth in this brief, demonstrates their individual responsibility for crimes which are amongst the gravest committed during the war in the former Yugoslavia.

2812. Each of the Accused is guilty of crimes of the highest gravity. **POPOVIĆ, BEARA, NIKOLIĆ, BOROVČANIN** and **PANDUREVIĆ** are individually responsible for genocide, “the crime of crimes.”<sup>6130</sup> The *Krstić* Trial Chamber held that genocide is arguably the most serious crime because of its requirement of the intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such.<sup>6131</sup>

2813. **GVERO** and **MILETIĆ**, along with the other Accused, are responsible for the crimes against humanity of murder,<sup>6132</sup> persecution, forcible transfer and deportation. The evidence presented at trial proves that **GVERO** and **MILETIĆ**, in addition to their culpability for the forcible removal of the Muslim population of Srebrenica and Žepa, are personally liable for 68 to 129 murders.<sup>6133</sup> **POPOVIĆ, BEARA, NIKOLIĆ, BOROVČANIN** and **PANDUREVIĆ** are additionally charged with extermination.<sup>6134</sup>

2814. Crimes involving intentional deprivation of life, such as murder and extermination, are universally considered especially grave. The need for deterrence and retribution for such crimes is thus particularly important – so important that many jurisdictions impose a mandatory maximum sentence for such offences. Moreover,

<sup>6129</sup> See *Galić* AJ, para. 455; *Aleksovski* AJ, para. 183; *Čelebići* AJ, paras 742, 755.

<sup>6130</sup> *Blaškić* TJ, para. 800, citing *Kambanda* TJ, paras 9, 16.

<sup>6131</sup> *Krstić* TJ, para. 700. The crime of conspiracy to commit genocide is no less serious, requiring the same intent as the crime of genocide. *Nahimana et al.* AJ, para. 894.

<sup>6132</sup> Each of the Accused is also responsible for the crime of murder under Article 3, violations of the laws or customs of war.

<sup>6133</sup> See Section III(D)(xxx) and III(E)(xlvii), *supra*.

<sup>6134</sup> The Appeals Chamber has held that “there is in law, no distinction between the seriousness of a crime against humanity and a war crime”; *Furundžija* AJ, para. 247; *Tadić Sentencing* AJ, para. 69. See also *Mrkšić* TJ, para. 684-687; *Stakić* TJ, para. 929.

countries with special legislation to deal with international crimes have made the most severe punishment applicable to such crimes.<sup>6135</sup>

2815. The crime of persecution, committed by all of the Accused, has been described as “particularly grave”<sup>6136</sup> and warrants a more severe penalty, given that it is the only Article 5 crime which also requires a discriminatory intent and which by its nature may incorporate other crimes.<sup>6137</sup>

### **(GGG) AGGRAVATING CIRCUMSTANCES**

2816. Rule 101(B)(i) of the Rules requires the Trial Chamber to consider any aggravating circumstances when determining appropriate penalties. There are multiple aggravating circumstances which the Trial Chamber should take into account when considering the appropriate sentence for each of the Accused. These include: the enormity of the scale of the crimes; the high number of victims; the status, vulnerability, and impact on the victims; the senior position of the Accused and their abuse of authority; and the willingness of the Accused to participate in these crimes.

### **Scale of Crimes**

2817. The Tribunal's jurisprudence repeatedly refers to the aggravating factors of gravity of the crimes, the number of victims and the particularly vicious nature of the crimes.<sup>6138</sup> The enormity of the scale of the crimes perpetrated by these men has been amply set out in this brief and will not be repeated here; as pled in the Indictment they are responsible

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<sup>6135</sup> England and Wales: The *International Criminal Court Act 2001* remits for the purposes of determining the applicable sentence in cases of a crime under the jurisdiction of the ICC involving murder to the *Murder Act 1965*. That Act establishes a mandatory sentence of life imprisonment for murder. Canada: Under the *Crimes Against Humanity and War Crimes Act 2001*, a life sentence is mandatory if an intentional killing forms the basis of a conviction for genocide, crimes against humanity or war crimes. France: Article 212-1 of the *Code Pénal* prescribes life imprisonment for crimes against humanity. Germany: Sections 7 and 8 of the *Code of Crimes Against International Law*, provides for mandatory life sentences for crimes against humanity and war crimes when they involve murder. New Zealand: The *International Crimes and International Criminal Court Act 2000* provides that concerning the crimes of genocide, crimes against humanity and war crimes the legislation is the same. If the offence includes wilful killings then the penalty will be the same as for murder. According to Article 172 of the *Crimes Act 1961* a sentence of imprisonment for life is mandatory in the case of murder. Rwanda: Article 2 of the Law No. 8 of 30 August 1996 on the Organization of the Prosecution of Offences Constituting the Crime of Genocide or Crimes against Humanity, defines four categories of perpetrators of genocide. Accused who are found to fall within the first or second categories of genocide receive mandatory death and life sentences respectively.

<sup>6136</sup> *Blagojević* TJ, para. 834.

<sup>6137</sup> *Blagojević* TJ, para. 834; *Obrenović* Sentencing Judgment, para. 65; *M.Nikolić* Sentencing Judgement, para. 105; *Blaškić* TJ, para. 785.

<sup>6138</sup> *Čelebići* TJ, para. 1268; *Furundžija* TJ, paras 281-283; *Kordić* TJ, para. 852; *Krstić* TJ, para. 698; *Kunarac* TJ, paras 874-875; *Kupreškić* TJ, para. 852; *Kvočka* TJ, paras 712-713; *Tadić* Sentencing Judgement II, para. 19; *Vasiljević* TJ, paras 276-278; *Blaškić* TJ, paras 783-784; *Plavšić* Sentencing Judgement, para. 58; *Kambanda* TJ, para. 42; *Serushago Sentence*, para. 27; *Kayishema* TJ, para. 18; *Rutaganda* TJ, para. 468; *Musema* TJ, para. 980; *Ruggiu* TJ, para. 48, 49; *Semanza* TJ, para. 571; *Niyitegeka* TJ, para. 499(iii)-(vi); *Aleksovski* AJ, para. 182.

for forcibly removing, murdering, and ultimately destroying the Muslim population of Srebrenica and Žepa.

### **Number of Victims**

2818. The Trial Chamber in *Blaškić* held that the number of victims reflects the scale of the crimes committed and is an aggravating sentencing factor.<sup>6139</sup> The number of victims in this case is of appalling magnitude. Demographic evidence shows that a minimum of 7,661 persons went missing from Srebrenica following the enclave's fall in July 1995. DNA evidence shows that currently at least 6,006 persons reported as missing from Srebrenica have been identified in Srebrenica-related mass graves or as surface remains.<sup>6140</sup> The number of DNA identifications is still growing. From the gathering at Potočari alone, Serb forces expelled some 25,000 to 35,000.<sup>6141</sup> Because all of the Accused committed crimes of enormous scope, which victimised so many, the vast number of victims is an aggravating sentencing factor.

2819. The Prosecution has proven that **MILETIĆ** and **GVERO** are individually criminally responsible for 68 to 129 murders. This number of opportunistic murders, for which all the Accused are liable, is based on the evidence of opportunistic killings in Potočari, Bratunac, Kravica and Petkovci.<sup>6142</sup>

### **Status, Vulnerability of the Victims and Impact on the Victims**

2820. When evaluating the gravity of the crimes, the Trial Chamber must also consider the status and vulnerability of the victims;<sup>6143</sup> the suffering of the victims who died,<sup>6144</sup> and the physical and mental suffering of the survivors and their families.<sup>6145</sup> The vulnerability of the victims in this case cannot be overstated; captured men were bound, blindfolded, and systematically murdered while women, children and the elderly were deprived forever of their loved ones and forced from their homes.

2821. The victims targeted were predominantly civilian and included women, children and elderly people.<sup>6146</sup> The Trial Chamber must consider not only the fate of those victims who lost their lives during the murder operation, but also the suffering of the

<sup>6139</sup> *Blaškić* TJ, para. 784. See also *Blagojević* TJ, para. 841; *Krstić* TJ, para. 702; *Erdemović* TJ, para. 15; *Kambanda* TJ, para. 42; *Kayishema* Sentence, para. 569; *Kordić* TJ, para. 852.

<sup>6140</sup> See Section III(D)(iv)i. As of 31 January 2009, 6,006 individuals have been identified via DNA matching.

<sup>6141</sup> See paras. 364, 497, *supra*.

<sup>6142</sup> See Sections III(D)(xxx) and III(E)(xlvii).

<sup>6143</sup> *Blaškić* TJ, para. 786; *Blagojević* TJ, paras 842-845; *Krstić* TJ, para. 702.

<sup>6144</sup> *Erdemović* Sentencing Judgement II, para. 20.

<sup>6145</sup> *Tadić* Sentencing Judgement I, para. 70.

