

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

**Case No. IT-04-74-T**

**IN TRIAL CHAMBER I**

**Before:** Judge Jean-Claude Antonetti, Presiding  
Judge Árpád Prandler  
Judge Stefan Trechsel

**Registrar:** Hans Holthuis

**Date Filed:** 2 June 2006

**THE PROSECUTOR**

v.

**JADRANKO PRLIĆ  
BRUNO STOJIC  
SLOBODAN PRALJAK  
MILIVOJ PETKOVIĆ  
VALENTIN ĆORIĆ  
and BERISLAV PUŠIĆ**

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**PROSECUTION SUBMISSION OF PRE-TRIAL BRIEF  
WITH EXHIBIT NUMBERS**

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The Office of the Prosecutor:  
Mr. Kenneth Scott  
Mr. Daryl Mundis

For the Accused Jadranko Prlić:  
Mr. Michael G. Karnavas  
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Mr. Božidar Kovačić  
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For the Accused Milivoj Petković:  
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For the Accused Valentin Ćorić:  
Mr. Tomislav Jonjić  
Ms. Krystyna Grinberg

For the Accused Berislav Pušić:  
Mr. Fahrudin Ibrišimović  
Mr. Roger Sahota

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**v.**

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and BERISLAV PUŠIĆ**

**Prosecution Submission of Pre-Trial Brief  
with Exhibit Numbers**

The Prosecution hereby submits a version of its Pre-Trial Brief filed on 19 January 2006 containing the exhibit numbers of referenced documents. Apart from adding the exhibit numbers, the text of the document is exactly the same as that filed on 19 January 2006, and all paragraph and footnote numbers are the same. It may be that the reformatting of footnotes by adding the exhibit numbers has caused some page breaks to change. The annexes have not been filed again (but are still incorporated and part of the brief), and remain as filed previously.

Respectfully submitted,

Word count: 269

Dated this 2 June 2006  
The Hague, The Netherlands



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

**Case No. IT-04-74-T**

**TRIAL CHAMBER II**

**Before: Judge Jean-Claude Antonetti, Presiding  
Judge Árpád Prandler  
Judge Stefan Trechsel**

**Registrar: Hans Holthuis**

**Date Filed: 2 June 2006** (originally filed 19 January 2006)

**THE PROSECUTOR  
v.  
JADRANKO PRLIĆ  
BRUNO STOJIĆ  
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**PROSECUTION PRE-TRIAL BRIEF  
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**THE INTERNATIONAL CRIMINAL TRIBUNAL  
FOR THE FORMER YUGOSLAVIA**

**Case No. IT-04-74-PT**

**THE PROSECUTOR  
OF THE TRIBUNAL**

**v.**

**JADRANKO PRLIĆ  
BRUNO STOJIĆ  
SLOBODAN PRALJAK  
MILIVOJ PETKOVIĆ  
VALENTIN ČORIĆ  
and BERISLAV PUŠIĆ**

**PROSECUTION PRE-TRIAL BRIEF**

Pursuant to Rule 65 *ter* (E)(i) of the ICTY Rules of Procedure and Evidence, the Prosecution respectfully submits the Prosecution Pre-Trial Brief, as follows:<sup>1</sup>

1. The Croatian Community of Herceg-Bosna declared its existence on 18 November 1991 as a political and territorial entity on the territory of what was then the Socialist Republic of Bosnia and Herzegovina ("SRBiH"). In August 1993, the Croatian Community of Herceg-Bosna declared itself the Croatian Republic of Herceg-Bosna, and this entity, in both its forms, is hereafter referenced as "Herceg-Bosna." Mate Boban was the President of the Croatian Community of Herceg-Bosna from its inception, and continued as President of the Croatian Republic of Herceg-Bosna, until approximately February 1994. By actions taken on 8 April 1992 and 15 May 1992, various Herceg-Bosna leaders, including Mate Boban, established the Croatian Defence Council ("HVO") as Herceg-Bosna's armed forces and government, describing the HVO as Herceg-Bosna's "supreme" executive, administrative and defence body.

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<sup>1</sup> This Pre-Trial Brief is built around and follows the structure of the Amended Indictment. Every paragraph of the Amended Indictment is included in this brief, in the same order, at the same numbered paragraph as in the Amended Indictment. Other paragraphs have been inserted to preserve the paragraph numbering in the indictment. The indictment paragraphs are exactly as in the indictment, except that in a few instances, footnotes have been added, to connect various evidence related to the paragraph.



## The Accused

2. **JADRANKO PRLIĆ**, son of Mile, was born on 10 June 1959 in Djakovo, in the Socialist Republic of Croatia. He graduated from the Economics Faculty in Mostar, in the SRBiH, and obtained his master's and doctor's degrees at the Economics Faculty in Sarajevo. He was a full professor at Mostar University (Faculty of Economy and Faculty of Law). He served for a time as President of the Executive Council of Mostar Municipality. In 1989, he became the Vice-President of the Government of the SRBiH and, in late 1990, he became its acting President. On 15 May 1992, Mate Boban appointed JADRANKO PRLIĆ head of the HVO Department of Finance, and on 14 August 1992, Mate Boban appointed JADRANKO PRLIĆ President of Herceg-Bosna's supreme executive, administrative and defence body -- the HVO. After the Croatian Community of Herceg-Bosna became the Croatian Republic of Herceg-Bosna in late August 1993, JADRANKO PRLIĆ's title or position changed from President to Prime Minister (with his functions remaining largely the same). He continued in this position through the time covered by this indictment. JADRANKO PRLIĆ was subsequently the Vice-President of the Government and Defence Minister of the Republic of Bosnia and Herzegovina, and Deputy Prime Minister and Defence Minister of the Federation of Bosnia and Herzegovina, from June 1994 to January 1996; and Minister of Foreign Affairs of Bosnia and Herzegovina, from January 1996 until February 2001.

3. For most of 1992-1993, JADRANKO PRLIĆ was, other than Mate Boban, the most powerful official in the Herceg-Bosna/HVO political and governmental structures, and, by late 1993, he effectively eclipsed Mate Boban. As President, JADRANKO PRLIĆ had *de jure* and/or *de facto* power, effective control and/or substantial influence over the Herceg-Bosna/HVO government and military. He directed the work of and was responsible for the HVO government, including military matters. He signed decisions and decrees that comprised the HVO's official policy. JADRANKO PRLIĆ had the power to appoint and dismiss persons in positions of significant authority in the civilian, military and judicial organs of Herceg-Bosna and the HVO. He also possessed authority to close Herceg-Bosna/HVO prisons and concentration camps.

4. **BRUNO STOJIĆ**, son of Žarko, was born on 8 April 1955 in the village of Hamzići, in Čitluk Municipality, in the SRBiH. He has a degree in Economics. After multiparty elections in 1990, BRUNO STOJIĆ was named an Assistant Minister of the Interior (or Internal Affairs) in the SRBiH central government, in Sarajevo. BRUNO STOJIĆ was a member of the principal Croat nationalist political party in the SRBiH and later the Republic of Bosnia and Herzegovina, known as the Croatian Democratic Union of Bosnia and Herzegovina ("HDZ-BiH"). On 18 September 1991, he was listed as a member of the party's newly-formed Crisis Staff, which would become the core of the HVO's military arm. On or about 16 April 1992, the Army of the Republic of Croatia (the "Croatian Army"), by General Janko Bobetko, assigned BRUNO STOJIĆ as Acting Officer in Charge of Logistical Support at the Croatian Army's Forward Command Post in the town of Grude, in Bosnia and Herzegovina. On 3 July 1992, Mate Boban named BRUNO STOJIĆ head of the HVO Department (later Ministry) of Defence, and he remained in this position until November 1993. On 16 December 1993, BRUNO STOJIĆ was named Head of the Croatian Republic of Herceg-Bosna's Office for the Production and Sales of Weapons and Military Equipment.

5. As head of the HVO Department (later Ministry) of Defence, BRUNO STOJIĆ was that body's top political and management official, in charge of the Herceg-Bosna/HVO armed forces. He exercised *de jure* and/or *de facto* power, effective control and substantial influence over all parts and branches of such forces' operations. His areas of authority and responsibility included, among others, the following areas: security, including the work of the HVO Military Police and an HVO intelligence service known as the Security and Information Service ("SIS"); moral education, which included Information and Propaganda; defence-related health, medical and sanitation services, which were responsible for conditions and services in the Herceg-Bosna/HVO prisons and detention facilities; and military production and logistics. It was part of his responsibility to ensure that all Herceg-Bosna/HVO forces conduct themselves in accordance with the Geneva Conventions and international humanitarian law and that all prisoners, detainees and other persons held by Herceg-Bosna/HVO forces be treated in compliance with such conventions and law. BRUNO STOJIĆ had authority to appoint and dismiss HVO military commanders up to the level of brigade commander. He could and did issue

organisational, strategic and combat-related orders. He exercised authority and effective control over HVO prisons and detention facilities, in whole or part, through the HVO Military Police and the head of such police, VALENTIN ĆORIĆ.

6. **SLOBODAN PRALJAK**, also known as "Brada," son of Mirko, was born on 2 January 1945, in the town of Čapljina, in Čapljina Municipality, SRBiH. After studying in Zagreb and obtaining a degree in electrical engineering, he worked as a theatrical, film and television producer and as professor of philosophy and sociology. In the early summer of 1991, he joined the Army of the Republic of Croatia and, by 3 April 1992, held the rank of major general in the Croatian Army. On about 14 March 1992, SLOBODAN PRALJAK became Assistant Minister of Defence for the Republic of Croatia, and worked closely with the Minister of Defence, Gojko Šušak. On 10 September 1992, Croatian President Franjo Tudjman appointed SLOBODAN PRALJAK to be one of fourteen members of the Republic of Croatia's Council of National Defence, and he remained in this position until at least 15 June 1993. On 13 May 1993, SLOBODAN PRALJAK was named to the Republic of Croatia's state commission for relations with the United Nations Protection Force ("UNPROFOR").

7. From approximately March 1992 to July 1993, SLOBODAN PRALJAK served simultaneously as a senior Croatian Army officer, Assistant Minister of Defence and senior representative of the Croatian Ministry of Defence to the Herceg-Bosna/HVO government and armed forces. He served as a conduit for orders, communications and instructions from President Franjo Tudjman, Gojko Šušak and other senior officials of the Republic of Croatia to the Herceg-Bosna/HVO government and armed forces, and reported to and kept Croatia's senior officials informed of developments in Bosnia and Herzegovina. During this period, SLOBODAN PRALJAK played a prominent role in securing weapons and ammunition for the Herceg-Bosna/HVO armed forces. He directly and indirectly commanded Herceg-Bosna/HVO forces and operations in Bosnia and Herzegovina. From approximately 24 July 1993 to 9 November 1993, SLOBODAN PRALJAK served as the military head of the Herceg-Bosna/HVO armed forces, with the title "Commander of the Main Staff."

8. In his various positions and functions, SLOBODAN PRALJAK exercised *de jure* and/or *de facto* command and control over the Herceg-Bosna/HVO armed forces. At times relevant to the indictment, he exercised effective control and substantial influence over the Herceg-Bosna/HVO armed forces (including the operative zone commanders). He was responsible for the management, organization, planning, preparation, training, discipline, supply, deployment and operations of the Herceg-Bosna/HVO armed forces. He issued organisational, strategic and combat orders. It was part of his responsibility to ensure that all Herceg-Bosna/HVO forces conduct themselves in accordance with the Geneva Conventions and international humanitarian law and that all prisoners, detainees and other persons held by Herceg-Bosna/HVO forces be treated in compliance with such conventions and law. SLOBODAN PRALJAK also had command authority over the Herceg-Bosna/HVO civilian police, when they acted under or in co-ordination with the Herceg-Bosna/HVO armed forces during times of armed conflict. He was closely involved in all aspects of Herceg-Bosna/HVO military planning and operations.

9. **MILIVOJ PETKOVIĆ**, son of Jerko, was born on 11 October 1949 in Šibenik, Socialist Republic of Croatia. MILIVOJ PETKOVIĆ graduated from the military academy of the Yugoslav National Army ("JNA") and held the rank of lieutenant-colonel when he left the JNA on or about 25 July 1991 and joined the Croatian Army. On or about 14 April 1992, Croatian Army General Janko Bobetko assigned MILIVOJ PETKOVIĆ to the command of the Croatian Army's Forward Command Post in the town of Grude, in Bosnia and Herzegovina, which was or became the senior command staff of the Herceg-Bosna/HVO armed forces. From April 1992 until about 24 July 1993, MILIVOJ PETKOVIĆ served as the military head of the Herceg-Bosna/HVO armed forces, with the title "Chief of the HVO Main Staff." When SLOBODAN PRALJAK was appointed the *senior military* HVO commander on or about 24 July 1993, MILIVOJ PETKOVIĆ became and continued as, in effect, the deputy overall commander of the Herceg-Bosna/HVO armed forces. On or about 26 April 1994, MILIVOJ PETKOVIĆ was again named the overall HVO commander, and he remained in this position until about 5 August 1994.

10. In his various positions and functions, MILIVOJ PETKOVIĆ exercised *de jure* and/or *de facto* command and control over the Herceg-Bosna/HVO armed forces. At times relevant to the indictment, he exercised effective control and substantial influence over the Herceg-Bosna/HVO armed forces (including the operative zone commanders). He was responsible for the management, organization, planning, preparation, training, discipline, supply and deployment and operations of the Herceg-Bosna/HVO armed forces. He issued organisational, strategic and combat orders. It was part of his responsibility to ensure that all Herceg-Bosna/HVO forces conduct themselves in accordance with the Geneva Conventions and international humanitarian law and that all prisoners, detainees and other persons held by Herceg-Bosna/HVO forces be treated in compliance with such conventions and law. MILIVOJ PETKOVIĆ also had command authority over the Herceg-Bosna/HVO civilian police, when they acted under or in co-ordination with the Herceg-Bosna/HVO armed forces during times of armed conflict. He was closely involved in all aspects of Herceg-Bosna/HVO military planning and operations.

11. **VALENTIN ĆORIĆ**, son of Andrija, was born on 23 June 1956 in the village of Paoča, in Čitluk Municipality, in the SRBiH. He has a degree in engineering and served as Maintenance Director of the Bauxite Mines in Čitluk. After joining the HDZ-BiH, VALENTIN ĆORIĆ became a member of the Čitluk Municipal Staff, where he became involved in military matters and obtaining weapons and equipment. VALENTIN ĆORIĆ was later named commander of the military training center at Krvavice, in the Republic of Croatia, where some eight hundred soldiers from Herceg-Bosna were trained. In April 1992, Mate Boban appointed VALENTIN ĆORIĆ Deputy for Security and Commander of the HVO Military Police. His position was later titled "Chief of the Military Police Administration" (within the HVO Department, later Ministry, of Defence), and he continued in this position until 20 November 1993. In November 1993, VALENTIN ĆORIĆ was appointed Minister of Interior in the Croatian Republic of Herceg-Bosna.

12. In his various positions and functions, VALENTIN ĆORIĆ, from at least April 1992 to November 1993, played a central role in the establishment, administration and operation of the HVO Military Police. He had *de jure* and/or *de facto* command and

control of the HVO Military Police, which regularly played important roles in administering Herceg-Bosna/HVO prisons and detention facilities (including the release and transfer of prisoners and detainees) and in combat and ethnic cleansing operations. VALENTIN ĆORIĆ exercised effective control and substantial influence over the HVO Military Police, and had the authority and responsibility to command and discipline members of the HVO Military Police. It was part of his responsibility to ensure that all Herceg-Bosna/HVO forces, including the Military Police, conduct themselves in accordance with the Geneva Conventions and international humanitarian law and that all prisoners, detainees and other persons held by Herceg-Bosna/HVO forces be treated in compliance with such conventions and law. It was also part of the duties of the Military Police, which VALENTIN ĆORIĆ commanded, to investigate alleged crimes by Herceg-Bosna/HVO armed forces.