<sup>6146</sup> The mistreatment of women and children is an aggravating factor. See *Krstić* TJ, para. 702, citing *Furundžija* Judgement, para. 283.

displaced victims who survived. The survivors suffered great mental and physical trauma from the horrors they experienced.<sup>6147</sup>

**Senior Position of the Accused and Abuse of Authority**

2822. One of the chief aggravating factors consistently highlighted in the jurisprudence of the ICTY and the ICTR is the senior position held by the Accused<sup>6148</sup> and the abuse of the Accused's position, authority or influence in order to commit crimes.<sup>6149</sup> "The consequences of a person's acts are necessarily more serious if he is at the apex of a military or political hierarchy and uses his position to commit crimes."<sup>6150</sup>

2823. This factor is especially significant in this case, as each of the Accused perpetrated the crimes charged through the abuse of his position and authority in the VRS. **GVERO** and **MILETIĆ** were key member of the VRS Main Staff and perpetrated crimes through their positions at the apex of the VRS. **BEARA** perpetrated the crimes he is charged with while acting in his capacity as Chief of Security of the Main Staff of the VRS. **PANDUREVIĆ**, as Commander of the Zvornik Brigade, and **BOROVČANIN**,<sup>6151</sup> as Deputy Commander of the RS MUP Special Police Brigade, were both in senior command positions and abused their command authority through the crimes attributed to them under Articles 7(1) and 7(3). **POPOVIĆ** and **NIKOLIĆ** perpetrated the crimes through their respective positions as Chief of Security of the Drina Corps and Chief of Security of the Zvornik Brigade. For each of the Accused, their senior position in the VRS is an aggravating factor. Although **NIKOLIĆ** held the lowest rank among the

<sup>6147</sup> Physical and psychological suffering inflicted upon witnesses to the crime is an aggravating factor. See *Krstić* TJ, para. 703, citing *Jelisić* Judgement, para. 132. See Section III(E)(ix), *supra*.

<sup>6148</sup> *Galić* AJ, paras 411-412; *Blagojević* AJ, paras 324-326; *Krstić* TJ, paras 706-709.

<sup>6149</sup> *Krajišnik* TJ, para. 1156; *Milutinović* TJ (Vol. 3), para. 1147; *Čelebići* TJ, para. 1251-1252; *Kordić* TJ, para. 855; *Krstić* TJ, para. 709; *Kupreškić* TJ, para. 862; *Kvočka* TJ, para. 714; *Simić (Blagoje)* Sentencing Judgment, para. 67; *Blaškić* TJ, para. 788; *Plavšić* Sentencing Judgement, para. 57; *Jelisić* TJ, para. 131; *Todorović* Sentencing Judgement, paras 60-62; *Naletilić* TJ, para. 751; *Stakić* TJ, paras 912-913; *Krnjelac* TJ, para. 514; *Nikolić (Momir)* Sentencing Judgement, para. 135; *Kambanda* TJ, paras 40, 61(B)(vii); *Rutaganda* TJ, paras 469, 470; *Musema* TJ, paras 1002-1004, *Serushago Sentence*, paras 28-29; *Akayesu* Sentence, paras. 532, 534; *Kayishema* TJ, paras 15, 26; *Semanza* TJ, para. 573; *Niyitegeka* TJ, para. 499(i) and (ii); *Ntagerura* TJ, para. 819.

<sup>6150</sup> *Krstić* TJ, para. 709, citing *Rutaganda* TJ, para. 469: "the fact that a person in a high position abused his authority and committed crimes is to be viewed as an aggravating factor." *Kambanda* TJ, para. 44. In this regard, the Appeal Chamber reduced the sentence imposed on Duško Tadić from 25 to 20 years stating that "there is a need for sentences to reflect the relative significance of the role of the [accused] and [...] to take into account] his level in the command structure, [which] was law." (*Tadić* Sentencing Judgement III, paras 55-57).

<sup>6151</sup> **BOROVČANIN** held additional positions of authority in 1995, including as Commander of the joint police forces on the Trnovo front (Exh. P02852, p. 19), Commander of the police forces staff on Mount Jahorina (Exh. 4D66, Information by Goran Sarić, Commander of the Bijeljina Special Police Brigade re Mladenko Borovčanin dated 13 June 1995; STOJČINOVIĆ, T. 27588-89) and Staff Commander of the newly established Tron facility in Pale (Exh. 4D139, Letter from Head of Office of MUP Nenad Radović to Head of RDB and Head of RJB dated 17 Jun 1995 and Conclusions from a MUP meeting in Pale dated 16 Jun 1995. STOJČINOVIĆ, T. 27594).



Accused in this case, this should not in any way diminish the aggravating circumstance that his criminal acts were perpetrated through his senior position and authority as Chief of Security.

2824. In *Galić*, the Appeals Chamber held that, given that Galić's crimes – murder under Article 5, as well as attack on and terrorizing of civilians under Article 3 – “were characterized by exceptional brutality and cruelty, his participation was systematic, prolonged and premeditated and he abused his senior position of VRS Corps commander ... the sentence of only 20 years was so unreasonable and plainly unjust, in that it underestimated the gravity of Galić's criminal conduct.”<sup>6152</sup>

2825. In *Stakić*, the Trial Chamber held that “in cases where the factual circumstances are such that a Trial Chamber could reasonably find that specific acts *could* satisfy the requirements of both Articles [Articles 7(1) and 7(3) of the Statute], if a conviction is entered under Article 7(1) only, the Accused's position as a superior, when proved beyond reasonable doubt, must be taken into account as an aggravating factor.”<sup>6153</sup> Further, the Trial Chamber in *Čelebići* noted that if an Accused is liable under both Article 7(1) and 7(3) it should be sufficient to regard his conduct as an aggravating circumstance attracting enhanced punishment, to avoid the imposition of double sentencing for the same conduct.<sup>6154</sup>

**Willingness of the Accused's Participation in the Crimes and the Prolonged Basis of the Crimes**

2826. The willing participation of the Accused in the murder operation and forcible transfer perpetrated against the Muslims of Srebrenica and Žepa should be considered as an aggravating circumstance. There is no evidence that the participation of the Accused in any of the crimes was indirect,<sup>6155</sup> reluctant<sup>6156</sup> or forced<sup>6157</sup> in any way. On the contrary, the evidence has shown that each of the Accused willingly contributed to the accomplishment of the purposes of the joint criminal enterprises as pled in the Indictment. **BEARA** even discussed the fall of Srebrenica publicly, deliberately trying to conceal his

<sup>6152</sup> *Galić* AJ, para. 455.

<sup>6153</sup> *Stakić* TJ, para. 912; *See also Čelebići* AJ, para. 745.

<sup>6154</sup> *Čelebići* TJ, paras 1221-1223.

<sup>6155</sup> *Krstić* TJ, para. 714.

<sup>6156</sup> *Krstić* TJ, para. 711.

<sup>6157</sup> *Krstić* TJ, para. 714.

involvement, while at the same time trying to propagate a false account of the events of July 1995.<sup>6158</sup>

2827. The Tribunal has previously held that a crime is aggravated where it was committed on a prolonged basis, systematically, with premeditation, with zeal, or where the crimes were widespread.<sup>6159</sup> Although the premeditated and systematic forcible transfer and murder operations occurred with great speed, these crimes were carried out over a gruelling period of days, weeks and even months as survivors of the murder operation were hunted down. The sections of this brief outlining the individual responsibility of each Accused leave no doubt as to their major contributions to the premeditated, systematic and widespread crimes.

#### **(HHH)MITIGATING CIRCUMSTANCES**

2828. No mitigating circumstances exist in this case to substantially reduce the sentence that should be imposed on any of the Accused. The ICTY and the ICTR have both held that mitigating circumstances relate to the assessment of a penalty but do not derogate the gravity of the crime: “[i]t is more a matter of grace than a defence.”<sup>6160</sup> According to the Tribunal jurisprudence, the only mitigating factor which the Trial Chamber is obliged to take into account is “substantial co-operation with the Prosecutor by the convicted person before or after the conviction” as stated in Rule 101 (B)(ii).<sup>6161</sup>

#### **(ccl) Expressions of Remorse**

2829. None of the Accused has expressed even the slightest remorse for his crimes.<sup>6162</sup>

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<sup>6158</sup> See, e.g. Exh. P00480, Accused **BEARA**’s interview with Belgrade journalist Sredoje Simić, published on 29 October 2002 in journal “Svedok,” in which he stated, among other things: “I am not ashamed of any of my actions... I was involved in intelligence work... on the Bihać front. I returned when it was over.” **BEARA** also referred to mass graves as “nonsense,” stating that “it is not possible to carry out killings on such a mass scale in the presence of UN representatives, even if someone had such an insane idea. In order to kill so many people in such a short time one would need to engage a brigade.” He further stated that he was convinced that Srebrenica was in fact “engineered” by the Muslims, just like the Markale massacre; explained away the intercept in which he is heard talking about the “parcels;” and stated that he, **NIKOLIĆ** and **POPOVIĆ** would not confirm false accusations against **Mradić**. Simić testified that **BEARA** was extremely satisfied with the interview, and had no objections to its contents. S.SIMIĆ, T.12412-12414.

<sup>6159</sup> *Brdanin* TJ, para. 1111; *Krstić* TJ, paras 711-712; *Simić* TJ, para. 74; *Blaškić* TJ, para. 784; *Jelić* TJ, para. 131; *Todorović* TJ, paras 63-64; *Stakić* TJ, para. 917; *Vasiljević* TJ, para. 279; *Tadić Sentencing Judgement*, para. 20. *Serushago* TJ, para. 25(i); *Kambanda*, para. 61(B)(vi) in particular; *Kayishema* TJ, paras. 16-23; *Ruggiu* TJ, para. 20; *Niyitegeka* TJ, para. 499(vi).

<sup>6160</sup> *Kambanda* TJ, para. 56 (quoting *Erdemović* Sentencing Judgement I).

<sup>6161</sup> *Babić* TJ, para. 48; *Jokić* Sentencing Judgement, paras 95-96; *Todorović* Sentencing Judgement, para. 88; Rule 101(B)(ii).

<sup>6162</sup> *Babić* TJ, para. 84; *Blajojević* AJ, paras 327-331; *Blajojević* TJ, para. 850; *Krstić* TJ, para. 715; *Erdemović* First Sentencing Judgement, paras 15-17; *Jokić* Sentencing Judgement, para. 89; *Simić* Sentencing Judgement, para. 94.

(ccli) Cooperation with the Tribunal

2830. None of the Accused cooperated with the Prosecution, other than the extent to which **BOROVČANIN** can be said to have cooperated by consenting to be interviewed by the Prosecution. This single and unsubstantial mitigating circumstance is negligible when viewed in light of the serious aggravating circumstances described above. Consenting to be interviewed by to the Prosecution and providing statements should not reduce **BOROVČANIN**'s sentence given the extreme gravity of his criminal conduct.

(cclii) Evidence of Voluntary Surrender to the Tribunal

2831. The Accused **BEARA**, **NIKOLIĆ**, **BOROVČANIN**, **POPOVIĆ**, and **PANDUREVIĆ** were fugitives from justice for anywhere from almost two to almost four years.<sup>6163</sup> The Accused **MILETIĆ** and **GVERO** were transferred to the Tribunal soon after their joint indictment became public, and within 20 days to approximately 45 days before the transfer of **PANDUREVIĆ**, **BOROVČANIN**, **NIKOLIĆ** and **POPOVIĆ**.<sup>6164</sup> The circumstances surrounding these transfers to The Hague are unknown. It is highly doubtful that these fugitives decided at almost the same time to "voluntarily" surrender, since each had failed to surrender to the Tribunal at the time that his indictment was unsealed and spent years evading justice.

<sup>6163</sup> The Indictments against **BEARA**, **POPOVIĆ**, and **NIKOLIĆ** all became public on 21 October 2002. See *Prosecutor v. Ljubiša BEARA*, Case No. IT-02-58-I, Order to Vacate in Part the Order for Non-Disclosure on 26 March 2002, 21 October 2002; *Prosecutor v. Vujadin Popović*, Case No. IT-02-57-I, Order to Vacate in Part the Order for Non-Disclosure on 26 March 2002, 21 October 2002; *Prosecutor v. Drago Nikolić*, Case No. IT-02-63-I, Order to Vacate in Part the Order for Non-Disclosure Issued on 6 September 2002, 21 October 2002. **BEARA** was a fugitive from justice for almost two years, until he was transferred to the ICTY on 10 October 2004. See *Prosecutor v. Ljubiša BEARA*, Case No. IT-02-58-I, Decision by the Registrar Regarding Assignment of Duty of Counsel, 12 October 2004. Both **POPOVIĆ** and **BEARA** were fugitives from justice for two and a half years, until being transferred to the ICTY on 14 April and 17 March 2005, respectively. See *Prosecutor v. Vujadin Popović*, Case No. IT-02-57-I, Scheduling Order for Initial Appearance, 15 April 2005; *Prosecutor v. Drago Nikolić*, Case No. IT-02-63-I, Order Assigning a Case to a Trial Chamber, 18 March 2005. The Indictments against **BOROVČANIN** and **PANDUREVIĆ** became public on 27 September 2002 and 7 December 2001, respectively. See *Prosecutor v. Ljubomir Borovčanin*, Case No. IT-02-64-I, Order to Lift the Seal of Confidentiality of the Indictment, Arrest Warrant and non-disclosure Warrant, 27 September 2002; *Prosecutor v. Radislav Krstić, Vinko Pandurević, and Vidoje Blagojević*, Case No. IT-98-33-PT, Order to Vacate Portion of Order of 2 November 1998, 7 December 2001. After initial, separate contacts with the Prosecutor, both became fugitives for two and a half, and three and a half years, respectively. *Prosecutor v. Ljubomir Borovčanin*, Case No. IT-02-64-I, Order Assigning a Case to a Trial Chamber, 1 April 2005; *Prosecutor v. Vinko Pandurević and Milorad Trbić*, Case No. IT-05-86-PT, Scheduling Order for Initial Appearance, 24 March 2005, p. 2.

<sup>6164</sup> The Indictment against **GVERO** and **MILETIĆ** became public on 25 February 2005. *Prosecutor v. Zdravko Tolimir, Radivoje Miletić and Milan GVERO*, Case No. IT-04-80-I, Decision on Motion of the Prosecution to Further Vacate the Order for Non-Disclosure, 25 February 2005. They were transferred, respectively, on 24 and 28 February 2005. See *Prosecutor v. Zdravko Tolimir, Radivoje Miletić and Milan GVERO*, Case No. IT-05-88-T, Decision on Defence Motions for Provisional Release of Radivoje Miletić and Milan **GVERO**, 7 December 2006.

2832. Indeed, this Trial Chamber has denied requests for provisional release of the Accused **PANDUREVIĆ**, **BOROVČANIN**, **POPOVIĆ** and **NIKOLIĆ** based, in large part, on their failure to explain why they had been fugitives from justice for such extended periods of time.<sup>6165</sup> Under the same rationale, the “surrender” of the Accused should not constitute mitigating circumstances. Additionally, **BOROVČANIN** failed to honour his pledge to report to the Prosecution on a date certain for arrest, choosing instead to grow a beard, dye his hair, and go on the run. **BEARA** bragged in an interview about how he would not surrender and derided the Tribunal.<sup>6166</sup>

**(ccliii) Assistance to Potential Victims**

2833. It has been held by Trial Chambers in this Tribunal and in the ICTR that the Accused’s assistance to certain potential victims constitutes a mitigating factor in sentencing.<sup>6167</sup> In this light, the **PANDUREVIĆ** Defence presented limited evidence concerning three instances where **PANDUREVIĆ** opened a corridor to allow Bosnian Muslims to pass through freely. First, **PANDUREVIĆ** attempted to portray himself favourably for opening corridors at Kamenica and Usiprača in 1993. Second, the **PANDUREVIĆ** Defence attempted to argue that on 16 July 1995, **PANDUREVIĆ** opened a corridor for the ABiH to pass through on “humanitarian” grounds. For the reasons set out in paras. 1284-1288 and 1595-1607, the Prosecution submits that the evidence holds zero value. **PANDUREVIĆ**’s sentence should not be reduced based on this evidence.

<sup>6165</sup> *Prosecutor v. Popović et al*, Case No. IT-05-88-PT, Decision on Drago Nikolić’s Request for Provisional Release, 9 November 2005, para. 20 (the Trial Chamber consider that the reasons provided by the Accused as to “why the Accused took no step to appear before the trial during the course of these two years and five month” were not satisfactory); *See also Prosecutor v. Vujadin Popović*, Case No. IT-02-57-PT, Decision on Motion for Provisional Release, 22 July 2005 (The Trial Chamber found that the Accused’s failure to surrender after the Indictment was made public without any clear explanation constituted grounds for denying the provisional release); *Prosecutor v. Popović et al.*, Case No. IT-05-88-PT, Decision of Defence Application for Provisional Release of the Accused Ljubomir Borovčanin, 10 May 2006, para. 21 (In a decision denying provisional release, the Trial Chamber placed considerable weight on the Accused providing “only generalized, unsubstantiated and unconvincing reasons for not surrendering ...at any point between September 2002 and April 2005”); *Id.*, Case No. IT-05-88-PT, Decision on Pandurević’s Renewed Motion for Provisional Release, 6 June 2006, p. 3. In other cases where considerable time had elapsed between the initial indictment and the voluntary surrender of the Accused without a clear explanation, the Trial Chamber used its discretion in determining that surrender will not be used as a mitigating circumstance. *See also Martić* TJ, para. 510 (noting that Martić’s surrender wasn’t “necessarily fully voluntary” because of the delay in his surrender and concluding that, although it is a mitigating factor, it will be given only minimal weight).

<sup>6166</sup> *See* Exh. P00480, Accused **BEARA**’s interview with Belgrade journalist Sredoje Simić, published on 29 October 2002 in journal “Svedok.”

<sup>6167</sup> *Rutaganda* Judgement and Sentence, para. 470; *See also Erdemović* Sentencing Judgement II, pp. 14-15; *Aleksovski* TJ, paras 235-238.

2834. Similarly, **BEARA**'s weak and ineffectual attempts to falsely portray himself as a humanitarian who helped potential victims should carry no weight.<sup>6168</sup>

(ccliv) **Personal Circumstances**

2835. **MILETIĆ**, **GVERO** and **BEARA** are of advanced age. All of the Accused have families. However, whatever meagre mitigating value these commonplace personal circumstances may have, in the balance they are trivial, and should not materially decrease the appropriate sentences for the grave crimes perpetrated by these men and the massive and intense suffering they inflicted on thousands of people.