13. **BERISLAV PUŠIĆ**, also known as "Berto" or "Berko," son of Andrija, was born on 8 June 1952, in the town of Krivodol, in Mostar Municipality, in the SRBiH. In 1992, BERISLAV PUŠIĆ became an officer in the HVO Military Police in Mostar, and held a command position in the Military Police in 1993. By an order dated 22 April 1993, VALENTIN ĆORIĆ assigned BERISLAV PUŠIĆ to act on behalf of the HVO Military Police in exchanging Bosnian Muslim detainees held by the HVO. On 11 May 1993, BRUNO STOJIC appointed BERISLAV PUŠIĆ as an HVO liaison officer to UNPROFOR. On 5 July 1993, JADRANKO PRLIĆ appointed BERISLAV PUŠIĆ as Head of the Service for the Exchange of Prisoners and Other Persons. On 6 August 1993, BRUNO STOJIC appointed BERISLAV PUŠIĆ as president of the commission to take charge of all Herceg-Bosna/HVO prisons and detention facilities holding prisoners of war and detainees. During 1993, BERISLAV PUŠIĆ was also a member of the HVO Commission for Exchange of Prisoners.

14. As a result of his various positions and functions, BERISLAV PUŠIĆ was an instrumental, high-level official in the Herceg-Bosna/HVO system concerning the detention, use, release, exchange, transfer and deportation of Bosnian Muslims. Based on his *de jure* and/or *de facto* powers, he exercised effective control and substantial influence over various components and personnel in this system. It was part of his responsibility to

classify and process Muslim detainees in accordance with the Geneva Conventions and international humanitarian law. BERISLAV PUŠIĆ issued orders and decisions, signed authorisations and gave instructions for the handling of Bosnian Muslim detainees, which controlled their continued detention and/or their transfer or deportation to other areas or countries.

### **THE JOINT CRIMINAL ENTERPRISE**

15. From on or before 18 November 1991 to about April 1994 and thereafter, various persons established and participated in a joint criminal enterprise to politically and militarily subjugate, permanently remove and ethnically cleanse Bosnian Muslims and other non-Croats who lived in areas on the territory of the Republic of Bosnia and Herzegovina which were claimed to be part of the Croatian Community (and later Republic) of Herceg-Bosna, and to join these areas as part of a "Greater Croatia," whether in the short-term or over time and whether as part of the Republic of Croatia or in close association with it, by force, fear or threat of force, persecution, imprisonment and detention, forcible transfer and deportation, appropriation and destruction of property and other means, which constituted or involved the commission of crimes which are punishable under Articles 2, 3, and 5 of the Tribunal Statute. The territorial ambition of the joint criminal enterprise was to establish a Croatian territory with the borders of the Croatian Banovina, a territorial entity that existed from 1939 to 1941. It was part of the joint criminal enterprise to engineer the political and ethnic map of these areas so that they would be Croat-dominated, both politically and demographically.

16. A number of persons joined, participated in and contributed to the joint criminal enterprise, including Franjo Tudjman, the President of the Republic of Croatia (deceased, 10 December 1999); Gojko Šušak, the Minister of Defence of the Republic of Croatia (deceased, 3 May 1998); Janko Bobetko, a senior General in the Army of the Republic of Croatia (deceased, 29 April 2003); Mate Boban, President of the Croatian Community (and Republic) of Herceg-Bosna (deceased, 8 July 1997); JADRANKO PRLIĆ; BRUNO STOJIC; SLOBODAN PRALJAK; MILIVOJ PETKOVIĆ; VALENTIN ĆORIĆ; BERISLAV PUŠIĆ; Dario Kordić; Tihomir Blaškić; and Mladen Naletilić (also known as "Tuta"). Other members included: members of the Herceg-Bosna/HVO leadership and

authorities (as described in Paragraph 25), including various officials and members of the Herceg-Bosna/HVO government and political structures, at all levels (including in municipal governments and local organisations); various leaders and members of the Croatian Democratic Union ("HDZ") and Croatian Democratic Union of Bosnia and Herzegovina ("HDZ-BiH"), at all levels; various officers and members of the Herceg-Bosna/HVO forces (as described in Paragraph 25); various members of the armed forces, police, security and intelligence services of the Republic of Croatia; and other persons, both known and unknown.

16.1. In addition or in the alternative, the members of the joint criminal enterprise, including Franjo Tudjman, Gojko Šušak, Janko Bobetko, Mate Boban, JADRANKO PRLIĆ, BRUNO STOJIĆ, SLOBODAN PRALJAK, MILIVOJ PETKOVIĆ, VALENTIN ĆORIĆ, BERISLAV PUŠIĆ, Dario Kordić, Tihomir Blaškić, Mladen Naletilić (also known as "Tuta") and others, implemented the objectives of the joint criminal enterprise through the following organisations and persons, who they controlled, directly or indirectly: members of the Herceg-Bosna/HVO leadership and authorities (as described in Paragraph 25), including various officials and members of the Herceg-Bosna/HVO government and political structures, at all levels (including in municipal governments and local organisations); various leaders and members of the HDZ and HDZ-BiH, at all levels; various officers and members of the Herceg-Bosna/HVO forces (as described in Paragraph 25); various members of the armed forces, police, security and intelligence services of the Republic of Croatia; and other persons, both known and unknown.

16.2. Various parts of the Prosecution's evidence is closely intertwined, and the proof of one aspect of the case also goes to prove other, related aspects. Much of the evidence in the Prosecution case, concerning the political dimensions of a "Greater Croatia," Croatia's direct military intervention in the armed Croat-Muslim conflict in Bosnia and Herzegovina, and the planned and organised "widespread and systematic" nature of the conduct all goes to the existence and operation of a joint criminal enterprise involving each of the accused in its planning, preparation and/or execution. The existence of the Greater Croatia project and the widespread and systematic conduct employed to carry it out shows the State of Croatia's overall control of the Herceg-Bosna/HVO apparatus. Further, Croatia's direct military role, by overall strategic and even tactical command and



control, of the HVO's command structure, provision of senior officers and troops, and extensive logistics and material support, reinforces just how intentional, planned, widespread and systematic the conduct was. The Tudjman Government's deep and pervasive support for, and links to the Herceg-Bosna/HVO leadership remained constant and unflagging throughout the Croat-Muslim war.

**Greater Croatia and International Armed Conflict: The Political Dimension and "Overall Control"**

16.3. ICTY Trial Chambers and Appeals Chambers have repeatedly adjudicated and found the clear existence of an international armed conflict in Bosnia and Herzegovina involving the Republic of Croatia. The *Kordić-Čerkez* Appeals Chamber (Judges Schomburg (Presiding), Pocar, Mumba, Güney and Weinberg de Roca), for example, affirmed the Trial Chamber's finding on the existence of an international armed conflict: "The Appeals Chamber notes that the Trial Chamber reasonably came to the conclusion that the conflict between the HVO and the ABiH was international, due to Croatia's overall control over the HVO."<sup>2</sup> The *Blaškić* Trial Chamber likewise found that "Croatia's indirect intervention would therefore permit the conclusion that the conflict was international."<sup>3</sup>

16.4. Indeed, the existence of an international armed conflict and Croatia's essential involvement in this conflict, in Bosnia and Herzegovina, have been extensively litigated, in proceedings in which all parties have put forward extensive and detailed evidence. These issues have been fully litigated by other Defence teams with identical interests to the Accused in disproving the existence of an international armed conflict involving Croatia, who have had the active support of, and access to Croatian archives, witnesses and information. On the basis of this extensive litigation and evidence, no fewer than fourteen ICTY Judges (in both the Trial and Appeals Chambers) have unanimously found, without a single exception or dissent, the existence of a relevant international armed

<sup>2</sup> *Prosecutor v. Kordić and Čerkez*, Judgement, Case No. IT-95-14/2-A, Appeals Chamber, 17 December 2004 (hereafter "*Kordić AJ*"), para. 376 (emphasis added). See also *ibid.*, paras. 369-371, 374.

<sup>3</sup> *Prosecutor v. Blaškić*, Judgement, Case No. IT-95-14-T, Trial Chamber I, 3 March 2000 (hereafter "*Blaskić TJ*"), para. 123.

conflict involving Croatia in Bosnia and Herzegovina. The Tribunal has established the following facts:

16.5. “There is no doubt that the Republic of Croatia enjoyed a strong connection with the Croats of Bosnia and Herzegovina.” *Prosecutor v. Naletilić and Martinović*, Judgement, Case No. IT-98-34-T, Trial Chamber IA, 31 March 2003 (hereafter “*Naletilić TJ*”), para. 198.

16.6. “[The Croatian Government] supported gathering the Bosnian Croats into a distinct community parallel to the legitimate governmental authorities.” *Blaškić TJ*, para. 140.

16.7. “Croatia, and more specifically former President Tudjman . . . exercised such a degree of control over the Bosnian Croats and especially the [Croatian Defence Council (“HVO”)] that it is justified to speak of overall control.” *Blaškić TJ*, para 122.

16.8. “The Republic of Croatia exercised overall control over the HVO in the context of the conflict relevant to the present case.” *Naletilić TJ*, para. 202.

16.9. “Aside from the direct intervention by HV forces, Croatia exercised indirect control over the HVO and [the Croatian Community of Herzeg-Bosna (“HZHB”)].” *Blaškić TJ*, para. 95.

16.10. “Croatia provided leadership in the planning, coordination and organization of the HVO.” *Kordić AJ*, para. 371.

16.11. “Croatia exercised an overall control over the HVO through its provision to the HVO of financial and training assistance, military equipment and operational support, and by its participation in the organisation, coordination and planning of military operations of the HVO.” *Prosecutor v. Kordić and Čerkez*, Judgement, Case No. IT-95-14/2-T, Trial Chamber III, 26 February 2001 (hereafter “*Kordić TJ*”), para. 145.

16.12. "The close ties between Croatia and the Bosnian Croats did not cease with the establishment of the HVO." *Blaškić* TJ, para. 122.

16.13. "Ties between President Tudjman, as head of the [Croatian Democratic Union ("HDZ")] in Croatia, and the leadership of the HZ H-B, were strong throughout the conflict." *Kordić* TJ, para. 139.

16.14. "There were regular meetings with President Tudjman and the Bosnian Croat leaders, appointed by Croatia or with its consent, continued to direct the HZ H-B and the HVO well after June 1992." *Blaškić* TJ, para. 119.

16.15. "Delegations from the Bosnian HDZ regularly went to consult President Tudjman." *Blaškić* TJ, para. 116.

16.16. "The Bosnian Croat leaders followed the directions given by Zagreb or, at least, co-ordinated their decisions with the Croatian government." *Blaškić* TJ, para. 118.

16.17. "Tudjman's close links to the Bosnian leadership were even recognised by the Security Council, which, in its resolution dated 10 May 1993, called upon the Republic of Croatia "to exert all its influence on the Bosnian Croat leadership and paramilitary units with a view to ceasing immediately their attacks particularly in the area of Mostar, Jablanica and Drežnica." *Kordić* TJ, para. 140.

**The Role of Franjo Tudjman, the Croatian Government and the HDZ in Establishing, Directing and Implementing the Objectives of Acquiring Territory in Bosnia and Herzegovina and Establishing Croat Control of Such Territory.**

16.18. The HDZ-BiH, Herceg-Bosna and the HVO were instruments used by Tudjman, the Croatian Government and the Herceg-Bosna/HVO leadership to pursue a Greater Croatia by securing certain BiH municipalities either within Croatia's own borders or in a Croat mini-State which would be closely aligned or connected with Croatia. Most, if not all, of these areas had been part of the 1939 Croatian *Banovina*, which was Tudjman's model for the expanded borders of the Croatian State.

16.19. Once it became apparent that the Muslims would not go quietly into that good night which was the partition of Bosnia and Herzegovina, Tudjman and his Herceg-Bosna collaborators formulated and carried out a policy to take the desired territories by force and population displacement. The establishment and implementation of this program plainly demonstrates the existence and workings of the joint criminal enterprise, the existence of an international armed conflict involving the Republic of Croatia on the territory of Bosnia and Herzegovina and the widespread and systematic nature of the persecutions, attacks and other conduct directed against the Bosnian Muslim population.

#### **Tudjman's Territorial Ambitions vis-à-vis Bosnia and Herzegovina**

16.20. In fact, long before the HDZ came into existence, Tudjman had given voice to his obsession with Croatia's acquisition of certain parts of Bosnia and Herzegovina.<sup>4</sup> As early as 1981, Tudjman, in his own published work, described Bosnia and Croatia as "an indivisible geographic and economic entity."<sup>5</sup> He publicly supported Croatia's claims to large parts of Bosnia which had been part of the *Croatian Banovina*. The *Banovina* was a Croat autonomous region established by an agreement between Dragiša Cvetković on behalf of the Serbs and Vladko Maček representing the Croats in August 1939. It satisfied most of the demands of the two largest national actors in Yugoslavia -- the Serbs and the Croats, at the expense of the Bosnian Muslims, with the addition of sovereign BiH territory to the claimed Croatian lands.<sup>6</sup>

16.21. With the dissolution of Yugoslavia, both Serbia and Croatia saw opportunities for territorial expansion into Bosnia and Herzegovina. Discussions aimed toward the division of Bosnia and Herzegovina were held between Tudjman and Slobodan Milošević at Karadjordjevo in March 1991.<sup>7</sup> On the eve of Croatia breaking free of Yugoslavia,

<sup>4</sup> EXH No. P 08925, 0073-1028-0073-1123, pp. 33-34.

<sup>5</sup> EXH No. P 08925, 0073-1028-0073-1123, p. 38; EXH No. P 00002, 0050-8518-0050-8522 (Eng) / 0110-2716-0110-2723 (BCS).

<sup>6</sup> EXH No. P 08925, 0073-1028-0073-1123, p. 19.

<sup>7</sup> EXH No. P 08925, 0073-1028-0073-1123, p. 36.

Tudjman made his ambitions towards Bosnian territory vividly clear at a meeting of the Supreme State Council of Croatia on 8 June 1991:

Also, gentlemen, if we opt for Croatia's independence, either within an alliance or total independence, Croatia's borders, such as they are today, are absurd, they are impossible, in the sense of administration and trade, let alone as regards any kind of protection of these borders of Croatia. Therefore, from our point of view no less than from the Serbian, there is the problem of – there is a need to find an essential solution to the problem, isn't that so, because the establishment of Bosnia, the borders of BiH after World War II, are historically absurd, a resurrection of a colonial creation from the period between the 15th and 18th century.<sup>8</sup>

16.22. Rather than find a political solution giving a share of political influence to Croats in all of BiH, Tudjman and the HDZ chose a territorial solution based on achieving a monopoly of power in large parts of the country. For this, Tudjman looked again to history and the *Banovina*. He told his advisors in late 1992 that “on the Bosnia and Herzegovina question,” we have stated in the preamble to the Croatian Constitution “that the preservation of Croatian statehood implies also the Croatian *Banovina*.”<sup>9</sup>

16.23. Tudjman's vision of the *Banovina* drove him to seek even BiH territories with a majority or plurality of Muslim population, like Stolac. Tudjman told a group of Herceg-Bosna representatives in September 1993:<sup>10</sup>

Stolac. I know the strategic importance of Stolac, both as the president of Croatia and, if you will, as a soldier. I know that Stolac and the entire former Jablanički Kotar and Konjic were included in the Croatian Banovina in 1939. These are arguments I have upheld since the first day. However, they say that Stolac was predominantly Muslim, and therefore ethnic cleansing /has taken place/ etc. . . .

16.24. Tudjman saw the Muslims as historical enemies to be treated with the utmost suspicion. He told a visiting group of Croats from BiH:<sup>11</sup>

I have never had any illusions about the Muslims and their relationship with the Croats. I knew that the Croats have fought for 3 centuries with the Muslims, not with

<sup>8</sup> EXH No. P 00037, L004-5877-L004-5883 (Eng) / 0150-9010-0150-9018, p. 4.