(III) **GENERAL SENTENCING PRACTICES IN THE FORMER YUGOSLAVIA.**

2836. Although the Trial Chamber is required to consider the sentencing practices of the former Yugoslavia, these sentencing practices as set out in the SFRY Criminal Code<sup>6169</sup> are not binding upon the Trial Chamber, nor do they restrict a Trial Chamber from determining an appropriate sentence.<sup>6170</sup> The Criminal Code of BiH provides that genocide, crimes against humanity and war crimes against civilians, "the gravest forms of criminal offences," are punishable by a term of imprisonment of up to 45 years.<sup>6171</sup>

(JJJ) **PROSECUTOR'S RECOMMENDED SENTENCE**

2837. The Prosecution recommends that **PANDUREVIĆ**, **BOROVČANIN**, **BEARA**, **POPOVIĆ** and **NIKOLIĆ** be sentenced to life imprisonment and serve 46 years in custody in the State where they serve their sentences before becoming eligible for early release. This recommendation reflects the extreme gravity of the crimes for which the Accused are responsible and will ensure that they spend the rest of their lives incarcerated. **PANDUREVIĆ**, **BOROVČANIN**, **BEARA**, **POPOVIĆ** and **NIKOLIĆ** should never be released from prison.

2838. The Prosecution recommends that **GVERO** and **MILETIĆ** be sentenced to life imprisonment and serve 30 years in custody in the State where they serve their sentences

<sup>6168</sup> [REDACTED]; J.BIENENFELD, T. 25554-25559.

<sup>6169</sup> The Criminal Code of the Socialist Federal Republic of Yugoslavia (SFRY Criminal Code), adopted by the SFRY Assembly at the session of the Federal Council held on 28 September 1976; declared by decree of the President of the Republic on 28 September 1976; published in the Official Gazette SFRY No. 44 of 8 October 1976; took effect on 1 July 1977.

<sup>6170</sup> *Galić* AJ, para. 398; *Blagojević* TJ, para. 827; *Krstić* AJ, paras 260-63; *Plavšić* Sentencing Judgement, para. 115; *Jokić* Sentencing Judgment, para. 38; *Nikolić* Sentencing Judgement, para. 96; *Tadić* Sentencing Appeal Judgement, para. 20; *Furundžija* TJ, para. 294; *Aleksovski* TJ, para. 242; *Kupreškić* AJ, para. 418; *Jelisić* AJ, para. 117; *Čelebići* AJ, para. 813.

<sup>6171</sup> Criminal Code of BiH, Official Gazette of BiH No.3/03, 32/03, 37/03, 54/04, 61/04, 30/05, 53/06, 55/06, articles 42(2), 171, 172 and 173. Additionally, organizing or instigating the crimes of genocide, crimes against humanity and war crimes is punishable by 10 years. *Id.* Article 176.

before becoming eligible for early release. This recommendation reflects the fact that **GVERO** and **MILETIĆ** are not charged with counts I through III of the Indictment.

2839. The *D.Nikolić* Trial Chamber commissioned a research report from the Max Planck Institute on sentencing guidelines and practices in the former Yugoslavia as well as other countries. That report indicated that in many countries, a “life sentence” will not be fully executed. In China and Belgium, for example, an Accused sentenced to “life” may be released after only ten years, and in many other countries an Accused may be released after 25 years.<sup>6172</sup>

2840. As noted by the *D.Nikolić* Appeals Chamber:

Under the International Tribunal’s law, eligibility for early release is dependent on the applicable law of the State in which the convicted person is imprisoned, which State shall notify the International Tribunal of such eligibility. Ultimately, the President determines, in consultation with the members of the sentencing chamber and the Bureau, whether or not early release should be granted.<sup>6173</sup>

2841. Due to the uncertainty of how long an Accused sentenced to “life” imprisonment by this Tribunal will actually spend incarcerated, the Prosecution recommends terms of life imprisonment with minimum sentences of 46 years for **PANDUREVIĆ**, **BOROVČANIN**, **BEARA**, **POPOVIĆ** and **NIKOLIĆ** and life imprisonment with minimum sentences of 30 years for **GVERO** and **MILETIĆ**.<sup>6174</sup>

2842. The Prosecution urges that should the Trial Chamber determine that the most appropriate sentence for **PANDUREVIĆ**, **BOROVČANIN**, **BEARA**, **POPOVIĆ** and **NIKOLIĆ** is that they remain incarcerated for the remainder of their lives, then it is imperative that the Chamber express this clearly and unambiguously, so that the intentions of the Chamber may be fully understood and considered if and when these Accused may be considered for early release according to the requirements of the national laws where they ultimately serve their sentence.

2843. Each of the men tried in this case willingly took part and played a critical role in the crimes which inflicted such immense suffering on the Muslim population of Srebrenica and Žepa. For these crimes, a sentence of life imprisonment is the only just verdict.

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<sup>6172</sup> See “The Punishment of Serious Crimes: a comparative analysis of sentencing law and practice” provided by Prof. Dr. Ulrich Sieber from the Max Planck Institute, filed on 12 November 2003, particularly Section 4.2.1.4.

<sup>6173</sup> *D.Nikolić* SAJ, para.94, citing Article 28 of the Statute, Rules 123 & 124 of the Rules, and Practice Direction on the Procedure for the Determination of Applications for Pardon, Commutation of Sentence and Early Release of Persons Convicted by the International Tribunal (IT/146/Rev.1), 15 August 2006.

<sup>6174</sup> *D.Nikolić* SAJ, para.95; *Krstić* SAJ, para.274; *Tadić* SAJ, para.28.

## **Prosecution's Glossary**

### **Pleadings, Orders, Decisions, etc. from Prosecutor v. Vujadin Popović et al., Case No. IT-05-88-T**

<b>Abbreviation used in Prosecution Final Trial Brief</b>	<b>Full citation</b>
Trial Chamber	Trial Chamber in <i>Prosecutor v. Vujadin Popović</i> , Case No. IT-05-88-T
Indictment	<i>Prosecutor v. Vujadin Popović</i> , Case No. IT-05-88-T, Indictment, 4 August 2006
Prosecution Pre-Trial Brief	<i>Prosecutor v. Vujadin Popović</i> , Case No. IT-05-88-T, Prosecutor's Pre-Trial Brief Pursuant to Rule 65ter (E) (i), 28 April 2006.
Prosecution 98bis Submission	<i>Prosecutor v. Vujadin Popović</i> , Case No. IT-05-88-T, Prosecution 98bis Submission, 18 February 2008, T. 21392:22-21456:18.
Rule 98bis Decision	<i>Prosecutor v. Vujadin Popović</i> , Case No. IT-05-88-T, Rule 98 bis Decision, 3 March 2008.
Prosecution adjudicated facts	<i>Prosecutor v. Vujadin Popović</i> , Case No. IT-05-88-T, Decision on Prosecution's Motion for Judicial Notice of Adjudicated Facts, 26 September 2006.
92quater Decision	<i>Prosecutor v. Vujadin Popović</i> , Case No. IT-05-88-T, Decision on Prosecution Motion to Admit Statements Pursuant to Rule 92 quater, 21 April 2008.

### **Other ICTY authorities**

<b>Abbreviation used in Final Trial Brief</b>	<b>Full citation</b>
<i>Aleksovski</i> AJ	<i>Prosecutor v. Zlatko Aleksovski</i> , Case No. IT-95-14/1-A, App.Ch., Judgement, 24 March 2000
<i>Aleksovski</i> Decision on Admissibility of Evidence	<i>Prosecutor v. Zlatko Aleksovski</i> , Case No. IT-95-14/1-AR73, App. Ch., Decision on Prosecutor's Appeal on Admissibility of Evidence, 16 February 1999
<i>Aleksovski</i> TJ	<i>Prosecutor v. Zlatko Aleksovski</i> , Case No. IT-95-14/1-T, T.Ch., Judgement, 25 June 1999
<i>Babić</i> SAJ	<i>Prosecutor v. Milan Babić</i> , Case No. IT-03-72-A, App.Ch. Judgement on Sentencing Appeal, 18 July 2005
<i>Babić</i> SJ	<i>Prosecutor v. Milan Babić</i> , Case No. IT-03-72-S, T.Ch., Sentencing Judgement, 29 June 2004
<i>Banović</i> SJ	<i>Prosecutor v. Predrag Banović</i> , Case No. IT-02-65/1-S, T.Ch. Sentencing Judgement, 28 October 2003
<i>Blaškić</i> AJ	<i>Prosecutor v. Tihomir Blaškić</i> , Case No. IT-95-14-A, App.Ch., Judgement, 29 July 2004
<i>Blaškić</i> TJ	<i>Prosecutor v. Tihomir Blaškić</i> , Case No. IT-95-14-T, T. Ch., Judgement, 3 March 2000
<i>Blagojević</i> AJ	<i>Prosecutor v. Vidoje Blagojević &amp; Dragan Jokić</i> , Case No. IT-02-60-A, App.Ch., Judgement, 9 May 2007
<i>Blagojević</i> Disclosure AD	<i>Prosecutor v. Vidoje Blagojević &amp; Dragan Jokić</i> , Case No. IT-02-

Abbreviation used in Final Trial Brief	Full citation
	60-T, T.Ch., Decision on Vidoje Blagojević's Expedited Motion to Compel the Prosecution to Disclose its Notes from Plea Discussions with the Accused Nikolić & Request for an Expedited Open Session Hearing, 13 June 2003
<i>Blagojević TJ</i>	<i>Prosecutor v. Vidoje Blagojević &amp; Dragan Jokić</i> , Case No. IT-02-60-T, T.Ch., Trial Judgement, 17 January 2005
<i>Boškoski Decision</i>	<i>Prosecutor v. Ljube Boškoski &amp; Johan Tarčulovski</i> , Case No. IT-04-82-PT, T.Ch., Decision on Prosecution's Motion to Amend the Indictment and Submission of Proposed Second Amended Indictment and Submission of Amended Pre-Trial Brief, 26 May 2006
<i>Boškoski November 2005 Indictment Decision</i>	<i>Prosecutor v. Ljube Boškoski &amp; Johan Tarčulovski</i> , Case No., IT-04-82-PT, T.Ch., Decision on Prosecution Motion for Leave to Amend the Original Indictment and Defence Motions Challenging the Form of the Proposed Indictment, 1 November 2005
<i>Boškoski TJ</i>	<i>Prosecutor v. Ljube Boškoski &amp; Johan Tarčulovski</i> , Case No. IT-04-82-PT, T.Ch., Judgement, 10 July 2008
<i>Bralo SAJ</i>	<i>Prosecutor v. Miroslav Bralo</i> , Case No.IT-95-17-A, App.Ch., Judgement on Sentencing Appeal, 2 April 2007
<i>Bralo SJ</i>	<i>Prosecutor v. Miroslav Bralo</i> , Case No.IT-95-17-S, T.Ch., Sentencing Judgement, 7 December 2005
<i>Brdanin AJ</i>	<i>Prosecutor v. Radoslav Brdanin</i> , Case No. IT-99-36-A, App.Ch., Judgement, 3 April 2007
<i>Brdanin TJ</i>	<i>Prosecutor v. Radoslav Brdanin</i> , Case No. IT-99-36-T, T. Ch., Judgement, 1 September 2004
<i>Čelebići AD</i>	<i>Prosecutor v. Zejnil Delalić, Zdravko Mucić, a.k.a. "Pavo", Hazim Delić &amp; Esad Landžo, a.k.a. "Zenga"</i> , Case No. IT-96-21-AR 73.2, App.Ch., Decision on Application of Defendant Zeljnil Delalić for Leave to Appeal against the Decision of the Trial Chamber of 19 January 1998 for the Admissibility of Evidence, 4 March 1998
<i>Čelebići AJ</i>	<i>Prosecutor v. Zejnil Delalić, Zdravko Mucić, a.k.a. "Pavo", Hazim Delić &amp; Esad Landžo, a.k.a. "Zenga"</i> , Case No. IT-96-21-A, App.Ch., Judgement, 20 February 2001
<i>Čelebići SAJ</i>	<i>Prosecutor v. Zejnil Delalić, Zdravko Mucić, a.k.a. "Pavo", Hazim Delić &amp; Esad Landžo, a.k.a. "Zenga"</i> , Case No. IT-96-21-A, App.Ch., Judgement on Sentence Appeal, 8 April 2003
<i>Čelebići SJ</i>	<i>Prosecutor v. Zdravko Mucić a/k/a "Pavo", Hazim Delić &amp; Esad Landžo a/k/a "Zenga"</i> , Case No. IT-96-21-Tbis-R117, T.Ch., Sentencing Judgement, 9 October 2001
<i>Čelebići TJ</i>	<i>Prosecutor v. Zejnil Delalić, Zdravko Mucić, a.k.a. "Pavo", Hazim Delić &amp; Esad Landžo, a.k.a. "Zenga"</i> , Case No. IT-96-21-T, T.Ch., Judgement, 16 November 1998
<i>D.Nikolić SAJ</i>	<i>Prosecutor v. Dragan Nikolić</i> , Case No. IT-94-02-A, App.Ch. Judgement on Sentencing Appeal, 4 February 2005
<i>D.Nikolić SJ</i>	<i>Prosecutor v. Dragan Nikolić</i> , Case No. IT-94-02-S, T.Ch., Sentencing Judgement, 18 December 2003
<i>Deronjić SAJ</i>	<i>The Prosecutor v. Miroslav Deronjić</i> , Case No. IT-02-61-A,



<b>Abbreviation used in Final Trial Brief</b>	<b>Full citation</b>
	<i>App.Ch., Judgement on Sentencing Appeal</i> , 20 July 2005
<i>Deronjić SJ</i>	<i>Prosecutor v. Miroslav Deronjić</i> , Case No. IT-02-61-S, T.Ch., Sentencing Judgement, 30 March 2004
<i>Erdemović 1996 SJ</i>	<i>Prosecutor v. Dražen Erdemović</i> , Case No. IT-96-22-T, T.Ch., Sentencing Judgement, 29 November 1996
<i>Erdemović 1998 SJ</i>	<i>Prosecutor v. Dražen Erdemović</i> , Case No. IT-96-22-T bis, T.Ch., Sentencing Judgement, 5 March 1998
<i>Erdemović AJ</i>	<i>Prosecutor v. Dražen Erdemović</i> , Case No. IT-96-22-A, App.Ch., Judgement, 7 October 1997
<i>Furundžija AJ</i>	<i>Prosecutor v. Anto Furundžija</i> , Case No. IT-95-17/1-A, App.Ch., Judgement, 21 July 2000
<i>Furundžija TJ</i>	<i>Prosecutor v. Anto Furundžija</i> , Case No. IT-95-17/1-T, T.Ch., Judgement, 10 December 1998
<i>Furundžija Decision</i>	<i>Prosecutor v. Anto Furundžija</i> , Case No. IT-95-17/1-T, T.Ch., Decision, 16 July 1998
<i>Galić AJ</i>	<i>Prosecutor v. Stanislav Galić</i> , Case No. IT-98-29-A, App.Ch., Judgement, 30 November 2006
<i>Galić TJ</i>	<i>Prosecutor v. Stanislav Galić</i> , Case No. IT-98-29-T, T.Ch., Judgement, 5 December 2003
<i>Hadžihasanović Superior Responsibility AD</i>	<i>Prosecutor v. Enver Hadžihasanović &amp; Amir Kubura</i> , Case No. IT-01-47-AR72, App.Ch., Decision on Interlocutory Appeal Challenging Jurisdiction in Relation to Command Responsibility, 16 July 2003
<i>Hadžihasanović TJ</i>	<i>Prosecutor v. Enver Hadžihasanović &amp; Amir Kubura</i> , Case No. IT-01-47-T, T.Ch. Judgement, 15 March 2006
<i>Hadžihasanović AJ</i>	<i>Prosecutor v. Enver Hadžihasanović &amp; Amir Kubura</i> , Case No. IT-01-47-A, App.Ch. Judgement, 22 April 2008
<i>Halilović AD</i>	<i>Prosecutor v. Sefer Halilović</i> , Case No. IT-01-48-AR73.2, App.Ch., Decision on Interlocutory Appeal Concerning Admission of Record of Interview from the Bar Table, 19 August 2005
<i>Halilović AJ</i>	<i>Prosecutor v. Sefer Halilović</i> , Case No. IT-01-48-A, App.Ch., Judgement, 16 October 2007
<i>Halilović TJ</i>	<i>Prosecutor v. Sefer Halilović</i> , Case No. IT-01-48-T, T.Ch., Judgement, 16 November 2005
<i>Haradinaj TJ</i>	<i>Prosecutor v. Ramush Haradinaj, Idriz Balaj &amp; Lahi Brahimaj</i> , Case No. IT-04-84-T, T.Ch., 3 April 2008
<i>Jelisić AJ</i>	<i>Prosecutor v. Goran Jelisić</i> , Case No. IT-95-10-A, App.Ch., Judgement, 5 July 2001
<i>Jelisić Order</i>	<i>Prosecutor v. Goran Jelisić</i> , Case No. IT-95-10-A, App.Ch., Order, 21 March 2000
<i>Jelisić TJ</i>	<i>Prosecutor v. Goran Jelisić</i> , Case No. IT-95-10-T, T.Ch., Judgement, 14 December 1999
<i>Jokić AJ</i>	<i>Prosecutor v. Miodrag Jokić</i> , Case No. IT-01-42/1-A, App.Ch., Judgement on Sentencing Appeal, 30 August 2005
<i>Jokić SJ</i>	<i>Prosecutor v. Miodrag Jokić</i> , Case No. IT-01-42/1-S, T.Ch., Sentencing Judgement, 18 March 2004
<i>Karemera Interlocutory Appeal Decision</i>	<i>Prosecutor v. Karemera</i> , Case No. ICTR-98-44-AR73(C), App.Ch., Decision on Prosecutor's Interlocutory Appeal of