<sup>9</sup> EXH No. P 00498, L005-0972-L005-1009 (Eng) / 0150-8827-0150-8864 (BCS), p. 4 (emphasis added); EXH No. P 00019. See also 0032-8587-0032-8600 (Eng).

<sup>10</sup> EXH No. P 05255, R018-2768-R018-2787 (Eng) / R015-6649-R015-6668 (BCS), p. 7.

<sup>11</sup> EXH No. P 07128, R018-1086-R018-1087 (Eng) / R015-7187-R015-7188 (BCS), p. 1.

the Ottoman Turks but with the Muslims from Bosnia, and it is they who brought Croatia to the brink of disaster. Therefore I have never had any illusions that politicians like Radić, Maček, Pavelić or myself would have been able to establish any working conditions with the Muslims.

16.25. It might be noted that the *Banovina* was not the only historical precedent available to Tudjman. Although revival, for example, of the World War II borders of the Independent State of Croatia was advocated by some extreme nationalists, it held no appeal for Tudjman, since it would have included too many non-Croats. He said in September 1992: "If they gave us a border on the Drina with two million Muslims and one and a half million Serbs, whose state would that be?"<sup>12</sup>

16.26. Tudjman's basic idea on the desirability of altering the Croatian border with Bosnia and Herzegovina did not change after the international recognition of BiH by many countries, including Croatia. Again, in September 1992, he told his collaborators that the "Bosnian-Herzegovinian question . . ." was "relevant to Croatia in terms of history and geopolitics as a result of the unnatural borders of the present Croatian state, of Bosnia and Herzegovina in one form or another."<sup>13</sup>

16.27. As time went on, Tudjman stated repeatedly that the war against the Muslims was one which was being fought over the borders of the Croatian State. In October 1993, Tudjman told his top advisors:

Several months ago I told you about the situation and gave tasks to Minister of Defence Mr. Šušak and General Bobetko, /as regards/ our help and our engagement in Herceg-Bosna. I told them that this was where the future borders of the Croatian State are being resolved. That is when I pointed out that it was very important that they defended the positions and the territory the HVO was holding there. It was the Novi Travnik, Vitez, Busovača, Mostar line, and the problems of Gornji Vakuf and Bugojno needed to be solved as soon as possible, if possible.<sup>14</sup>

16.28. On 6 May 1995, Paddy Ashdown (who subsequently was the international community's High Representative in BiH) was a member of the British Parliament and

<sup>12</sup> EXH No. P 00498, L005-0972-L005-1009 (Eng) / 0150-8827-0150-8864 (BCS), p. 13.

<sup>13</sup> EXH No. P 00498, L005-0972-L005-1009 (Eng) / 0150-8827-0150-8864 (BCS), p. 3.

<sup>14</sup> EXH No. P 06012, R018-0830-R018-0845 (Eng) / R015-6805-R015-6820 (BCS), p. 1.

had a telling evening with President Tudjman. Mr. Ashdown was invited to a dinner party at the Guildhall in London, where he was seated next to Tudjman. In the course of the evening, Tudjman and Ashdown discussed Tudjman's views on Bosnia. Tudjman drew a map on the back of the dinner menu showing how he envisaged the final division of the former Yugoslavia. According to Tudjman's hand-drawn map,<sup>15</sup> Bosnia would be divided between the Serbs and Croats, with no place for the Muslims "except as a small element of the Croat State." Tudjman told Ashdown that President Milošević was one of them, while President Izetbegović was not. Tudjman regarded Izetbegović as a "fundamentalist and an Algerian."<sup>16</sup>

16.29. Various Trial and Appeals Chambers have confirmed the Tudjman Government's territorial aspirations concerning large parts of the sovereign territory of Bosnia and Herzegovina, as follows:

16.30. "President Tudjman, who had been elected as President of Croatia in 1991 on a nationalist platform, had long harboured hopes to expand the borders of the modern State of Croatia into the Republic of Bosnia and Herzegovina to encompass those areas with a majority Bosnian Croat population." *Kordić* TJ, para. 133.

16.31. "Croatia, and more specifically former President Tudjman, was hoping to partition Bosnia." *Blaškić* TJ, para 122.

16.32. "President Tudjman aspired to partitioning this neighbouring country [Bosnia-Herzegovina]." *Blaškić* TJ, para. 103.

16.33. "Franjo Tudjman's nationalism and his desire to annex a part of Bosnia-Herzegovina were apparent to Lord David Owen to whom President Tudjman staked his claim that 17.5% of Bosnian territory should revert to a republic with a Croatian majority." *Blaškić* TJ, para. 104.

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<sup>15</sup> EXH No. P 08566, 0058-9231-0058-9231 (Eng) / 0058-9230-0058-9230 (BCS).

<sup>16</sup> EXH No. P 08566, 0058-9231-0058-9231 (Eng) / 0058-9230-0058-9230 (BCS).

16.34. "President Tudjman harboured territorial ambitions in respect of Bosnia and Herzegovina, and that was part of his dream of a Greater Croatia, including Western Herzegovina and Central Bosnia." *Kordić TJ*, para. 142.

16.35. "President Tudjman, as the leader of the HDZ, sought to promote a Croatian identity by appealing to Croatia as a distinct and historically continuous entity." *Kordić TJ*, para. 460.

16.36. The HDZ's Program insists on the "territorial entirety of the Croatian nation in its historical and natural borders." *Kordić TJ*, para. 135.

16.37. "Multiple references to the "natural borders" of Croatia can be found in Tudjman's speeches. *Kordić TJ*, para. 135.

16.38. "The BH Serbs were not the only ones with ambitions for territorial expansion; the BH Croats and their leader Franjo Tudjman also aimed at securing parts of Bosnia and Herzegovina as Croatian. . . . The policies of the Republic of Croatia and its leader Franjo Tudjman . . . always included Franjo Tudjman's ultimate aim of expanding Croatia's borders." *Naletilić TJ*, para. 14.

16.39. "The view that President Tudjman harboured territorial ambitions in respect of Bosnia and Herzegovina, despite his official position to the contrary, is strengthened by reports of discussions held between Tudjman and Milošević, against the backdrop of the break-up of the Yugoslav federation in 1991." *Kordić TJ*, para. 136.

16.40. "These aspirations for a partition were furthermore displayed during the confidential talks between Franjo Tudjman and Slobodan Milošević in Karadjordjevo on 30 March 1991 on the division of Bosnia-Herzegovina." *Blaškić TJ*, para. 105.

16.41. "No Muslim representative participated in these talks which were held bilaterally between the Serbs and Croats." *Blaškić TJ*, para. 105.



16.42. "Tudjman observed that from an ethnic and linguistic viewpoint most Muslims were of Croatian origin." *Blaškić* TJ, para. 103.

16.43. "According to Mate Boban, Herceg-Bosna was culturally, spiritually and economically part of Croatia and had only been separated from it for regrettable reasons." *Blaškić* TJ, para. 108.

16.44. "Following Karadjordjevo, Franjo Tudjman opined that it would be very difficult for Bosnia to survive and that the Croats were going to take over the Banovina plus Cazin, Kladuša and Bihać." *Blaškić* TJ, para. 105.

16.45. "On 27 December 1991 there was a meeting in Zagreb, chaired by President Tudjman, of the leadership of the Croatian HDZ and of the HDZ-BiH." *Kordić* TJ, para. 472 (g).

16.46. "[At this meeting,] Mate Boban said that, should Bosnia and Herzegovina disintegrate, the HZ H-B [Herceg-Bosna] would be proclaimed as independent Croatian territory "which will accede to the State of Croatia but only at such time as the Croatian leadership . . . should decide." *Kordić* TJ, para. 472 (g) (emphasis added).

16.47. "[At this meeting,] Dario Kordić said that the Croatian spirit in the HZ H-B had grown stronger in the 40 days since the declaration of the HZ H-B, the Croatian people of the Travnik region were ready to accede to the Croatian State "at all costs . . . any other option would be considered treason, save the clear demarcation of Croatian soil in the territory of Herceg-Bosna." *Kordić* TJ, para. 472 (g).

16.48. "[Franjo Tudjman] also said that there would no longer be a Muslim region within the former Yugoslavia, that it would constitute only a "small element of the Croat State." *Blaškić* TJ para. 106.

16.49. "The agreement entered into by the Serbs and Croats on the partition of Bosnia was reportedly confirmed by a meeting between the Bosnian Serb and the Bosnian Croat

political leaders, Radovan Karadžić and Mate Boban, in Graz in Austria on 6 May 1992.” *Blaškić* TJ, para. 105.

16.50. “There is no doubt that the Republic of Croatia and the HZ-HB were pursuing the same ultimate goals, namely the incorporation of Croatian provinces of Bosnia and Herzegovina into a single Croatian State.” *Naletilić* TJ, para. 200.

16.51. “The aspirations of Franjo Tudjman to annex “Croatian” regions of Bosnia persisted throughout the conflict.” *Blaškić* TJ, para. 106.

16.52. “On 6 May 1995, during a dinner at which he was sitting beside Mr Paddy Ashdown, leader of the Liberal Democrat Party in the United Kingdom, [. . .] President Tudjman clearly confirmed that Croatia had aspirations to territory in Bosnia.” *Blaškić* TJ, para. 106.

16.53. “Having sketched on the back of a menu a rough map of the former Yugoslavia showing the situation in ten years time, Franjo Tudjman explained to Mr Ashdown that one part of Bosnia would belong to Croatia and the other part to Serbia.” *Blaškić* TJ, para. 106.

### **The Roles and Participation of the Accused**

17. Each of the accused -- JADRANKO PRLIĆ, BRUNO STOJIĆ, SLOBODAN PRALJAK, MILIVOJ PETKOVIĆ, VALENTIN ĆORIĆ and BERISLAV PUŠIĆ -- acting individually and through the positions and powers described above, and in concert with other members of the joint criminal enterprise, participated as leaders in the joint criminal enterprise in one or more of the following ways:

- (a) establishing, organising, directing, funding, facilitating, supporting, maintaining and/or operating Herceg-Bosna/HVO governmental and political structures and processes (or various elements thereof), including governmental or state-like powers over the control of housing and property, the status of refugees and displaced persons, the provision of public services and humanitarian assistance,

restrictions on freedom of movement, and/or the exchange of prisoners, which were used to pursue and implement the joint criminal enterprise;

- (b) establishing, organising, commanding, ordering, directing, funding, facilitating, participating in, supporting, maintaining and/or operating the Herceg-Bosna/HVO military, police, intelligence and/or other forces through which the objectives of the joint criminal enterprise were pursued and implemented and by which various crimes charged in this indictment, such as persecutions, killing, forcible transfer, deportation, unlawful forced labour, plunder, looting and destruction of property, were committed;
- (c) initiating, promoting, planning, preparing, participating in, supporting and/or encouraging the development, formulation, dissemination and/or implementation of Herceg-Bosna/HVO political, governmental and/or military policies, programs, plans, decrees, decisions, regulations, strategies or tactics which were used as bases or vehicles for various actions against or to the disadvantage of Bosnian Muslims, such as depriving them of fundamental human rights, housing, property and/or humanitarian assistance, as part of the joint criminal enterprise;
- (d) instigating, supporting, encouraging, facilitating and/or participating in the dissemination of information and propaganda to Bosnian Croats that was intended to advance the joint criminal enterprise, by engendering in Bosnian Croats fear, hatred and mistrust of Bosnian Muslims, or to gain support and participation in the joint criminal enterprise, such as information that Bosnian Croats were at imminent risk of oppression and extermination at the hands of Bosnian Muslims, that various territories on which Bosnian Muslims resided were Croatian territory, and that Mostar was the rightful capital of Herceg-Bosna;
- (e) planning, instigating, commanding, directing, participating in, facilitating or supporting the HVO takeover of various municipal governments and efforts to "Croatise" the Bosnian Muslim and other non-Croat population in areas which the Herceg-Bosna/HVO leaders claimed were part of Herceg-Bosna.

- (f) encouraging, controlling, funding, facilitating, assisting and/or participating in the production, acquisition and/or distribution of military equipment, arms, ammunition, funds, logistical support and other means which were used to advance the joint criminal enterprise;
- (g) requesting, obtaining, arranging, facilitating and/or co-ordinating the participation and assistance of elements of the Republic of Croatia government, armed forces, police and/or intelligence services, including funding and/or logistical support, in furtherance of the joint criminal enterprise;
- (h) establishing, organising, directing, funding, facilitating, supporting, participating in, maintaining and/or operating a system of Herceg-Bosna/HVO prisons, concentration camps and other detention facilities which were used to imprison and detain Bosnian Muslims as part of and in furtherance of the joint criminal enterprise;
- (i) establishing, organising, directing, funding, facilitating, supporting, participating in, maintaining and/or operating a system for the deportation or forcible transfer of Bosnian Muslims to other countries or parts of Bosnia and Herzegovina which were not claimed or controlled by Herceg-Bosna, as part of and in furtherance of the joint criminal enterprise;
- (j) ordering, instigating, promoting, encouraging, facilitating and/or implementing the systematic use by Herceg-Bosna/HVO forces of Bosnian Muslim detainees for unlawful forced labour;
- (k) promoting, instigating, encouraging and condoning the commission of crimes against Bosnian Muslims by failing to report and/or investigate crimes or alleged crimes against them, and/or to follow up on such investigations, and/or to punish or discipline subordinates and others in the Herceg-Bosna/HVO authorities and forces for crimes committed against Bosnian Muslims or other non-Croats; and

- (l) engaging in, encouraging, facilitating or supporting efforts to deny, conceal and/or minimise crimes committed by the Herceg-Bosna/HVO authorities and forces against Bosnian Muslims or other non-Croats, including the provision of false, incomplete or misleading information to international organisations, monitors, investigators and the public.

17.1. As part of Paragraph 17, subparagraphs (a) through (l), and as examples, JADRANKO PRLIĆ participated in and furthered the joint criminal enterprise, without limitation, as follows:

- (a) As President and then Prime Minister of Herceg-Bosna's supreme executive, administrative and defence body, JADRANKO PRLIĆ was a key and integral figure in the Herceg-Bosna/HVO leadership, in establishing, instigating, facilitating and carrying out Herceg-Bosna/HVO policies, strategies and practices. He had *de jure* and/or *de facto* power, effective control and/or substantial influence over the Herceg-Bosna/HVO government and military. He initiated, participated in, agreed with and signed decisions and decrees that comprised official Herceg-Bosna/HVO policy and practice.
- (b) JADRANKO PRLIĆ organised, participated in and often led high-level meetings of the Herceg-Bosna/HVO leadership and with leaders of the Republic of Croatia, concerning the goals, programs, policies, operations and strategies of the Herceg-Bosna/HVO leadership, in establishing Croat control over territories claimed to comprise Herceg-Bosna and pursuing the goals and objectives of the joint criminal enterprise.<sup>17</sup>
- (c) JADRANKO PRLIĆ directed the work and activities of the HVO government as a whole and each of its departments, ministries, services and offices, which included,

<sup>17</sup> See, e.g., Minutes of the HR H-B Government Meeting on 9 October 1993 (Jadranko Prlić, Presiding; among those attending: B. Stojić, S. Praljak, M. Petković): Stojić, Praljak and Petković submitted a report on the military and security situation in the HR H-B territory, with a critical analysis of the functioning of civilian authorities;" "the military and regular police force are hereby obliged to develop a joint operative plan to prevent and discover crime." EXH No. P 05769 (0085-1295-0085-1296).

among others, the Department (or Ministry) of Defence, the Department (or Ministry) of Justice and the Department (or Ministry) of Interior.