<b>Abbreviation used in Final Trial Brief</b>	<b>Full citation</b>
	Decision on Judicial Notice, 16 June 2006.
<i>Kordić AJ</i>	<i>Prosecutor v. Dario Kordić &amp; Mario Čerkez</i> , Case No. IT-95-14/2-A, App.Ch., Judgement, 17 December 2004
<i>Kordić TJ</i>	<i>Prosecutor v. Dario Kordić &amp; Mario Čerkez</i> , Case No. IT-95-14/2-T, T.Ch., Judgement, 26 February 2001
<i>Krajišnik TJ</i>	<i>Prosecutor v. Momčilo Krajišnik</i> , Case No. IT-00-39-T, Judgement, 27 September 2006
<i>Krajišnik Decision on Judicial Notice</i>	<i>Prosecutor v. Krajišnik</i> , Case No. IT-00-39-PT, T.Ch., Decision on Prosecution Motions for Judicial Notice of Adjudicated Facts and for Admission of Written Statements of Witnesses Pursuant to Rule 92bis, 28 February 2003.
<i>Krnjelac AJ</i>	<i>Prosecutor v. Milorad Krnjelac</i> , Case No. IT-97-25-A, App.Ch., Judgement, 17 September 2003
<i>Krnjelac TJ</i>	<i>Prosecutor v. Milorad Krnjelac</i> , Case No. IT-97-25-T, T.Ch., Judgement, 15 March 2002
<i>Krstić AJ</i>	<i>Prosecutor v. Radislav Krstić</i> , Case No. IT-98-33-A, App.Ch., Judgement, 19 April 2004
<i>Krstić TJ</i>	<i>Prosecutor v. Radislav Krstić</i> , Case No. IT-98-33-T, T.Ch., Judgement, 2 August 2001
<i>Kunarac AJ</i>	<i>Prosecutor v. Dragoljub Kunarac, Radomir Kovač &amp; Zoran Vuković</i> , Case No. IT-96-23 & IT-96-23/1-A, App.Ch., Judgement, 12 June 2002
<i>Kunarac TJ</i>	<i>Prosecutor v. Dragoljub Kunarac, Radomir Kovač &amp; Zoran Vuković</i> , Case No. IT-96-23 & IT-96-23/1-T, T.Ch., Judgement, 22 February 2001
<i>Kupreškić AJ</i>	<i>Prosecutor v. Zoran Kupreškić, Mirjan Kupreškić, Vlatko Kupreškić, Drago Josipović &amp; Vladimir Šantić</i> , Case No. IT-95-16-A, App.Ch., Judgement, 23 October 2001
<i>Kupreškić TJ</i>	<i>Prosecutor v. Zoran Kupreškić, Mirjan Kupreškić, Vlatko Kupreškić, Drago Josipović, Dragan Papić &amp; Vladimir Šantić, a.k.a. "Vlado"</i> , Case No. IT-95-16-T, T.Ch., Judgement, 14 January 2000
<i>Kvočka AJ</i>	<i>Prosecutor v. Miroslav Kvočka, Milošica Kos, Mlado Radić, Zoran Žigić &amp; Dragoljub Prcać</i> , Case No. IT-98-30/1-A, App.Ch., Judgement, 28 February 2005
<i>Kvočka TJ</i>	<i>Prosecutor v. Miroslav Kvočka, Milošica Kos, Mlado Radić, Zoran Žigić &amp; Dragoljub Prcać</i> , Case No. IT-98-30/1-T, T.Ch., Judgement, 2 November 2001
<i>Limaj AJ</i>	<i>Prosecutor v. Fatmir Limaj, Haradin Bala &amp; Isak Musliu</i> , Case No. IT-03-66-A, App.Ch., Judgement, 27 September 2007
<i>Limaj TJ</i>	<i>Prosecutor v. Fatmir Limaj, Haradin Bala &amp; Isak Musliu</i> , Case No. IT-03-66-T, T.Ch., Judgement, 30 November 2005
<i>Martić TJ</i>	<i>Prosecutor v. Milan Martić</i> , Case No. IT-95-11-T, T.Ch., Judgement, 12 June 2007
<i>Martić TJ</i>	<i>Prosecutor v. Milan Martić</i> , Case No. IT-95-11-A, App.Ch., Judgement, 8 October 2008
<i>Milošević TJ</i>	<i>Prosecutor v. Dragomir Milošević</i> , Case No. IT-98-29/1-T, Judgement, 12 December 2007
<i>Milutinović TJ</i>	<i>Prosecutor v. Milan Milutinović et al</i> , Case No. IT-05-87-T,

<b>Abbreviation used in Final Trial Brief</b>	<b>Full citation</b>
	T.Ch. Judgment, 29 February 2009
<i>M.Nikolić</i> SAJ	<i>Prosecutor v. Momir Nikolić</i> , Case No. IT-02-60/1-A, App.Ch., Appeal Sentencing Judgement, 8 March 2006
<i>M.Nikolić</i> SJ	<i>Prosecutor v. Momir Nikolić</i> , Case No. IT-02-60/1-S, T.Ch., Sentencing Judgement, 2 December 2003
<i>M.Simić</i> SJ	<i>Prosecutor v. Milan Simić</i> , Case No. IT-95-9/2-S, T.Ch., Sentencing Judgement, 17 October 2002
<i>Mrkšić</i> AJ	<i>Prosecutor v. Mile Mrksić &amp; Veselin Šljivančanin</i> , Case No. IT-95-13/1-A, App.Ch., Judgement, 5 May 2009
<i>Mrkšić</i> TJ	<i>Prosecutor v. Mile Mrksić, Miroslav Radić &amp; Veselin Šljivančanin</i> , Case No. IT-95-13/1-T, T.Ch., Judgement, 27 September 2007
<i>Naletilić</i> AJ	<i>Prosecutor v. Mladen Naletilić &amp; Vinko Martinović</i> , Case No. IT-98-34- A, App.Ch., Judgement, 3 May 2006
<i>Naletilić</i> TJ	<i>Prosecutor v. Mladen Naletilić &amp; Vinko Martinović</i> , Case No. IT-98-34-T, T.Ch., Judgement, 31 March 2003
<i>Obrenović</i> SJ	<i>Prosecutor v. Dragan Obrenović</i> , Case No. IT-02-60/2-S, T.Ch., Sentencing Judgement, 10 December 2003
<i>Ojdanić</i> JCE AD	<i>Prosecutor v .Milan Milutinović, Nikola Šainović &amp; Dragoljub Ojdanić</i> , Case No. IT-99-37-AR72, App.Ch., Decision on Dragoljub Ojdanić's Motion challenging Jurisdiction-Joint Criminal Enterprise, 21 May 2003
<i>Ojdanić</i> JCE AD Separate Opinion of Judge Hunt	<i>Prosecutor v .Milan Milutinović, Nikola Šainović &amp; Dragoljub Ojdanić</i> , Case No. IT-99-37-AR72, App.Ch., Decision on Dragoljub Ojdanić's Motion challenging Jurisdiction-Joint Criminal Enterprise, Separate Opinion of Judge David Hunt on Challenge by Ojdanić to Jurisdiction Joint Criminal Enterprise, 21 May 2003
<i>Orić</i> TJ	<i>Prosecutor v. Naser Orić</i> , Case No. IT-03-68-T, T.Ch., Judgement, 30 June 2006
<i>Plavšić</i> SJ	<i>Prosecutor v. Biljana Plavšić</i> , Case No. IT-00-39&40/1-S, T.Ch., Sentencing Judgement, 27 February 2003
<i>Sikirica</i> SJ	<i>Prosecutor v. Duško Sikirica, Damir Došen, Dragan Kolundžija</i> , Case No. IT-95-8-S, T.Ch., Sentencing Judgement, 13 November 2001
<i>Simić</i> AJ	<i>Prosecutor v. Blagoje Simić</i> , Case No.IT-95-9-A, App.Ch., Judgement, 28 November 2006
<i>Simić</i> Reasons for Decision	<i>Prosecutor v. Blagoje Simić, Miroslav Tadić, Simo Zarić</i> , Case No.IT-95-9-T, T.Ch., Reasons for Decision on Admission of "Variant A&B" Document, 22 May 2002
<i>Simić</i> TJ	<i>Prosecutor v. Blagoje Simić, Miroslav Tadić, Simo Zarić</i> , Case No. IT-95-9-T, T.Ch., Judgement, 17 October 2003
<i>Stakić</i> AJ	<i>Prosecutor v. Milomir Stakić</i> , Case No. IT-97-24-A, App.Ch. Judgement, 22 March 2006