- (d) JADRANKO PRLIĆ participated in the formation and adoption of, and signed the vast majority of the decisions and decrees that comprised official Herceg-Bosna/HVO policy and were used to pursue and implement the joint criminal enterprise, such as the Decision on the Status of Refugees and Displaced Persons on the Territory of HZ H-B, the Decree on the Temporary Use of Military Flats on the Territory of HZ H-B, the Decree on Border Crossing and Traffic in the Border Area of HZ H-B, and the Decree on the Use of Deserted/Abandoned Apartments.<sup>18</sup>
- (e) JADRANKO PRLIĆ organised, facilitated, supported and/or supervised the HVO take-over of various municipalities claimed to be part of Herceg-Bosna, and directed and supervised the work of the HVO Municipal Governments; appointed members of several Municipal Councils, including those in Ljubuški and Vareš; and failed to intervene and quash decisions, orders or instructions established, given or implemented to the injury and detriment of the Bosnian Muslim population, such as the 15 April 1993 Decision on the Statutory Rights of Refugees and Expelled and Displaced Persons in Mostar Municipality adopted by the HVO Mostar Municipal Government, which was used to pursue and implement the objectives of the joint criminal enterprise.
- (f) JADRANKO PRLIĆ encouraged, facilitated and supported efforts to “Croatise” the Bosnian Muslim and other non-Croat population in areas claimed to be part of Herceg-Bosna, which included the adoption and signing of decisions, decrees and regulations such as the Decree on Founding and the Work of the University of Mostar in Times of War or the Imminent Threat of War; Decision on the Coat of Arms and Flag of HZ H-B in Times of War or the Imminent Threat of War; Regulation on Secondary Education on the Territory of HZ H-B in Times of War

<sup>18</sup> See, e.g., Decree on the Use of Abandoned Apartments, signed by Jadranko Prlić on 6 July 1993 (“If the holder of tenancy rights or the family members . . . have recommenced using the apartment within seven days of the entry into force of this Decree, the apartment shall not be considered abandoned”). EXH No. P 03089 (0084-0730-0084-0733).

or the Imminent Threat of War, Regulation on Elementary Education in Times of War or the Imminent Threat of War; and the Regulation on Payment of Transactions in Croatian Dinars in the Territory of HZ H-B during the Immediate Threat of War or State of War.

- (g) JADRANKO PRLIĆ, in whole or part, directly or indirectly, controlled the Herceg-Bosna/HVO fiscal and financial organs, controlled, directed, supported and facilitated the raising or collection of funds and material support from numerous sources, such as the Republic of Croatia and organisations and persons outside Bosnia and Herzegovina, and from the imposition and collection of customs duties, excise payments and taxes; and controlled, supervised and oversaw the Herceg-Bosna/HVO budget, payroll and expenditures.
- (h) JADRANKO PRLIĆ established, organised, facilitated and/or regulated the structures and activities of Herceg-Bosna/HVO military, police, intelligence and other forces through which the objectives of the joint criminal enterprise were pursued and implemented, through the adoption and signing of decisions and decrees such as the decisions and decrees on drawing up Defence Plans; the Decision on Establishing the Office for National Security; the Conveyance and Carrying out Mobilization of Persons on the Territory of HZ H-B; the Decree on the Coat of Arms & Flag of the HZ H-B in Times of War and the Imminent Threat of War; and Decision on the Ranks, Insignia and Conditions for Qualifying for Police Rank. He facilitated, encouraged and supported military operations in pursuit of the joint criminal enterprise and received regular briefings on military matters.<sup>19</sup>
- (i) JADRANKO PRLIĆ had the power to appoint and remove persons in positions of significant authority in the civilian, military and judicial organs of Herceg-Bosna and the HVO, such as the Deputy Head of the HVO Department (or Ministry) of

<sup>19</sup> See, e.g., Minutes of the Joint Session of the HVO HZ H-B and the Mostar Municipal HVO on 31 May 1993, Jadranko Prlić and J. Topić presiding; "full co-ordination of work of all organs and bodies of the HVO of the HZ H-B and the HVO of Mostar Municipality should be achieved in the coming period . . . in order that the military-security and political situation be improved so that the town of Mostar becomes the political, cultural, scientific center of the HZ H-B." EXH No. P 02575 (0154-8409-0154-8410).

Defence;<sup>20</sup> Assistant Head of the HVO Department (or Ministry) of Defence for Supplies, Procurement and Production; and other Assistant Heads in the HVO Department (or Ministry) of Defence; the Head of the Office for Refugees, Exiled and Displaced Persons; and the Head of the Service for the Exchange of Prisoners and Other Persons, BERISLAV PUŠIĆ.<sup>21</sup>

- (j) JADRANKO PRLIĆ organised, controlled, regulated, facilitated and/or supported Herceg-Bosna/HVO forces in acquiring military equipment, weapons and ammunition, through such activities as adopting and signing decisions and decrees concerning the acquisition and production of military equipment, such as the Decision on the Manufacture and Trade of Arms and Military Equipment on the Territory of HZ H-B.
- (k) JADRANKO PRLIĆ arranged, facilitated and maintained the political, logistical, financial and military co-operation and involvement of, and support from the Republic of Croatia (in particular, through meetings with Franjo Tudjman, Gojko Šušak and others) for establishing, carrying out and accomplishing Herceg-Bosna/HVO goals and objectives, which included the signing of decisions, decrees and regulations facilitating such co-operation and involvement, such as the Decision on the Import of Goods from the Republic of Croatia.
- (l) JADRANKO PRLIĆ issued and signed the 15 January 1993 ultimatum which required ABiH forces to subordinate themselves to the HVO in, or depart from, proposed Vance-Owen Peace Plan provinces 3, 8 and 10, which was transmitted and implemented by his subordinates and others throughout the Herceg-Bosna/HVO authorities and forces, and which caused and contributed to the

<sup>20</sup> Appointment of Slobodan Božić as Deputy Head of the HVO Department of Defence, by Jadranko Prlić, President of the HVO HZ H-B, dated 15 January 1993. EXH No. P 01136 (0051-2622-0051-2622).

<sup>21</sup> Appointment of Berislav Pušić as Head of the Service for the Exchange of Prisoners and Other Persons, by Jadranko Prlić, President of the HVO HZ H-B, dated 5 July 1993. EXH No. P 03208 (0109-4426-0109-4426).



commission of crimes by Herceg-Bosna/HVO forces, such as those committed in and around Gornji Vakuf in January 1993.<sup>22</sup>

- (m) JADRANKO PRLIĆ participated in and approved issuing the same or a similar ultimatum to the ABiH in April 1993, with a compliance date of 15 April 1993, which marked the beginning of widespread, systematic and protracted armed conflict against the ABiH and Muslim population and caused and contributed to the commission of crimes by Herceg-Bosna/HVO forces, such as those committed in and around Prozor, Sovići and Doljani in the spring of 1993.<sup>23</sup>
- (n) JADRANKO PRLIĆ established, controlled, facilitated and/or supported a system of ill-treatment involving a network of Herceg-Bosna/HVO prisons, concentration camps and other detention facilities which were used to arrest, detain and imprison thousands of Bosnian Muslims in unlawful and harsh conditions, where they were killed, mistreated, beaten and abused, with his control and role in such matters being demonstrated, *inter alia*, by his authority to establish and close such prisons, camps and facilities.
- (o) JADRANKO PRLIĆ instigated, facilitated, assisted and encouraged the use of Bosnian Muslims detainees in unlawful forced labour, during which many were killed or injured, in knowing of such use, practices and situations and failing to prevent, stop, punish or redress such use.
- (p) JADRANKO PRLIĆ continued to participate in, facilitate, support or encourage Herceg-Bosna/HVO policies, actions and practices that operated to the injury and detriment of Bosnian Muslims, after receiving information about and knowing of such practices, injuries and effects.

<sup>22</sup> 15 January 1993 Decision, EXH No. P 01155, 0041-8405-0041-8405 (Eng)/0041-8286-0041-8286 (BCS).

<sup>23</sup> See, e.g., Minutes of the meeting of the HVO HZ H-B on 3 April 1993, Jadranko Prlić presiding, with M. Boban, B. Stojić and others in attendance; "If the Joint Statement is not implemented, the appropriate military and other authorities of the HVO HZ H-B shall implement this provision of the Basic Document . . .;" further, the HVO Government "will prevent all attempts [by the BiH Government] to install any organs . . ." EXH No. P 01798 (0154-8411-0154-8416).

- (q) JADRANKO PRLIĆ established, controlled, facilitated and/or supported a system of ill-treatment which was used to expel, deport or forcibly transfer large numbers of Bosnian Muslims, by deporting them out of Bosnia and Herzegovina to other countries or transferring them to parts of Bosnia and Herzegovina not claimed or controlled by Herceg-Bosna/HVO forces, through such activities as the establishment, organisation, support and/or supervision of several governmental authorities or structures subordinated to the HVO government, including the Office for Refugees, Exiled and Displaced Persons, the Service for Exchange of Prisoners and Other Persons, the Commission on the Question of the Migration of Population which were involved in such activities.<sup>24</sup>
- (r) JADRANKO PRLIĆ organised, participated in, proposed, requested, caused, supported and/or advocated the movement of large numbers of Bosnian Croats into the territory (or core territory) claimed to be part of Herceg-Bosna, in furtherance of the joint criminal enterprise.
- (s) JADRANKO PRLIĆ engendered fear, hatred and mistrust of Bosnian Muslims among Bosnian Croats -- for example, by publicly proclaiming that the ABiH intended to conquer the "historical territory of the Croat people," that the ABiH's actions and goals jeopardised the existence of Bosnian Croats; and advocating Mostar as the rightful capital of Herceg-Bosna.<sup>25</sup>
- (t) JADRANKO PRLIĆ controlled, regulated and/or facilitated the movement of, and access to humanitarian aid in the territory claimed to be part of Herceg-Bosna, including East Mostar, which was used, in part, to deprive Bosnian Muslims of

<sup>24</sup> See, e.g., Decision Establishing the Office for Refugees, Exiled and Displaced Persons, by Jadranko Prlić, President of the HVO HZ H-B, dated 27 November 1992 ("this Office shall report on its work . . . to the HVO HZ H-B at least once a week"); EXH No. P 00846 (0026-7424-0026-7424); Appointment of Berislav Pušić as Head of the Service for the Exchange of Prisoners and Other Persons, by Jadranko Prlić, President of the HVO HZ H-B, dated 5 July 1993, EXH No. P 03208 (0109-4426-0109-4426).

<sup>25</sup> See, e.g., 30 June 1993 letter from the President of the HZ H-B HVO, Jadranko Prlić, and Head of the HVO Department of Defence, Bruno Stojić, to "a) All Heads of the HVO Municipalities, b) All Offices for the Defence of Municipalities, c) Military Police Command and civil police administration, and d) media." EXH No. P 03038 (0154-7064-0154-7065); EXH No. P 03039 (0154-0127-0154-0128).

fundamental human needs and to create or maintain appalling living conditions which caused them to accept subjugation by the Herceg-Bosna/HVO authorities or to leave Herceg-Bosna to other countries or other parts of Bosnia and Herzegovina.

- (u) JADRANKO PRLIĆ facilitated, supported, encouraged and participated in the joint crime enterprise and crimes charged in this indictment in planning, approving, preparing, supporting, ordering and/or directing military operations and actions during and as part of which cultural and religious property such as mosques were destroyed, and private property of Bosnian Muslims was looted, burned or destroyed, without justification or military necessity, and failing to prevent, stop, punish or redress such destruction and looting.<sup>26</sup>
- (v) JADRANKO PRLIĆ participated in, facilitated, instigated, encouraged and condoned crimes and abuses against Bosnian Muslim by Herceg-Bosna/HVO structures, forces and organisations, by failing to intervene, investigate, report or denounce such conduct and failing to prevent, punish or take other measures to stop, redress or correct such conduct.
- (w) JADRANKO PRLIĆ participated in, facilitated and/or supported the promotion and dissemination of false and inaccurate information about the reasons for detaining Bosnian Muslims and the conditions of their detention, and limited access by international observers to detained Muslims.
- (x) JADRANKO PRLIĆ participated in, facilitated and/or supported the promotion and dissemination of false, inaccurate and misleading information about the occurrence and commission of crimes, by pretending, for example, that crimes committed by the Herceg-Bosna/HVO authorities and forces were the actions of uncontrolled elements, and giving or supporting false information about the existence and effect of investigations and corrective measures allegedly taken.

<sup>26</sup> See, e.g., Report from Željko Šiljeg to Jadranko Prlić, Bruno Stojić and others, dated 19 January 1993: HVO proposed to the Muslims in Gornji Vakuf: peacefully leave the town or if not, "we will accept no responsibility for the consequences." EXH No. P 01206 (0153-1598-0153-1599).

17.2. As part of Paragraph 17, subparagraphs (a) through (l), and as examples, BRUNO STOJIĆ participated in and furthered the joint criminal enterprise, without limitation, as follows:

- (a) As head of the HVO Department (later Ministry) of Defence, BRUNO STOJIĆ was that body's top political and management official, in charge of the HVO armed forces.<sup>27</sup> He directed and operated the HVO Department (later Ministry) of Defence and was responsible for its actions and activities which were carried out in furtherance of the joint criminal enterprise and in connection with the crimes charged in this indictment.
- (b) BRUNO STOJIC exercised *de jure* and/or *de facto* power, effective control and substantial influence (including the authority to appoint and remove HVO military commanders up to and including brigade commanders) over all parts of the HVO armed forces, including the HVO armed forces which committed various crimes charged in this indictment.<sup>28</sup>
- (c) BRUNO STOJIĆ directed, controlled, facilitated and supported the operations and activities of the HVO Military Police, through which various objectives of the joint criminal enterprise were pursued.
- (d) BRUNO STOJIĆ participated in, facilitated and supported the joint crime enterprise and crimes charged in this indictment in planning, approving, preparing,

<sup>27</sup> See, e.g., 22 April 1993 message from Mladen Naletilić "Tuta" to Bruno Stojić requesting that "Dragan stay with Šiljeg." EXH No. P 09590 (0103-1430-0103-1433; L003-0804-L003-0809); 8 July 1993 request from Mladen Naletilić "Tuta" to Bruno Stojić asking that an apartment be allocated to the wife of a deceased HVO soldier. EXH No. P 03333. (0102-6844-0102-6844; L003-9033 - L003-9034).

<sup>28</sup> See, e.g., 2 June 1993 Request from Mladen Naletilić "Tuta" to Bruno Stojić personally, seeking funds to acquire weapons for the Convicts Battalion. EXH No. P 09591 (0102-6845-0102-6845; L003-9035-L003-9035); 30 August 1993 "Invitation" from Head of the HVO Defence Department, Bruno Stojić, to Slobodan Prljak, to a meeting of the "collegium" of the Defence Department, concerning, *inter alia*, the organisation of the main staff; formation of the military police administration; and Defence Department six-month budget. EXH No. P 04646 (0154-7367-0154-7368).

supporting, ordering and/or directing military operations and actions during and as part of which such crimes were committed.<sup>29</sup>

- (e) BRUNO STOJIĆ directed, controlled and facilitated the financial operations of the HVO armed forces, including the HVO armed forces' budget, payroll and expenditures.
- (f) BRUNO STOJIĆ participated in the Herceg-Bosna/HVO efforts to take over JNA and Territorial Defence equipment and facilities located on the territory claimed to comprise Herceg-Bosna and to seize control of various enterprises located in Bosnia and Herzegovina that were involved in the production of military equipment and supplies.
- (g) BRUNO STOJIĆ controlled and regulated the shipment of military equipment, arms and ammunition into or through the territory claimed by Herceg-Bosna.
- (h) BRUNO STOJIĆ participated in, facilitated and supported the role and involvement of the Republic of Croatia in the HVO armed forces' objectives, policies, plans and practices, and facilitated and participated in the Republic of Croatia's military, logistical and financial involvement in and support for the HVO armed forces, and in particular, through contacts with Gojko Šušak, the Minister of Defence of the Republic of Croatia.
- (i) BRUNO STOJIĆ played an integral role in the Herceg-Bosna/HVO subjugation of, and commission of crimes against Bosnian Muslims in the territory claimed as Herceg-Bosna, by approving and giving support to such efforts and issuing orders, commands, directions, instructions and ultimatums, such as the ultimatums that he

<sup>29</sup> See, e.g., Report dated 30 June 1993 from Željko Šiljeg to Bruno Stojić and Milivoj Petković: "Brada was familiarised with the report from Mostar . . . and with the command issued by the Head of the Defence Department [Bruno Stojić] and the President of the HVO HR H-B [Jadranko Prlić]. Based on that, the following is requested: 1. Have Obradović take Blagaj . . . ; 2. At all costs prevent their linking together between Mostar and Jablanica; 3. Start work on Drežnica; . . ." EXH No. P 03026 (0154-0131-0154-0131).

participated in and assisted in January 1993 and April 1993, demanding the subordination of ABiH troops to HVO command.