<b>Abbreviation used in Final Trial Brief</b>	<b>Full citation</b>
<i>Stakić</i> TJ	<i>Prosecutor v. Milomir Stakić</i> , Case No. IT-97-24-T, T.Ch., Judgement, 31 July 2003
<i>Strugar</i> TJ	<i>Prosecutor v. Pavle Strugar</i> , Case No. IT-01-42-T, T.Ch., Judgement, 31 January 2005
<i>Strugar</i> TJ	<i>Prosecutor v. Pavle Strugar</i> , Case No. IT-01-42-A, App.Ch., Judgement, 17 July 2008
<i>Tadić</i> 1997 SJ	<i>Prosecutor v. Duško Tadić a/k/a “Dule”</i> , Case No. IT-94-1-T, T.Ch., Sentencing Judgement, 14 July 1997
<i>Tadić</i> 1999 SJ	<i>Prosecutor v. Duško Tadić a/k/a “Dule”</i> , Case No. IT-94-1-Tbis-R117, T.Ch., Sentencing Judgement, 11 November 1999
<i>Tadić</i> AJ	<i>Prosecutor v. Duško Tadić a/k/a “Dule”</i> , Case No. IT-94-1-A, App.Ch., Judgement, 15 July 1999
<i>Tadić</i> Jurisdiction AD	<i>Prosecutor v. Duško Tadić a/k/a “Dule”</i> , Case No. IT-94-1-AR72, App.Ch., Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995
<i>Tadić</i> Jurisdiction TD	<i>Prosecutor v. Duško Tadić a/k/a “Dule”</i> , Case No. IT-94-1-T, T.Ch., Decision on the Defence Motion on Jurisdiction, 10 August 1995
<i>Tadić</i> SAJ	<i>Prosecutor v. Duško Tadić a/k/a “Dule”</i> , Case No. IT-94-1-A and IT-94-1-Abis, App.Ch., Judgement on Sentencing Appeal, 26 January 2000
<i>Tadić</i> TJ	<i>Prosecutor v. Duško Tadić a/k/a “Dule”</i> , Case No. IT-94-1-T, T.Ch., Opinion and Judgement, 7 May 1997
<i>Todorović</i> SJ	<i>Prosecutor v. Stevan Todorović</i> , Case No. IT-95-9/1-S, T.Ch., Sentencing Judgement, 31 July 2001
<i>Vasiljević</i> AJ	<i>Prosecutor v. Mitar Vasiljević</i> , Case No. IT-98-32-A, App.Ch., Judgement, 25 February 2004
<i>Vasiljević</i> TJ	<i>Prosecutor v. Mitar Vasiljević</i> , Case No. IT-98-32-T, T.Ch., Judgement, 29 November 2002
<i>Zelenović</i> SJ	<i>Prosecutor v. Dragan Zelenović</i> , Case No. IT-96-23/2-S, T.Ch., 4 April 2007

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<b>Abbreviation used</b>	<b>Full citation</b>
<i>Akayesu</i> AJ	<i>Prosecutor v. Jean-Paul Akayesu</i> , Case No. ICTR-96-4-A, App.Ch., Judgement, 1 June 2001
<i>Akayesu</i> TJ	<i>Prosecutor v. Jean-Paul Akayesu</i> , Case No. ICTR-96-4-T, T.Ch., Judgement, 2 September 1998
<i>Bagilishema</i> AJ	<i>Prosecutor v. Ignace Bagilishema</i> , Case No. ICTR-95-1A-A, App.Ch., Appeal Judgement (Reasons), 3 July 2002
<i>Bagilishema</i> TJ	<i>Prosecutor v. Ignace Bagilishema</i> , Case No. ICTR-95-1A-T, T.Ch., Judgement, 7 June 2001
<i>Barayagwiza</i> AD	<i>Jean-Bosco Barayagwiza v. Prosecutor</i> , Case No. ICTR-97-19-AR72, App.Ch., Decision, 3 November 1999
<i>Bisengimana</i> TJ	<i>Prosecutor v. Paul Bisengimana</i> , Case No. ICTR-00-60-T, T.Ch.,

Abbreviation used	Full citation
	Judgement and Sentence, 13 April 2006
<i>GAA TJ</i>	<i>Prosecutor v GAA</i> , Case No. ICTR-07-90-R77-I, T.Ch., Judgement and Sentence, 4 December 2007
<i>Gacumbitsi AJ</i>	<i>Prosecutor v Sylvestre Gacumbitsi</i> , Case No. ICTR-2001-64-A, App.Ch., Judgement, 7 July 2006
<i>Gacumbitsi TJ</i>	<i>Prosecutor v. Sylvestre Gacumbitsi</i> Case No. ICTR-01-64-T, T.Ch., Judgment, 17 June 2004
<i>Kajelijeli AJ</i>	<i>Prosecutor v. Juvénal Kajelijeli</i> , Case No. ICTR-98-44A-A, App.Ch., Judgement, 23 May 2005
<i>Kajelijeli TJ</i>	<i>Prosecutor v. Juvénal Kajelijeli</i> , Case No. ICTR-98-44A-T, T.Ch., Trial Judgement and Sentence, 1 December 2003
<i>Kambanda AJ</i>	<i>Jean Kambanda v Prosecutor</i> , Case No. ICTR 97-23-A, App.Ch., Judgement, 19 October 2000
<i>Kambanda SJ</i>	<i>Prosecutor v. Jean Kambanda</i> , Case No. ICTR-97-23-S, T.Ch., Judgement and Sentence, 4 September 1998
<i>Kamuhanda AJ</i>	<i>Prosecutor v Jean de Dieu Kamuhanda</i> , Case No. ICTR-99-54A-A, App.Ch., Appeal Judgement, 19 September 2005
<i>Kamuhanda TJ</i>	<i>Prosecutor v Jean de Dieu Kamuhanda</i> , Case No. ICTR-99-54A-T, T.Ch., Trial Judgement and Sentence, 22 January 2003
<i>Kayishema AJ</i>	<i>Prosecutor v. Clément Kayishema &amp; Obed Ruzindana</i> , Case No. ICTR-95-1-A, App.Ch., Appeal Judgement (Reasons), 1 June 2001
<i>Kayishema TJ</i>	<i>Prosecutor v. Clément Kayishema &amp; Obed Ruzindana</i> , Case No. ICTR-95-1-T, T.Ch., Judgement, 21 May 1999
<i>Mpambara TJ</i>	<i>Prosecutor v. Jean Mpambara</i> , Case No. ICTR-01-65-T, T.Ch., Judgement, 11 September 2006
<i>Muhimana AJ</i>	<i>Prosecutor v. Mikaeli Muhimana</i> , ICTR-95-1B-A, App.Ch., Judgement, 21 May 2007
<i>Muhimana TJ</i>	<i>Prosecutor v. Mikaeli Muhimana</i> , Case No. ICTR-95-1B-T, T.Ch., Judgement and Sentence, 28 April 2005
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<i>Musema TJ</i>	<i>Prosecutor v. Alfred Musema</i> , Case No. ICTR-96-13-A, T.Ch., Judgement, 27 January 2000
<i>Muvunyi TJ</i>	<i>Prosecutor v Tharcisse Muvunyi</i> , Case No. ICTR-2000-55A-T, T.Ch., Judgement and Sentence, 12 September 2006
<i>Muvunyi AJ</i>	<i>Prosecutor v Tharcisse Muvunyi</i> , Case No. ICTR-2000-55A-A, App.Ch., Judgement and Sentence, 29 August 2008
<i>Nahimana AJ</i>	<i>Prosecutor v. Ferdinand Nahimana, Jean-Bosco Barayagwiza &amp; Hassan Ngeze</i> , Case No. ICTR-99-52-A, App.Ch., Judgement, 28 November 2007
<i>Nahimana TJ</i>	<i>Prosecutor v. Ferdinand Nahimana, Jean-Bosco Barayagwiza &amp; Hassan Ngeze</i> , Case No. ICTR-99-52-T, T.Ch., Judgement and Sentence, 3 December 2003
<i>Ndindabahizi AJ</i>	<i>Prosecutor v. Emmanuel Ndindabahizi</i> , Case No. ICTR-01-71-A, App.Ch., Judgement, 16 January 2007
<i>Ndindabahizi TJ</i>	<i>Prosecutor v. Emmanuel Ndindabahizi</i> , Case No. ICTR-01-71-T, Judgement and Sentence, 15 July 2004
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Abbreviation used	Full citation
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<i>Ntagerura TJ</i>	<i>Prosecutor v. André Ntagerura, Emmanuel Bagambiki &amp; Samuel Imanishimwe</i> , Case No. ICTR-99-46-T, T.Ch., Judgement and Sentence, 25 February 2004
<i>Ntakirutimana AJ</i>	<i>Prosecutor v. Ntakirutimana &amp; Ntakirutimana</i> , Case No. ICTR-96-10-A and ICTR-96-17-A, Judgement, 13 December 2004
<i>Ntakirutimana TJ</i>	<i>Prosecutor v. Elizaphan &amp; Gérard Ntakirutimana</i> , Case No. ICTR-96-10 & ICTR-96-17-A, Appeal Judgement, 9 December 2004
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<i>Ruggiu TJ</i>	<i>Prosecutor v. Georges Ruggiu</i> , Case No. ICTR-97-32-I, T.Ch., Judgement and Sentence, 1 June 2000
<i>Rutaganda AJ</i>	<i>Prosecutor v. Georges Anderson Nderubumwe Rutaganda</i> , Case No. ICTR-96-3-A, App.Ch., Judgement, 26 May 2003
<i>Rutaganda TJ</i>	<i>Prosecutor v. Georges Anderson Nderubumwe Rutaganda</i> , Case No. ICTR-96-3-T, App.Ch., Judgement, 6 December 1999
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<i>Rwamakuba TJ</i>	<i>Prosecutor v. André Rwamakuba</i> , Case No. ICTR-98-44C-T, T.Ch., Judgement, 20 September 2006
<i>Semanza AD</i>	<i>Laurent Semanza v. Prosecutor</i> , Case No. ICTR-97-20-A, App.Ch., Decision, 31 May 2000
<i>Semanza AJ</i>	<i>Prosecutor v. Laurent Semanza</i> , Case No. ICTR-97-20-A, App.Ch., Judgement, 20 May 2003
<i>Semanza TJ</i>	<i>Prosecutor v. Laurent Semanza</i> , Case No. ICTR-97-20-T, T.Ch., Judgement and Sentence, 15 May 2003
<i>Seromba TJ</i>	<i>Prosecutor v. Athanase Seromba</i> , Case No. ICTR-2001-66-A, T.Ch., Judgement, 13 December 2006
<i>Seromba AJ</i>	<i>Prosecutor v. Athanase Seromba</i> , Case No. ICTR-2001-66-T, App.Ch., Judgement, 12 March 2008
<i>Serugendo TJ</i>	<i>Prosecutor v. Joseph Serugendo</i> , Case No. ICTR-2005-84-I, T.Ch., Judgement and Sentence, 12 June 2006
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**Pleadings from other cases**