- (j) BRUNO STOJIC controlled, directed, facilitated, assisted and/or participated in a system of ill-treatment involving a network of Herceg-Bosna/HVO prisons, concentration camps and other detention facilities which were used to arrest, detain and imprison thousands of Bosnian Muslims in unlawful and harsh conditions, where they were killed, mistreated, beaten and abused.<sup>30</sup>
- (k) BRUNO STOJIC controlled, facilitated, assisted and/or participated in the use of Bosnian Muslims detainees in unlawful forced labour, during which many were killed or injured.<sup>31</sup>
- (l) BRUNO STOJIC engendered fear, hatred and mistrust of Bosnian Muslims among Bosnian Croats -- for example, by publicly proclaiming that the ABiH intended to conquer the "historical territory of the Croat people," that the ABiH's actions and goals jeopardised the existence of Bosnian Croats; and advocating Mostar as the rightful capital of Herceg-Bosna.<sup>32</sup>

<sup>30</sup> 3 September 1992 Order by Bruno Stojić establishing the Heliodrom Central Military Prison EXH No. P 00452 (0101-5214-0101-5214 (BCS)/ L003-1116-L003-1117 (Eng)).

<sup>31</sup> 11 October 1993 letter from Heliodrom Warden Stanko Bozić to the Head of the HVO Defence Department, Bruno Stojić: "1. The use of detainees for work . . . 2. Severe wounding and other sufferings of the detainees . . . The [Red Cross] . . . pointed out a number of irregularities that also constitute violations of the Geneva Conventions . . ." EXH No. P 05812 (0154-0559-0154-0561).

<sup>32</sup> Bruno Stojić letter to HVO officers and soldiers and Croats in Central Bosnia (on approximately 9 June 1993): "... you are part of an inseparable Croatian nation. . . . The political leadership of the Republic of Croatia has been informed of the situation and is using diplomatic and political methods to ensure your survival . . . Whoever is shooting at you, he is your enemy . . ." EXH No. P 02690 (0099-1874-0099-1875); 30 June 1993 letter from the President of the HZ H-B HVO, Jadranko Prlić, and Head of the HVO Department of Defence, Bruno Stojić, to "a) All Heads of the HVO Municipalities, b) All Offices for the Defence of Municipalities, c) Military Police Command and civil police administration, and d) media": "Croatian people of the Croatian Community of Herceg-Bosna, Croats, our brothers from the Republic of Croatia and the whole Diaspora" -- "HVO positions have been attacked, the civilians have been terrorised and killed, Croats and their descendants are being exterminated. The existence of the Croats in BiH has been endangered. . . . The reason for this is that after the Muslim soldiers have passed (and there are lots of Mujahedins and foreign mercenaries among them), only graves, demolished houses and mined churches remain. . . . Mostar was and remained the Croatian town . . . the supervision [of this order] will be carried out by the civil and military police." EXH No. P 03038 (0154-7064-0154-7065).

- (m) BRUNO STOJIC facilitated, supported, encouraged and participated in the joint crime enterprise and crimes charged in this indictment in planning, approving, preparing, supporting, ordering and/or directing military operations and actions during and as part of which cultural and religious property such as mosques were destroyed, and private property of Bosnian Muslims was looted, burned or destroyed, without justification or military necessity, and failing to prevent, stop, punish or redress such destruction and looting.
- (n) BRUNO STOJIC directed, facilitated and participated in the seizure of movable and immovable property and its transfer to the Herceg-Bosna/HVO forces.
- (o) BRUNO STOJIC controlled and regulated the flow of humanitarian aid to Bosnian Muslims, including in East Mostar, and prevented international organizations and relief groups from entering East Mostar.
- (p) BRUNO STOJIC participated in, facilitated and assisted a system of ill-treatment designed and implemented to expel, deport or forcibly transfer large numbers of Bosnian Muslims, by deporting them out of Bosnia and Herzegovina to other countries or transferring them to parts of Bosnia and Herzegovina not claimed or controlled by Herceg-Bosna or the HVO, in establishing procedures for the release of Bosnian Muslim detainees in order that they be sent to other countries or ABiH-held territory, through conditional releases and conditional exchanges, and by the involvement of the HVO Military Police in the transport and movement of such persons.
- (q) BRUNO STOJIC was responsible for ensuring that the HVO armed forces conducted themselves in accordance with the Geneva Conventions and international humanitarian law and that all prisoners, detainees and other persons held by the HVO armed forces were treated in compliance with such conventions and law, and failed to do so.<sup>33</sup>

<sup>33</sup> 20 August 1993 report from Heliodrom Warden Stanko Bozic to Bruno Stojic: "Regarding the violations to the Geneva Conventions, Mr Franco [of the Red Cross] warned me as the warden to make sure that these wrongdoings are not repeated in the future or we would be reported to the International Tribunal.

- (r) BRUNO STOJIĆ participated in, facilitated, instigated, encouraged and condoned crimes and abuses against Bosnian Muslim by Herceg-Bosna/HVO forces, by failing to prevent and punish such crimes and by commending, rewarding and promoting HVO officers and soldiers who participated in or played a role in such crimes.<sup>34</sup>

17.3. As part of Paragraph 17, subparagraphs (a) through (l), and as examples, SLOBODAN PRALJAK participated in and furthered the joint criminal enterprise, without limitation, as follows:

- (a) As a senior commander of the Herceg-Bosna/HVO armed forces, SLOBODAN PRALJAK exercised *de jure* and/or *de facto* command and control over the Herceg-Bosna/HVO armed forces.<sup>35</sup> While Commander of the HVO Main Staff, he directed and operated the HVO armed forces and was responsible for the activities and actions of such forces in furtherance of the joint criminal enterprise and in connection with the crimes charged in this indictment. He also played a central command role in the Herceg-Bosna/HVO armed forces both before and after the time that he was commander of the HVO Main Staff, including as a senior officer in the Republic of Croatia armed forces ("HV") and/or Assistant Minister of Defence of the Republic of Croatia.
- (b) SLOBODAN PRALJAK participated in high-level meetings of the HVO armed forces and also the Herceg-Bosna/HVO leadership, and with leaders of the Republic of Croatia, concerning the goals, programs, policies, operations and

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. . . On the contrary, the number of wounded and killed [detainees] at the workplace is increasing by the day." EXH No. P 04352 (0154-0450-0154-0450).

<sup>34</sup> 1 November 1993 request by the Head of the HVO Defence Department, Bruno Stojić, that Ivica Rajić be promoted to the rank of active-duty Colonel. EXH No. P 06328 (0151-8353-0151-8353).

<sup>35</sup> See, e.g., 10 November 1992 Order by Major General Slobodan Praljak, HVO Main Staff, on "appointment of temporary members of the command," including Tiho Blaškić, "for the actions on the defence of Travnik and liberation of Jajce . . ." EXH No. P 00727 (0279-1142-0279-1142); Slobodan Praljak Order dated 12 August 1993 structuring the HVO armed forces, including professional units. EXH No. P 04131 (0151-5214-0151-5215).



strategies of the Herceg-Bosna/HVO leadership,<sup>36</sup> in establishing Croat control over territories claimed to comprise Herceg-Bosna and pursuing the goals and objectives of the joint criminal enterprise. As examples, SLOBODAN PRALJAK participated in meetings with leaders of the joint criminal enterprise on 11 September 1992 and 26 September 1992 where the number of Muslims within the territories claimed to comprise Herceg-Bosna (and identified by Franjo Tudjman as part of the Banovina) was identified as an obstacle to achieving Croat control, and where it was stated that such territory belonged demographically and geopolitically to Croatia. The expulsion of Bosnian Muslims from these areas was raised at both meetings and SLOBODAN PRALJAK indicated that their expulsion was necessary and would have to be accomplished during the coming war between the HVO and ABiH.

- (c) SLOBODAN PRALJAK acted as a conduit for information, instructions, requests, policies and feedback between the leadership of the Republic of Croatia and the Herceg-Bosna/HVO authorities and forces, in advancing, facilitating and carrying out the joint criminal enterprise.<sup>37</sup>
- (d) SLOBODAN PRALJAK requested, arranged, facilitated and participated in obtaining military and logistical support for the Herceg-Bosna/HVO forces from the Republic of Croatia armed forces, in particular through his dealings with the Minister of Defence of the Republic of Croatia, Gojko Šušak.<sup>38</sup>

<sup>36</sup> See, e.g., 14 September 1993 Notice from Head of the HVO Defence Department Bruno Stojić, calling Slobodan Praljak to a meeting of heads of Defence Department sections, with an agenda including "Report from the Main Staff, Security and Information Service, and the military police." EXH No. P 05045 (0154-7366-0154-7366).

<sup>37</sup> See, e.g., Slobodan Praljak request dated 4 August 1993 to Croatian Minister of Defence Gojko Šušak, asking for senior Croatian Army officers Žarko Tole and Ivan Kapular to be placed with the HVO Main Staff. EXH No. P 03957 (0101-4201-0101-4201; L004-5160-L004-5160) It appears that Tole's transfer was approved immediately, since only two days later, on 6 August 1993, he issued an order as the "HVO Main Staff Chief." EXH No. P 03983 (0151-8750- 151-8750; L003-0653-L003-0655).

<sup>38</sup> See, e.g., 9 September 1992 Order by Željko Šiljeg instructing that an expected weapons convoy be "check[ed] whether they have permission for transportation of weapons issued by the [Croatian] Minister of Defence, Gojko Šušak or General Praljak . . ." EXH No. P 00459 (0040-4855-0040-4855); 24 July 1993 Request from Slobodan Praljak, "Commander of the HVO Main Staff," to: "President of the Republic of Croatia, dr. Franjo Tudjman, Minister of Defence of the Republic of Croatia, Gojko Šušak, Head of the HV [Croatian Army] Main Staff Janko Bobetko EXH No. P 03682 (0420-0777-0420-0777).

- (e) SLOBODAN PRALJAK ordered, directed, facilitated, supported and participated in the Herceg-Bosna/HVO subjugation of, and commission of crimes against Bosnian Muslims in the territory claimed as Herceg-Bosna, by issuing orders, commands, directions, instructions and ultimatums, such as the ultimatums that he participated in and assisted in January 1993 (including a local ultimatum to Bosnian Muslims in Gornji Vakuf) and in April 1993, demanding the subordination of ABiH troops to HVO command.<sup>39</sup>
- (f) SLOBODAN PRALJAK participated in, facilitated and supported the joint criminal enterprise and crimes charged in this indictment in planning, approving, preparing, supporting, ordering and/or directing military operations and actions during and as part of which such crimes were committed.<sup>40</sup>
- (g) SLOBODAN PRALJAK directed, facilitated and supported the operations and activities of the HVO military police, through which various objectives of the joint criminal enterprise were pursued.<sup>41</sup>
- (h) SLOBODAN PRALJAK controlled, directed, facilitated, assisted and/or participated in a system of ill-treatment involving a network of Herceg-

<sup>39</sup> See, e.g., Report from HVO Colonel Željko Šiljeg: "Tonight at Gornji Vakuf, Colonel Šiljeg and Colonel Andrić negotiated with BH Army representatives. There were no results. . . . General Praljak sent them a message that they will be annihilated if they do not accept the decisions of the HZ HB." EXH No. P 01162. (0151-5172-0151-5174); Minutes of an HVO Military Police Administration meeting on 27 January 1993, involving the Chief of the Military Police Administration, Valentin Ćorić, and General Praljak ("the general was asked a few questions on the situation in Gornji Vakuf and Central Bosnia, [and] on the Zadar-Maslenica operation in the [Republic of Croatia], to which he gave detailed replies.") EXH No. P 01350 (0154-3943-0154-3948).

<sup>40</sup> Report dated 30 June 1993 from Željko Šiljeg to Bruno Stojić and Milivoj Petković: "Brada was familiarised with the report from Mostar . . . and with the command issued by the Head of the Defence Department [Bruno Stojić] and the President of the HVO HR H-B [Jadranko Prlić]. Based on that, the following is requested: 1. Have Obradović take Blagaj . . . ; 2. At all costs prevent their linking together between Mostar and Jablanica; 3. Start work on Drežnica; . . ." EXH No. P 03026.

<sup>41</sup> Slobodan Praljak Order dated 12 August 1993: "1. To immediately mobilise all human and material resources, including all available Military Police . . . for the purpose of an uncompromisable liquidation of the infiltrated MOS [Muslim] terrorist groups. . . . 4. I hold the Chief of [HVO Military Police] Administration and [other commanders] accountable for the execution of this order . . ." EXH No. P 04125 (0156-1065 - 0156-1065).

Bosna/HVO prisons, concentration camps and other detention facilities which were used to arrest, detain and imprison thousands of Bosnian Muslims in unlawful and harsh conditions, where they were killed, mistreated, beaten and abused.<sup>42</sup> Muslim detainees were systematically taken from these facilities by Herceg-Bosna/HVO forces and used in unlawful forced labour, during which many detainees were killed or injured.

- (i) SLOBODAN PRALJAK instigated, facilitated and encouraged the obstruction of humanitarian assistance to Bosnian Muslims by not exerting his authority to effect a constant and un-interrupted flow of humanitarian assistance, including to East Mostar, where his lack of action resulted in substantially blocking all humanitarian aid in July and August 1993.
- (j) SLOBODAN PRALJAK participated in the seizure of movable and immovable property and transfer of its ownership to the Herceg-Bosna/HVO military.
- (k) SLOBODAN PRALJAK facilitated, supported, encouraged and participated in the joint crime enterprise and crimes charged in this indictment in planning, approving, preparing, supporting, ordering and/or directing military operations and actions during and as part of which cultural and religious property such as mosques were destroyed, and private property of Bosnian Muslims was looted, burned or destroyed, without justification or military necessity, and failing to prevent, stop, punish or redress such destruction and looting.
- (l) SLOBODAN PRALJAK participated in, facilitated, assisted and supported a system of ill-treatment designed and implemented to expel, deport or forcibly transfer large numbers of Bosnian Muslims, by deporting them out of Bosnia and Herzegovina to other countries or transferring them to parts of Bosnia and Herzegovina not claimed or controlled by Herceg-Bosna or the HVO, which

<sup>42</sup> Slobodan Praljak Order 17 dated August 1993, to brigades and Rama Military Police: "1. On 17 August 1993 all prisoners are to be withdrawn from the tasks they have been given in your respective zones of responsibility by 1800 hours. 2. Those responsible for [their] safe return and security in prison shall be the Rama Brigade SIS and the Rama Military Police." EXH No. P 04260 (0152-9753-0152-9753).

included his proposal that Bosnian Muslims be expelled from the territory claimed by Herceg-Bosna during the war between the HVO and ABiH.

- (m) SLOBODAN PRALJAK was responsible for ensuring that the HVO armed forces conducted themselves in accordance with the Geneva Conventions and international humanitarian law and that all prisoners, detainees and other persons held by the HVO armed forces were treated in compliance with such conventions and law, and failed to do so.<sup>43</sup>
- (n) SLOBODAN PRALJAK participated in, facilitated, instigated, encouraged and condoned crimes and abuses against Bosnian Muslim by Herceg-Bosna/HVO forces, by failing to prevent and punish such crimes and by commending, rewarding, promoting or leaving in place HVO officers and soldiers who committed or played a role in such crimes.

17.4. As part of Paragraph 17, subparagraphs (a) through (l), and as examples, MILIVOJ PETKOVIĆ participated in and furthered the joint criminal enterprise, without limitation, as follows:

- (a) As a senior commander of the Herceg-Bosna/HVO armed forces, MILIVOJ PETKOVIĆ exercised *de jure* and/or *de facto* command and control over the Herceg-Bosna/HVO armed forces. While Chief of the HVO Main Staff, he directed and operated the HVO armed forces and was responsible for the activities and actions of such forces in furtherance of the joint criminal enterprise and in connection with the crimes charged in this indictment. He also played a central command role in the Herceg-Bosna/HVO armed forces during the time that SLOBODAN PRALJAK was Commander of the HVO Main Staff, as the overall deputy commander.

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<sup>43</sup> Slobodan Praljak Order implementing Boban Order dated 15 September 1993, ordering that "Operative zones, brigades, the Military Police Department and independent units will issue orders and instructions" to implement Boban's order to "respect the rules of international war and humanitarian law . . ." EXH No. P 05188 (0151-8972-151-8973).

- (b) MILIVOJ PETKOVIĆ participated in high-level meetings of the HVO armed forces and also the Herceg-Bosna/HVO leadership, and with leaders of the Republic of Croatia, concerning the goals, programs, policies, operations and strategies of the Herceg-Bosna/HVO leadership, in establishing Croat control over territories claimed to comprise Herceg-Bosna and pursuing the goals and objectives of the joint criminal enterprise.<sup>44</sup>
- (c) MILIVOJ PETKOVIĆ ordered, directed, facilitated, supported and participated in the Herceg-Bosna/HVO subjugation of, and commission of crimes against Bosnian Muslims in the territory claimed as Herceg-Bosna, by issuing orders, commands, directions, instructions and ultimatums, such as the ultimatums that he participated in and assisted in January 1993 and April 1993, demanding the subordination of ABiH troops to HVO command.<sup>45</sup>
- (d) MILIVOJ PETKOVIĆ participated in, facilitated and supported the joint crime enterprise and crimes charged in this indictment in planning, approving, preparing, supporting, ordering and/or directing military operations and actions during and as part of which such crimes were committed.
- (e) MILIVOJ PETKOVIĆ mobilised military, logistical and manpower resources which were used to pursue the political and military goals of the Herceg-Bosna/HVO leadership and which included military, logistical and manpower support from the Republic of Croatia Ministry of Defence and armed forces.

<sup>44</sup> On 26 June 1992, in a preliminary report addressed to the municipal leadership and commanders of HVO units, MILIVOJ PETKOVIĆ proclaimed that "Today we have under control almost the entire territory of the Croatian municipalities (Neum, Ravno, Stolac, Čapljina, Ljubuški, Čitluk, Široki Brijeg and Mostar)." The HVO confronted four main tasks according to PETKOVIĆ, including "to put under control the remaining area of Croatian municipalities" and to "establish Croatian rule over all municipalities." EXH No. P 00279 (0155-1457-0155-1460), pp. 1-2.

<sup>45</sup> MILIVOJ PETKOVIĆ significantly contributed to rising tensions between the HVO and ABiH by issuing an order on 15 January 1993 requiring the BH Army units in areas controlled by the Bosnian Croats to subordinate themselves to the HVO EXH No. P 01139 (0054-3953-0054-3954), p. 1: "All units of the HVO Armed Forces and of the BH Army in provinces 3, 8, 10 (Croatian provinces) be placed under the command of the HVO Main Headquarters, that is, under the command of the Central Bosnia, North-Western and South-Eastern Herzegovina Operative Zone."

- (f) MILVOJ PETKOVIĆ participated in and facilitated the financial operations of the HVO armed forces, including the HVO armed forces' budget, payroll and expenditures.
- (g) MILIVOJ PETKOVIĆ participated in the seizure of movable and immovable property and transfer of its ownership to the Herceg-Bosna/HVO military.
- (h) MILIVOJ PETKOVIĆ facilitated, supported, encouraged and participated in the joint crime enterprise and crimes charged in this indictment in planning, approving, preparing, supporting, ordering and/or directing military operations and actions during and as part of which cultural and religious property such as mosques were destroyed, and private property of Bosnian Muslims was looted, burned or destroyed, without justification or military necessity, and failing to prevent, stop, punish or redress such destruction and looting.
- (i) MILIVOJ PETKOVIĆ controlled, directed, facilitated, assisted and/or participated in a system of ill-treatment involving a network of Herceg-Bosna/HVO prisons, concentration camps and other detention facilities which were used to arrest, detain and imprison thousands of Bosnian Muslims in unlawful and harsh conditions, where they were killed, mistreated, beaten and abused.<sup>46</sup> In particular, MILIVOJ PETKOVIĆ ordered and directed the widespread and systematic arrest of Bosnian Muslim men in the summer of 1993.
- (j) MILIVOJ PETKOVIĆ controlled, authorised, facilitated, condoned and allowed the use of Bosnian Muslim detainees in unlawful forced labour, during which

<sup>46</sup> The Head of the ICRC Mission in Mostar and Međugorje submitted a letter to Marijan Biškić on 20 January 1994, with copies to MILIVOJ PETKOVIĆ and JADRANKO PRLIĆ. In this letter, the Bosnian Croat leaders were put on notice that detained prisoners had died. Specific complaints were raised about prisoners from Dretelj dying as a result of ill-treatment; prisoners from Mostar who were killed while out on work duties at the front lines; and prisoners in Vojno being killed by the "person in charge of the place." EXH No. P 07629 (0421-5758-0421-5759), p. 1). The ICRC asked the Bosnian Croats to provide the ICRC with death certificates or other official confirmation that deaths of detained persons had occurred. In a letter dated 25 June 1993 and addressed to Tihomir Blaškić, with a copy to MILIVOJ PETKOVIĆ, the Head of the ICRC Office in Zenica complained about the HVO practice of forcing prisoners to work in areas where they were exposed to the danger of fighting. This letter specifically mentioned that this practice led to the wounding and death of prisoners and that such practices were contrary to the Geneva Conventions. EXH No. P 02950 (0420-1294-0420-1295), p. 1

many of them were killed or injured, and issued specific instructions on the use of Bosnian Muslim detainees in such labour.

- (k) MILIVOJ PETKOVIĆ participated in, facilitated and assisted a system of ill-treatment designed and implemented to expel, deport or forcibly transfer large numbers of Bosnian Muslims, by deporting them out of Bosnia and Herzegovina to other countries or transferring them to parts of Bosnia and Herzegovina not claimed or controlled by Herceg-Bosna or the HVO, such as the transfer of Bosnian Muslim civilians from the area of Sovići-Doljani in May 1993 and the removal of Muslims from Prozor Municipality in July 1993.
- (l) MILIVOJ PETKOVIĆ promoted, facilitated and encouraged the joint criminal enterprise by casting Bosnian Muslims in a negative light by referring to them in derogatory terms in orders and communications to the Herceg-Bosna/HVO armed forces.
- (m) MILIVOJ PETKOVIĆ was responsible for ensuring that the HVO armed forces conducted themselves in accordance with the Geneva Conventions and international humanitarian law and that all prisoners, detainees and other persons held by the HVO armed forces were treated in compliance with such conventions and law, and failed to do so.<sup>47</sup>
- (n) MILIVOJ PETKOVIĆ participated in, facilitated, instigated, encouraged and condoned crimes and abuses against Bosnian Muslim by Herceg-Bosna/HVO forces, by failing to prevent and punish such crimes and by commending,

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<sup>47</sup> MILIVOJ PETKOVIĆ was clearly aware of the obligations international humanitarian law imposed upon him as a senior commander of the HVO Armed Forces. *See, e.g.*, his orders dated 22 April 1993, EXH No. P 02038 (0151-5331-0151-5331) and 17 July 1993, EXH No. P 03520 (0101-8016-0101-8016), in which he ordered his subordinate commanders to respect international humanitarian law and to take all necessary disciplinary measures against violators. At the same time, however, MILIVOJ PETKOVIĆ demonstrated a blatant disregard for such legal obligations by issuing an order concerning engineering work and ordering prisoners to be used to fortify defence lines facing the BH Army positions. EXH No. P 03592 (0101-8008-0101-8009), p. 1. PETKOVIĆ issued a similar order on 9 August 1993 to employ "prisoners and detained Muslims to fortify the lines." EXH No. P 04039 (0101-7946-0101-7947), p. 1.

rewarding, promoting or leaving in place HVO officers and soldiers who committed or played a role in such crimes.

- (o) MILIVOJ PETKOVIĆ directed, participated in and facilitated the concealment of crimes committed by Herceg-Bosna/HVO forces, in -- by way of example -- ordering in August 1993 that Bosnian Muslim detainees in Prozor be made presentable before allowing international observers to see them,<sup>48</sup> and misrepresenting and covering-up crimes committed by Herceg-Bosna/HVO forces at Stupni Do in October 1993.

17.5. As part of Paragraph 17, subparagraphs (a) through (l), and as examples, VALENTIN ĆORIĆ participated in and furthered the joint criminal enterprise, without limitation, as follows:

- (a) As Chief of the HVO Military Police Administration, VALENTIN ĆORIĆ was the central figure in administering and operating the HVO Military Police. He had *de jure* and/or *de facto* command and control of the HVO Military Police, which played important roles in combat and ethnic cleansing operations, and in securing and administering Herceg-Bosna/HVO prisons, concentration camps and detention facilities.<sup>49</sup>
- (b) VALENTIN ĆORIĆ requested, obtained, arranged and facilitated the participation, co-operation and assistance of various elements of the Government of the Republic of Croatia, such as the HV Military Police and Croatian Ministry of Interior police, in training HVO Military Police in Neum and Ljubuški, in Bosnia and

<sup>48</sup> MILIVOJ PETKOVIĆ was aware of the conditions that the detainees were kept in and the effects that such conditions had on the prisoners. For example, on 14 August 1993, in reference to a "meeting with the new Chief of the European Community," MILIVOJ PETKOVIĆ sent a coded message to the Commander of the Prozor Forward Command Post with the instruction that "if there is anything in Prozor, show it to them (detainees), but make them presentable." EXH No. P 04188 (0151-3631-0151-3631).

<sup>49</sup> VALENTIN ĆORIĆ promulgated instructions governing the daily reports that HVO Military Police units filed in order to improve the quality of such reports. EXH No. P 00277 (0151-9086-0151-9088), p. 1. He also issued instructions on the work of brigade military police, which sets forth detailed regulations on the structure and functions of military police within brigades. EXH No. P 04922 (0099-5969-0099-5969).



Herzegovina, and in Krvavice, in the Republic of Croatia, and in participating in border control tasks.<sup>50</sup>

- (c) VALENTIN ČORIĆ facilitated and assisted the acquisition and distribution of military equipment, vehicles, arms and ammunition by the Herceg-Bosna/HVO forces, and obtained funds and property for such forces by collecting donations and confiscating property at HVO Military Police checkpoints.
- (d) VALENTIN ČORIĆ controlled, directed and regulated the movement of Bosnian Muslims, through HVO Military Police checkpoints which were used in persecuting, arresting and detaining Bosnian Muslims and confiscating Bosnian Muslim property.
- (e) VALENTIN ČORIĆ controlled and regulated the transport and passage of equipment and supplies to Bosnian Muslims, including humanitarian assistance, through border controls and checkpoints.
- (f) VALENTIN ČORIĆ operated, directed, facilitated, assisted and participated in a system of ill-treatment involving a network of Herceg-Bosna/HVO prisons, concentration camps and detention facilities which were used to arrest, detain and imprison thousands of Bosnian Muslims in unlawful and harsh conditions, where they were killed, mistreated, beaten and abused.<sup>51</sup>

<sup>50</sup> In order to facilitate prisoner exchanges, VALENTIN ČORIĆ issued requests to the Military Police Administration of the Republic of Croatia to "hand over prisoners of war who are on the territory of the Republic of Croatia." This request went on to indicate that such prisoners should be transferred to the Vrgorac-Ljubuški border crossing or to the "Military Investigation Prison in Ljubuški," where "reception will be organised throughout the day and night." EXH No. P 02959 (0153-6483-0153-6483) VALENTIN ČORIĆ was aware of an agreement between the HVO Military Police Administration and the Military Police of the Republic of Croatia that prisoners from the Ljubuški Prison were being taken to the Lora Military Investigation Prison in Split. EXH No. P 03345 (0154-4029-0154-4029).

<sup>51</sup> On 9 March 1993, VALENTIN ČORIĆ reported to Mate Boban that "prisons have been established in all operational zones." EXH No. P 01635 (0099-5727-0099-5729), p. 1. VALENTIN ČORIĆ issued an order on 22 September 1992 that "prisoners of war and army prisoners (both military and civilian)" were to be "accommodated and guarded" in the Heliodrom Camp. EXH No. P 00513 (0153-8501-0153-8501). BERISLAV PUŠIĆ and VALENTIN ČORIĆ issued orders for the transfer of prisoners from the Ljubuški prison to Heliodrom Camp and on 27 May 1993, 106 prisoners were so transferred. EXH No. P 02546 (0156-2318-0156-2318). A similar order was issued on 23 September 1993, in which VALENTIN ČORIĆ directed that seven Muslim males be transferred from Gabela Prison to Ljubuški Prison. EXH No. P 05302 (0101-8411-0101-8411). On 14 July 1993, an official note was submitted to VALENTIN ČORIĆ

- (g) In connection with such prisons, camps and facilities, VALENTIN ČORIĆ played an integral role in setting up such prisons, camps and facilities; staffing (or failing to staff) the facilities; providing (or failing to provide) both external and internal security; participating in the formation of classification and processing procedures for prisoners and detainees; providing (or failing to provide) adequate food and water; providing (or failing to provide) adequate space, bedding, ventilation and sanitation facilities; and providing (or failing to provide) adequate medical care.<sup>52</sup>
- (h) In connection with such prisons, camps and facilities, VALENTIN ČORIĆ prevented, obstructed and/or limited access to such facilities and to the prisoners and detainees by international organisations and relief groups.<sup>53</sup>
- (i) VALENTIN ČORIĆ directed, promoted, facilitated and assisted the use of Bosnian Muslim detainees by Herceg-Bosna/HVO forces in unlawful forced labour and as human shields and in dangerous conditions, during which many were killed or injured.<sup>54</sup>

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concerning a shooting in Dretelj that left one Muslim prisoner dead and two Muslim prisoners wounded. EXH No. P 03446 (0155-0355-0155-0355).

<sup>52</sup> On 6 July 1993, VALENTIN ČORIĆ notified the Commander of HVO Sector South and the wardens of the Gabela, Dretelj, Heliodrom and Ljubuški Prisons that "Military remand prisons are exclusively under the jurisdiction of the Military Police Administration" and that the wardens or units of Sector South were not authorised to issue orders releasing any prisoners, with the exception of prisoners that were captured by the 1st HVO *Knez Domagoj* Brigade, who could be released with the consent of the Sector South Commander. EXH No. P 03220 (0153-6255-0153-6256), p. 1. On 11 July 1993, VALENTIN ČORIĆ received a report on inspections carried out in Ljubuški and Dretelj-Čapljina prisons. This report indicated that in Dretelj Prison there were six religious officials and ten company directors, and that among the 2,270 prisoners, there were 127 persons over 60 years of age, 54 under 18 years of age and 39 who were handicapped. Attached to this report was a list of sick persons and those who were detained and had been seen by a doctor. EXH No. P 03377 (0152-6607-0152-6608), pp. 1-2.

<sup>53</sup> VALENTIN ČORIĆ had the authority to issue written authorisation for representatives of international organisations to visit HVO prisons, and on 8 July 1993, he issued an authorisation for a representative of the United Nations Commissioner of Refugees to the "Dretelj-Čapljina, Ljubuški and Heliodrom-Mostar" prisons. EXH No. P 03292 (0153-6253-0153-6253).