Abbreviation used	Full citation
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Orić Brief	<i>Prosecutor v. Naser Orić</i> , Case No. IT-03-68-A, Prosecution Appeal Brief, 16 October 2006

**Judgements and Decisions Relating to Crimes Committed During WWII**

Abbreviation used	Full citation
<i>Belsen Case</i>	Belsen Trial, Law Reports of Trials of War Criminals, Selected and Prepared by UN War Crimes Commission, Vol. II, (London, His Majesty's Stationery Office, 1949)
<i>Dachau Case</i>	Dachau Concentration Camp Trial, Law Reports on Trials of War Criminals, Selected and Prepared by UN War Crimes Commission, Vol. XI, (London, His Majesty's Stationery Office, 1949)
<i>Eichmann Case</i>	Attorney General v. Adolf Eichmann, District Court of Jerusalem, Case No. 40/61
<i>Einsatzgruppen Case</i>	Einsatzgruppen Case, reprinted in Trials of War Criminals Before the Nuremberg Military Tribunals Under Control Council Law No. 10, Vol. IV
<i>Flossenbürg Case</i>	Flossenbürg Trial, Law Reports of Trials of War Criminals, Selected and Prepared by UN War Crimes Commission, Vol. XV, (London, His Majesty's Stationery Office, 1949)
<i>IMTFE Judgement</i>	<i>The Tokyo Judgement, International Military Tribunal for the Far East</i> , 29 April 1946-12 November 1948 in Röling and Rüter (eds), Vol I.
<i>Justice Case</i>	United States v. Altstoetter et al, Law Reports of Trials of War Criminals (United Nations War Crimes Commission) Vol. VI
<i>Milch Case</i>	Milch Case, reprinted in Trials of War Criminals Before the Nuremberg Military Tribunals Under Control Council Law No. 10, Vol. II
<i>Ministries Case</i>	The Ministries Case, reprinted in Trials of War Criminals Before the Nuremberg Military Tribunals Under Control Council Law No. 10, Vol. XIV
<i>Nuremberg Judgement</i>	Trial of the Major War Criminals Before the International Military Tribunal, Nuremberg, 14 November 1945
<i>RuSHA Case</i>	Trial of United States v. Ulrich Greifelt and others, Law Reports of Trials of War Criminals (United Nations War Crimes Commission) Vol. XIII
<i>Speer Case</i>	Speer Case, reprinted in Trial of the Major War Criminals Before the International Military Tribunal, Vol. I
<i>Rauer Case</i>	<i>Trial of Major Karl Rauer and Six Others</i> , British Military Court, Wuppertal, Germany, 18 Feb 1946, U.N. War Crimes Commission, Law Reports of Trials of War Criminals, IV, p. 113.
<i>Yamashita Case</i>	<i>In Re Yamashita</i> , (1945) 327 U.S 1
<i>Hostages Case</i>	<i>The Trial of Wilhelm List and Others</i> , United States Military Tribunal (1948), U.N. War Crimes Commission, Law Reports of the Trials of War Criminals, Vol. IV, p.71

**General Sources**

<b>Abbreviation used</b>	<b>Full citation</b>
API	Additional Protocol I to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I) of 8 June 1977
APII	Additional Protocol II to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol I) of 8 June 1977
ICRC Commentary	ICRC, Commentary on the Additional Protocols of 8 June 1997 to the Geneva Conventions of 12 August 1949, ICRC, Martinus Nijhoff (1987)
Criminal Code of BiH of 1977	Criminal Code of the Socialist Republic of Bosnia and Herzegovina adopted on 10 June 1977
GCI	First Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 12 August 1949
GCII	Second Geneva Convention for the Amelioration of the Conditions of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, 12 August 1949
GCIII	Third Geneva Convention Relative to the Treatment of Prisoners of War, 12 August 1949
GCIV	Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 12 August 1949
Commentary to Geneva Convention III	Commentary, III Geneva Convention relative to the Treatment of Prisoners of War (1949), International Committee of the Red Cross, Geneva, 1960
Commentary to Geneva Convention IV	Commentary, IV Geneva Convention relative to the Protection of Civilian Persons in Time of War (1949), International Committee of the Red Cross, Geneva, 1958
Hague Convention IV	The 1907 Hague Convention (IV) Respecting the Laws and Customs of War on Land of 18 October 1907
Hague Regulations	Regulations Respecting the Laws and Customs of War on Land annexed to Hague Convention IV of 18 October 1907
ICRC Study	Henckaerts J-M., Doswald-Beck L. (eds.), Customary International Humanitarian Law. International Committee of the Red Cross, (Cambridge University Press), Cambridge 2005
ILC Report 1996	International Law Commission, Commentary on the 1996 Draft Code of Crimes against the Peace and Security of Mankind, Report of the International Law Commission on the work of its 48 <sup>th</sup> Session, UN Doc. A/51/10
ICCPR	International Covenant on Civil and Political Rights, adopted by the UN General Assembly on 16 December 1966. Entry into force on 23 March 1976
Model Penal Code	The American Law Institute, <i>Model Penal Code, Official Draft and Explanatory Notes</i> (Philadelphia, 1985)
Official Records - Diplomatic Conference on IHL (1974-1977), Volume number, Doc.	Federal Political Department ed., <i>Official Records of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, Geneva 1974-1977</i> ,



Abbreviation used	Full citation
number (if applicable)	(Bern, 1978)
RS Criminal Code of 2003	Criminal Code of Republika Srpska adopted on 1 August 2003
Sentencing Report	“The Punishment of Serious Crimes: a comparative analysis of sentencing law and practice” provided by Prof. Dr. Ulrich Sieber from the Max Planck Institute, filed on 12 November 2003, in its final version including Country Reports (the latter on CD-Rom)

**Other Abbreviations**

Abbreviation used	Full citation
ABiH	Army of the Republic of Bosnia and Herzegovina
Art.	Article
AT.	Appeals Transcript
BiH	Bosnia and Herzegovina
BVerfG	Bundesverfassungsgericht (German Federal Constitutional Court)
ECHR	Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 (European Convention of Human Rights)
ECMM	European Community Monitor Mission
EUMM	European Union Monitoring Mission
ECtHR	European Court of Human Rights
Exh.	Exhibit
Exhs.	Exhibits
fn.	Footnote
fns.	Footnotes
GC's	Geneva Conventions I to IV of 12 August 1949
IHL	International Humanitarian Law
JNA	Yugoslav People's Army (Army of the Socialist Federal Republic of Yugoslavia)
mn.	margin number

<b>Abbreviation used</b>	<b>Full citation</b>
MUP	Ministry of the Interior Police
OHR	Office of the High Representative (BiH)
para.	paragraph
paras	paragraphs
p.	page
pp.	pages
Practice Direction on Appeals Requirements	Practice Direction on Formal Requirements for Appeals from Judgement (IT-201) Rev.1, 7 March 2002
RBiH	Republic of Bosnia and Herzegovina
ICCSt	Rome Statute of the International Criminal Court, U.N. Doc. A/CONF. 183/9 (1998)
Rules	Rules of Procedure and Evidence
SDA	Party of Democratic Action
SDS	Serbian Democratic Party of Bosnia and Herzegovina
SFRY	<i>Former:</i> Socialist Federal Republic of Yugoslavia
SG	Secretary General of the United Nations
Statute	Statute of the International Criminal Tribunal for the Former Yugoslavia established by the Security Council Resolution 827 (1993)
T.	Trial Transcript
UN	United Nations
UNDU	United Nations Detention Unit
UNPROFOR	United Nations Protection Forces
Vance-Owen Peace Plan	Reproduced in pp.13-44 of the Report of the Secretary-General on Activities of the International Conference on the former Yugoslavia, 2 February 1993, (S/23221)