<sup>54</sup> VALENTIN ČORIĆ was on notice that BERISLAV PUŠIĆ was allowing prisoners to be taken out to perform work on the frontlines and that such prisoners were occasionally wounded or killed. See, for example, EXH No. P 03171 (0153-9676); EXH No. P 03293 (0152-0576); EXH No. P 04259 (0153-9645); EXH No. P 05008 (0153-8335-0153-8336).

- (j) VALENTIN ĆORIĆ operated, directed, facilitated, assisted and participated in a system of ill-treatment designed and implemented to expel, deport or forcibly transfer large numbers of Bosnian Muslims, by deporting them out of Bosnia and Herzegovina to other countries or transferring them to parts of Bosnia and Herzegovina not claimed or controlled by Herceg-Bosna or the HVO, though the HVO Military Police and in co-ordination with various elements of the Herceg-Bosna/HVO government, such as the Office for Exchange of Prisoners and Other Persons, in organising and arranging the release of Bosnian Muslim detainees, the transport of Bosnian Muslim detainees and civilians to various locations; and the handover of such persons to Republic of Croatia authorities.<sup>55</sup>
- (k) VALENTIN ĆORIĆ facilitated, assisted and participated in the eviction and expulsion of Bosnian Muslims from their homes and the confiscation and looting of their money and property, which frequently involved the HVO Military Police.<sup>56</sup>
- (l) VALENTIN ĆORIĆ caused, facilitated and contributed to a humanitarian crisis for Bosnian Muslims, in controlling the provision of humanitarian assistance and public services to the injury and detriment of Bosnian Muslims.
- (m) VALENTIN ĆORIĆ was responsible for ensuring that the HVO armed forces, and in particular the HVO Military Police, conducted themselves in accordance with the Geneva Conventions and international humanitarian law and that all prisoners, detainees and other persons held by the HVO armed forces were treated in compliance with such conventions and law, and failed to do so.

<sup>55</sup> VALENTIN ĆORIĆ had the authority to release Muslim prisoners from HVO prisons as reflected in the fact that he issued an order that "all Muslim detainees in possession of guarantee letters and transit visas are released from detention." EXH No. P 04572 (0151-7613-0151-7613). With respect to the exchange of prisoners, on 22 April 1993, VALENTIN ĆORIĆ issued an order that stated that "Mr. Berko PUŠIĆ is charged with participating on behalf of the VP Administration in the exchange of all arrested persons." EXH No. P 02020 (0101-8381-0101-8382), p. 2. ("VP" is the BCS abbreviation for "MP" or "Military Police.").

<sup>56</sup> Based on an order by MILIVOJ PETKOVIĆ, VALENTIN ĆORIĆ issued an order to the Mostar Military Police Commander on 13 July 1992 that all refugees on the front line in the Gnojnice sector were to be transferred to the Čapljina sector, where each refugee was to be interviewed and searched. EXH No. P 00323 (0101-4401-0101-4401).

- (n) VALENTIN ČORIĆ participated in, facilitated, instigated, encouraged and condoned crimes and abuses against Bosnian Muslim by Herceg-Bosna/HVO forces by minimizing or failing to report and investigate the more severe crimes, failing to follow up on various investigations and failing to prevent and punish such crimes.

17.6. As part of Paragraph 17, subparagraphs (a) through (l), and as examples, BERISLAV PUŠIĆ participated in and furthered the joint criminal enterprise, without limitation, as follows:

- (a) BERISLAV PUŠIĆ played a central and instrumental role in the Herceg-Bosna/HVO machinery and structures that were involved in and/or facilitated the expulsion, detention, deportation and forced transfer of Bosnian Muslim detainees and civilians, and also the used of detained Muslims in unlawful forced labour. Based on his *de jure* and/or *de facto* powers, BERISLAV PUŠIĆ exercised effective control and substantial influence over the elements and personnel in these systems and processes, in implementing the policies of the joint criminal enterprise with respect to the displacement, transfer and deportation of Bosnian Muslims.<sup>57</sup>
- (b) BERISLAV PUŠIĆ organised and operated the Service for Exchange of Prisoners and Other Persons, an HVO government structure, and the Commission for Exchange of Prisoners, thus supporting the Herceg-Bosna/HVO policies and practices on exchanges of prisoners, detainees and civilians. In these capacities, he facilitated and supported the Herceg-Bosna/HVO policies concerning the

<sup>57</sup> See, e.g., Lists of persons released from the Heliostrom in 1993 on the approval of various persons, including Berislav Pušić. EXH No. P 00285 (0153-9474-0153-9516); Official Note by Heliostrom Warden Stanko Božić dated 10 May 1993: With reference to a decision that "all ethnic Muslim citizens from the right bank of the Neretva were to be quarantined in the [Central Military Prison in the Heliostrom]," Berislav Pušić, Biljana Nikić and Marko Bevanda were authorised to release such persons; Berislav Pušić issued an order that persons be released. EXH No. P 02262 (0153-8487-0153-9516). See also "List of Employees of the Mostar HVO Regional Field Hospital and Their Family Members Who Were Taken Away from Their Flats dated 11 May 1993, stating: "13 May 1993 As per order of Berko Pušić - nobody can release persons who names are encircled. EXH No. P 02315 (0153-8443-0153-8446).

restriction of movement and detention of Bosnian Muslims, in furtherance of the goals of the joint criminal enterprise.<sup>58</sup>

- (c) BERISLAV PUŠIĆ directed, facilitated, assisted and/or participated in a system of ill-treatment involving a network of Herceg-Bosna/HVO prisons, concentration camps and other detention facilities which were used to arrest, detain and imprison thousands of Bosnian Muslims in unlawful and harsh conditions, where they were killed, mistreated, beaten and abused.<sup>59</sup>
- (d) BERISLAV PUŠIĆ participated in this system, which also involved the use of Bosnian Muslim detainees in unlawful forced labour, as a member of the Military Police and substantially supported the work of the HVO Military Police and SIS in detaining Bosnian Muslims, through his positions as Head of the Service for Exchange and President of the Commission to Take Charge of All Herceg-Bosna/HVO Prisons and Detention Facilities.<sup>60</sup>

<sup>58</sup> Report by Jozo Marić dated 25 May 1993 about the HVO Commission for Exchange, explaining that it should start working with the eight indicated members, including Berislav Pušić and Valentin Ćorić. EXH No. P 02520 (0464-4859-0464-4859); List of 822 detainees held at the Helišćrom - "School Building" signed by Berislav Pušić, Head of HVO Office for Exchange of Prisoners and Other Persons. EXH No. P 05072 (0153-9007-0153-9028).

<sup>59</sup> Permission by Berislav Pušić, Officer for Control of the Crime Service, HVO Military Police Administration, for a Muslim prisoner to be visited by his mother for 15 minutes. EXH No. P 02778 (0153-8744-0153-8744) Confirmation of an Order by Berislav Pušić, Control Officer, HVO Military Police Administration, dated 1 July 1993 "to transfer two hundred detainees from the Central Military Prison in Mostar [Helišćrom] to the prison in Ćaplĳina, until further notice." EXH No. P 03055 (0154-0471-0154-0471); Decision by Jadranko Prlić, President of the HVO HZ H-B, dated 19 July 1993; EXH No. P 03565 (0363-7155-0363-7155); Report by HVO Defence Department Health Sector dated 29 September 1993 to the Office for the Exchange of Prisoners of War, the HVO Main Staff, the Cabinet of the President of the HR H-B and others, making some positive findings on the inspection at a detention facility in Gabela, but also indicating that the number of inmates "significantly exceeds the Centre's capacities" and noting the observation of "several severely malnourished detainees." EXH No. P 05485 (0151-9982 - 0151-9984).

<sup>60</sup> Order from the HVO Military Police dated 27 May 1993 listing 106 persons being "transferr[ed] from the Ljubuški Prison to Helišćrom prison in Mostar," on "the order of Mr. Berko Pušić and Chief of Military Police Mr. Valentin Ćorić." EXH No. P 02535 (0153-6422-0153-6425); Letter from International Humanitarian Organisation to Valentin Ćorić, Chief of HVO Military Police, dated 1 June 1993, requesting a meeting to discuss: 1. a written permission signed by you to visit the following prisons: Rodoć [Helišćrom], Ljubuški, Ćaplĳina (this subject was discussed with your assistant Mr Berislav PUSIĆ on 29 May 1993); 2. aid (food and sanitation and medical aid) for the population of the left bank of the city of Mostar. According to multiple assessments of the situation by our physician and sanitation engineer, the hygienic conditions are rapidly deteriorating (risk of epidemics) and the provision of food for the entire population has been made more difficult due to the isolation of this part of the city. EXH No. P 02601 (0101-4524-0101-4524).

- (e) BERISLAV PUŠIĆ exercised significant authority over Bosnian Muslim detainees, as evidenced by his ability to order the release or continued detention of such persons and/or their use in forced labour.<sup>61</sup>
- (f) BERISLAV PUŠIĆ participated in, facilitated and assisted a system of ill-treatment designed and implemented to expel, deport or forcibly transfer large numbers of Bosnian Muslims, by deporting them out of Bosnia and Herzegovina to other countries or transferring them to parts of Bosnia and Herzegovina not claimed or controlled by Herceg-Bosna or the HVO.<sup>62</sup>
- (g) BERISLAV PUŠIĆ established and organised processes for the classification and registration of detainees and also the release of detainees. He participated in, supported and/or encouraged the implementation of Herceg-Bosna/HVO detention, exchange and releases policies which worked to the injury and detriment of Bosnian Muslims, such as a one-for-one exchange policy and making release conditional on Bosnian Muslims leaving to another country or to another part of Bosnia and Herzegovina not claimed or controlled by Herceg-Bosna or the HVO.<sup>63</sup>

<sup>61</sup> Permission given by HVO Defence Department Head Bruno Stojić dated 11 May 1993, granting passage into Mostar for two Spanish Battalion vehicles transporting plasma and also a priest, Ivan Vukšić: "On behalf of HVO, Mr Berislav Pušić is appointed as liaison officer with UNPROFOR. Agreement regarding taking over of the priest reached by Humo and Pušić." EXH No. P 02291 (R016-5310-R016-5310/ 0057-3305-0057-3305); HVO Office for Expellees, Refugees and Displaced Persons ("ODPR") "List of persons released by the order of Berko Pušić" (225 names). EXH No. P 02399 (0153-9148-0153-9153); Report by the Warden, Heliodrom Prison, HVO Military Police Administration, dated 21 July 1993, to Valentin Ćorić and others: thirty-eight detainees sent for work on the order of Berislav Pušić have not been returned. EXH No. P 03596 (0153-9668-0153-9668).

<sup>62</sup> Proposed Organisation of the HVO Office for Exchange of Persons, by "Head of the Office, Berislav Pušić," indicating that a task for the Office is "Establishing the lists of persons who voluntarily want to leave the areas of the HZ H-B with the aim of reuniting the families." EXH No. P 03052 (0421-5408-0421-5408); Order by Berislav Pušić, Chief of Unit for Exchanges and President of Commission, dated 14 August 1993, to the Heliodrom prison, instructing that a detainee be released "based on confirmation of approval for transit through the Republic of Croatia." EXH No. P 04178 (0153-4055-0153-4055); List dated 4 November 1993 of 100 Prisoners at the HVO Central Military Prison [Heliodrom] with letters of guarantee, addressed to Office for Exchange, Mostar, Attn. Berislav Pušić (with many listings indicating the apparent country which would receive them). EXH No. P 06436 (0154-0545-0154-0547).

<sup>63</sup> Order by Bruno Stojić dated 6 August 1993 placing "all detention units and prisons where POWs or military detainees are held" under the authority of a group consisting of Berislav Pušić (as President) and others, with instructions for such group to carry out various tasks, including making a list of all detained persons, to classify them, and resolve the matters of such units and prisons in their functioning and security. EXH No. P 03985 (0102-7755-0102-7755); Decision by President of the Prisoner Exchange Commission,

- (h) BERISLAV PUŠIĆ approved the use of prisoners for unlawful labour. He failed to intervene to stop or denounce the illegal practice of forced labour, despite being made aware of this practice.<sup>64</sup>
- (i) BERISLAV PUŠIĆ participated in, facilitated, instigated, encouraged and condoned crimes and abuses against Bosnian Muslims by Herceg-Bosna/HVO forces by failing to intervene, investigate, denounce or take measures to prevent, correct or punish such conduct and conditions, including the inadequate conditions at Herceg-Bosna/HVO prisons, camps and detention facilities.<sup>65</sup>
- (j) BERISLAV PUŠIĆ gave false or inaccurate information to the representatives of international organisations and the press about the conditions of detention in Heliodrom and Dretelj as well as the expulsion of Bosnian Muslims by the Herceg-Bosna/HVO forces in order to minimise or deny the crimes.

### STATEMENT OF THE CASE

18. The events alleged in the indictment occurred as part of the dissolution of the former Yugoslavia. The Republic of Croatia declared its independence on 25 June 1991. By September 1991, the Republic of Croatia was at war with nationalist Serb forces attempting to incorporate parts of Croatia into a "Greater Serbia." A United Nations peace

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Berislav Pušić, dated 12 August 1993, indicating that the Commission had undertaken to register, list and classify all detainees, with such work completed at Mostar, Ljubuški and Otok; "[t]he release of prisoners from the prisons in Dretelj and Gabela must be suspended, for the purpose of the most expeditious registration possible and correct classification . . ." Orders for releasing detainees (with all guarantees) must be signed by Berislav Pušić, head of the commission. EXH No. P 04141 (0102-7729-0102-7730).

<sup>64</sup> Authorisation to take detainees: "On 23 June 1993, workers from *Soko* ZI - Rodoč took 10 prisoners to work in the factory compound. Mr Berko Pušić gave authorisation for the detainees to leave the [Heliodrom] prison grounds on work duty . . ." EXH No. P 02918 (0154-0495-0154-0496); Authorisation to take detainees; Report copied to "Chief, Mr Valentin Ćorić" and "Supervising Officer, Mr Berislav Pušić, indicating that two of the detainees "provided for work with the approval of Mr Berislav PUŠIĆ" had been wounded by the BiH Army and taken to the Mostar hospital for treatment. EXH No. P 03171 (0306-6517-0306-6517).

<sup>65</sup> Report by the Heliodrom Prison Warden to Bruno Stojić, Valentin Ćorić and Berislav Pušić dated 5 July 1993, reporting that HVO soldiers fired for two hours at buildings holding detainees, with no intervention by the military police to stop them. EXH No. P 03209 (0154-7303-0154-7303).

agreement ended the war in Croatia in January 1992, after Serb forces had taken control of about one-fourth to one-third of the Republic of Croatia's territory. The European Community recognised the Republic of Croatia as an independent State on 15 January 1992 and the United Nations admitted Croatia as a member-State on 22 May 1992.

19. The Republic of Bosnia and Herzegovina ("Bosnia and Herzegovina") was recognised by the European Community as an independent State on 6 April 1992, and admitted as a member-State of the United Nations on 22 May 1992. By the spring of 1992, Bosnian Serb forces had already begun an armed campaign to dismember the fledgling country and expel Muslims and Croats from territory claimed as Greater Serbia.

### **The Croatian Democratic Union of Bosnia and Herzegovina**

19.1. Not surprisingly, the events leading to Herceg-Bosna's establishment on the sovereign territory of Bosnia and Herzegovina began not in BiH, but in Zagreb, in a series of meetings, including those on 13 June and 20 June 1991.

20. The ruling party in the Republic of Croatia, the Croatian Democratic Union (the "HDZ"), organised and controlled the branch of the party in Bosnia and Herzegovina, the HDZ-BiH. By the latter part of 1991, the more extreme nationalist elements of the HDZ-BiH, under the leadership of Mate Boban, Dario Kordić and others, with the support of Franjo Tudjman and Gojko Šušak, had taken effective control of the party.

20.1. The three leading nationalist parties emerged victorious in BiH following the November 1990 elections. The Croat nationalist party in Bosnia, the HDZ-BiH, was introduced to Bosnia from, and controlled by, the Zagreb-based Croatian Democratic Party, established by Franjo Tudjman in 1989. High-ranking HDZ members from Zagreb were almost always in attendance at HDZ-BiH meetings. The *Blaškić* Trial Chamber clearly confirmed this close and controlling relationship: "The HDZ in Croatia had overall control of the HDZ in Bosnia." *Blaškić* TJ, para. 113.



and Herzegovina declared Herceg-Bosna illegal, first on or about 14 September 1992 and again on 20 January 1994.

22. According to Article 2 of the 18 November 1991 Decision on the Establishment of the Croatian Community of Herceg-Bosna, Herceg-Bosna consisted of the following municipalities in the territory of Bosnia and Herzegovina: Jajce, Kreševo, Busovača, Vitez, Novi Travnik, Travnik, Kiseljak, Fojnica, Kakanj, Vareš, Kotor Varoš, Tomislavgrad, Livno, Kupres, Bugojno, Gornji Vakuf, Prozor, Konjic, Jablanica, Posušje, Mostar, Široki Brijeg, Grude, Ljubuški, Čitluk, Čapljina, Neum, Stolac and parts of Skender Vakuf (Dobretići) and Trebinje (Ravno). By virtue of Article 4 of the same Decision, the municipality of Žepče was added to Herceg-Bosna in about October 1992.

22.1. In stating the “Reasons” for Herceg-Bosna, the founders expressed the “unacceptability of a unitary model of State order,” and said that their future “lies with the future of the entire Croatian people.”<sup>70</sup> The Herceg-Bosna leadership declared Mostar as Herceg-Bosna’s capital, even though there was no Croat majority in the city.

22.2. The substance of the earlier meetings, going back to at least June 1991, was summarized by HDZ leader Dario Kordić, speaking at the 27 December 1991 meeting. Kordić told Tudjman: “For six months we have been sweating blood deliberating over the idea you presented to us on 13 and 20 June.”<sup>71</sup> He then made it clear that he was discussing the partition of Bosnia, which was an idea which he wholeheartedly supported, adding, “I think that any other option would be considered treason, save the clear demarcation of Croatian soil in the territory of Herceg-Bosna ...”<sup>72</sup>

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<sup>70</sup> EXH No. P 00078, 0050-7549-0050-7550 (Eng) / 0050-8323-0050-8324 (BCS).

<sup>71</sup> EXH No. P 00089, 0083-7861-0083-7927 (Eng) / 0085-0386-0085-0510 (BCS), p. 43 (Eng).

<sup>72</sup> EXH No. P 00089, 0083-7861-0083-7927 (Eng) / 0085-0386-0085-0510 (BCS), p. 44 (Eng).

## A Final Showdown

22.3. The final showdown between the pro-BiH and pro-Herceg-Bosna factions came at a meeting in Zagreb on 27 December 1991, where a group of Bosnian Croat leaders set out their strategies and views, in Tudjman's presence. The meeting began with a report from Kljuić who supported independence for BiH, and the building of an integral state there.<sup>73</sup> He was followed by Boban and Ignac Koštroman who made the case for Herceg-Bosna. Boban's vision was clear, describing Herceg-Bosna as "a continuity of the policies of the Croatian Democratic Union . . . which will accede to the State of Croatia but only at such a time as the Croatian leadership, in whom our people until now have placed their complete trust, should decide that the moment and the time had come."<sup>74</sup>

22.4. Koštroman read the minutes of the Tomislavgrad meeting where Boban, Božo Rajić, Dario Kordić and Koštroman had been selected to represent Herceg-Bosna at this meeting.<sup>75</sup> This group attacked both Stjepan Kljuić and President Izetbegović, and called on all HDZ-BiH representatives to place themselves under the control of the Herceg-Bosna leadership.<sup>76</sup>

22.5. Tudjman then made his support of the Herceg-Bosna strategy clear. He told the representatives that under the current circumstances they would be better served by carving out borders than in preserving a sovereign Bosnia and Herzegovina.<sup>77</sup>

Why not accept offer of demarcation when it is in the interest of the Croatian people . . . Because I do not see a single reason, a serious reason against it. . . . In the event of demarcation /drawing up borders/, Croatia would get not only those two communities /Herceg-Bosna and the Posavina/, but also for geopolitical reasons, Cazinska and Bihaćka Krajina, which would satisfy almost ideally the Croatian national interests... And to create a statelet, therefore out of the remaining part around Sarajevo where mostly Muslims and some Catholic Croats

<sup>73</sup> EXH No. P 00089, 0083-7861-0083-7927 (Eng) / 0085-0386-0085-0510 (BCS), pp. 2-10 (Eng).

<sup>74</sup> EXH No. P 00089, 0083-7861-0083-7927 (Eng) / 0085-0386-0085-0510 (BCS), p. 10 (Eng) (emphasis added).

<sup>75</sup> EXH No. P 00089, 0083-7861-0083-7927 (Eng) / 0085-0386-0085-0510 (BCS), p. 13 (Eng).

<sup>76</sup> EXH No. P 00089, 0083-7861-0083-7927 (Eng) / 0085-0386-0085-0510 (BCS), pp. 15-17 (Eng).

<sup>77</sup> EXH No. P 00089, 0083-7861-0083-7927 (Eng) / 0085-0386-0085-0510 (BCS), pp. 19-20 (Eng).

would stay which would resemble the small historical land of Bosnia. It would, therefore, be a buffer-zone in the demarcation of Serbia and Croatia and in such conditions it would have to rely on Croatia to a large extent... From that viewpoint, not even some sort of canonisation with a continuing existence of Bosnia and Herzegovina would mean for us the solution, which is the solution of demarcation.

22.6. It was then that Mate Boban made a bone-chilling comment that plainly foresaw the coming violence and persecution:

The founding municipalities of the HZ H-B now have a population which according to the census is 55% Croatian, 27% Muslim, 9% Serbian and the rest are none of the above. However, because municipalities in Bosnia and Herzegovina were created, similarly as in Croatia, by composing Serbian and Muslim population in the territory of Croatia or vice versa, by cleansing the border areas, practically border areas of Herceg-Bosna, this creates approximately 65% of the Croatian population in Herceg-Bosna. And pardon me, according to what I know – the most recent data from Serbia are 63%.<sup>78</sup>

22.7. By the meeting's end, it was clear that all was hopeless for Kljuić and the moderates. The Boban faction enjoyed Tudjman's full, even enthusiastic support. So dire was the situation that Kljuić offered to resign.<sup>79</sup> The victory of the pro-Herceg-Bosna faction was sealed.

22.8. As concerning other aspects of these events, ICTY Trial and Appeals Chambers have established these facts:

22.8. "The story can be told primarily from the documents, beginning with the formation of the HDZ-BiH as a branch of the Croatian HDZ in August 1990. Mr. Stjepan Kljuić was duly elected President, Mate Boban as Vice-President and Ignac Koštroman as Secretary. There were regular meetings, alternatively in Zagreb and Sarajevo, between the Croat and the HDZ-BiH leaderships." *Kordić* TJ, para. 472.

22.9. "The objectives of the Croatian nationalists in Croatia were clearly shared by many members of the HVO and the Croatian Community of Herceg-Bosna (HZ H-B): Mate

<sup>78</sup> EXH No. P 00089, 0083-7861-0083-7927 (Eng) / 0085-0386-0085-0510 (BCS), p. 20 (Eng) (emphasis added).

<sup>79</sup> EXH No. P 00089, 0083-7861-0083-7927 (Eng) / 0085-0386-0085-0510 (BCS), p. 64 (Eng).

Boban, president of that community, but also Anto Valenta (leader of the HDZ in Vitez and later President of the HDZ for HZ H-B), whose nationalistic writings were revealing, Ignac Koštroman (Secretary-General of the HZ H-B) and Dario Kordić whose speeches inflamed the Bosnian Croats.” *Blaškić* Trial Judgement, para. 341.

22.10. “On 26 August 1991, the HDZ-BiH imposed a state of emergency within the HDZ-BiH because of Serb aggression and stated that the HDZ municipal boards should be linked to each other in a unified system of defence.” *Kordić* TJ, para. 472 (b).

22.11. “At a meeting of the Main Board of HDZ-BiH in August 1991, there was mention of the possible linking of municipalities with majority Croat population and of a “special plan” should there be an attack on the Croatian people.” *Kordić* TJ, para. 472(a).

22.12. “On 18 September 1991, the HDZ-BiH established a Crisis Staff, numbering Stjepan Kljuic, Mate Boban and Dario Kordic among its members: Crisis Staffs were to be formed immediately for three regional communities, including Travnik.” *Kordić* TJ, para. 472 (c).

22.13. “[B]y the autumn of 1991, with war clouds gathering in Croatia after the declaration of Croatian independence, there was a difference of view in the HDZ-BiH party as to the future of Bosnia and Herzegovina. Stjepan Kljuić and one faction wanted it to survive as a political whole; but another faction, including Dario Kordić and Mate Boban, were in favour of the division of the country. These were matters discussed at a June 1991 meeting (and other meetings) with President Tuđman.” *Kordić* TJ, para. 472.

22.14. “Stepan Kljuić was President of the HDZ in Bosnia but was replaced because he was fighting for a united Bosnia.” *Blaškić* TJ, para. 116.

22.15. “On 12 November 1991, the Joint Meeting of the Crisis Staffs of Herzegovina and Travnik Regional Communities, chaired by Mate Boban and Dario Kordić was held.” *Kordić* TJ, para. 472 (d).

22.16. “The minutes of a meeting held on 12 November 1991 in Grude between the representatives of the regional communities of the Herzegovina and Travnik HDZ regional communities are particularly revealing.” *Blaškić* TJ, para. 109.

22.17. “In order to implement the Bosnia-Herzegovina HDZ partisan policy, it was decided during the meeting in Grude presided over by Mate Boban, to “strengthen its membership and select people who could see these tasks through to the end” and “to prepare better militarily for the struggle against all the forces trying to hinder the inevitable process of the creation of a free Croatian State.” *Blaškić* TJ, para. 117.

22.18. “The two [Herzegovina and Travnik] communities declared that they žhave unanimously decided that the Croatian people in Bosnia and Herzegovina must finally embrace a determined and active policy which will realise our eternal dream – a common Croatian State.” *Blaškić* TJ, para. 109.

22.19. “The two [Herzegovina and Travnik] communities decided that the Croatian people in Bosnia and Herzegovina should institute a policy to bring about “our age-old dream, a common Croatian State.” *Kordić* TJ, para. 472 (d).

22.20. “The two [Herzegovina and Travnik] communities declared that they . . . must 'show . . . which territories in BiH are Croatian territories ... Our people will not accept, under any conditions, any other solution except within the borders of a free Croatia.’” *Blaškić* TJ, para. 109.

22.21. “The two [Herzegovina and Travnik] two communities decided that the Croatian people in Bosnia and Herzegovina should call for a proclamation of a Croatian banovina in Bosnia and Herzegovina as the “initial phase leading towards the final solution of the Croatian question and the creation of a sovereign Croatia within its ethnic and historical . . . borders.” *Kordić* TJ, para. 472 (d).

22.22. "This policy was put into effect at a meeting in Grude on 18 November 1991 when the new Croatian Community of Herceg-Bosna (HZ H-B) was set up." *Kordić TJ*, para. 472 (e).

22.23. "The [Croatian] Community [of Herceg-Bosna] consisted of 30 municipalities (including those in Central Bosnia) and was described as a "political, economic and territorial integrity." *Kordić TJ*, para. 472 (e).

22.24. "... the HZ H-B was founded with the intention that it should secede from Bosnia and Herzegovina and with a view to unification with Croatia." *Kordić, TJ*, para. 491.

### **Tudjman's "Two-Track" Approach to Bosnia and Herzegovina**

23. In the course of and as part of the joint criminal enterprise, the leaders and other members of the enterprise, including Franjo Tudjman, Mate Boban and JADRANKO PRLIĆ, pursued a two-track policy toward the Republic of Bosnia and Herzegovina and its territory. On the one hand, the leaders and various members of the joint criminal enterprise often claimed publicly to support the Government of Bosnia and Herzegovina (sometimes hereafter "BiH Government") and an independent and sovereign Bosnia and Herzegovina. On the other hand, and less publicly but more substantially, the leaders and other members of the enterprise pursued their objective of a Greater Croatia, along the lines of the Croatian Banovina. In a similar fashion, while Franjo Tudjman and other Croatian officials sometimes made efforts to distance themselves, at least publicly, from the Herceg-Bosna/HVO authorities, they generally worked closely together behind-the-scenes and in their dealings with the international community and media.

23.1. Tudjman himself articulated this policy in a meeting with central Bosnia Croat leaders in March 1993. Although the diplomatic climate required that they pay lip service to a "sovereign" BiH, he made it clear that this was not a permanent situation and they should work towards the moment when their political vision could be fully realised: "So, for the time being the West is opting for an integral Bosnia and Herzegovina, but with a political system that will probably lead to a final solution, and few in the world believe

that it is possible, if Yugoslavia could not survive how could Bosnia and Herzegovina [survive].”<sup>80</sup> Such was forever the duplicitous cloak on the Herceg-Bosna project.

23.2. In the minutes of the 27 December 1991 Zagreb meeting, Perica Jurič had already suggested the Herceg-Bosna's leadership's two-track approach: that while the Herceg-Bosna leaders worked towards building Herceg-Bosna and establishing closer ties with Zagreb, “at the diplomatic level, our people in Sarajevo can continue swearing that they are in favour of a sovereign Bosnia and Herzegovina, as we have done so far.”<sup>81</sup>

23.3. As a further part of the two-track approach, the Herceg-Bosna/HVO leadership sometimes cynically claimed that Herceg-Bosna was only a “temporary” structure and was meant to exist as part of the BiH State and Government. But at the same time, the Herceg-Bosna/HVO leadership denied the very legitimacy of the BiH Government and worked actively to destroy it. On 10 April 1992, for example, Boban ordered that the HVO was the “only” legal armed force on the territories claimed by Herceg-Bosna, and that all others (necessarily including the BiH TO and ABiH) were “illegal and enemy formations.”<sup>82</sup> In a meeting in Čitluk on 30 April 1993, Boban and the HDZ-HVO leaders declared that Izetbegović was not the legitimate president of BiH, that the ABiH was the Muslim army only, and that Croat members and diplomats of the BiH Government not approved by the HDZ-BiH were not legitimate.<sup>83</sup> In fact, however, it was the Croatian Community, and later the Croatian Republic of Herceg-Bosna that the BiH Constitutional Court declared illegal and unconstitutional.<sup>84</sup>

23.4. Another reason for the two-track approach was political necessity in the Republic of Croatia itself. Tudjman pointed out to his closest advisors that overt support of the division of BiH would set a bad precedent that might give legitimacy or support to

<sup>80</sup> EXH No. P 01594, R018-1143-R018-1148 (Eng) / R015-6309-R015-6368 (BCS), pp. 2-3 (Eng).

<sup>81</sup> EXH No. P 00089, 0083-7861-0083-7927 (Eng) / 0085-0386-0085-0510 (BCS), p. 54 (Eng).

<sup>82</sup> EXH No. P 00154, 0047-8367-0047-8367 (Eng) / 0037-6922-0037-6922 (BCS).

<sup>83</sup> EXH No. P 02149, DK00-5681-DK00-5681.

<sup>84</sup> EXH No. P 00476, 0050-7513-0050-7518 (Eng) / 0050-7532-0050-7534 (BCS); EXH No. P 08060, 0110-6612-0110-6612 (Eng) / 0103-3660-0103-3660 (BCS).

Yugoslavia's (or the Serb's) claims in Croatia. As Tudjman put it, "... some individuals in the international community might say that if we [in Croatia] want to divide Bosnia they will have to accept the requests coming from the Serbs in Krajina ..."<sup>85</sup>

23.5. This two-track approach was still in evidence following the Washington Agreement (signed in March 1994), when Tudjman told the Herceg-Bosna/HVO leadership not to despair, but to carry on in the same duplicitous fashion.<sup>86</sup>

As I keep saying from day one, the important thing for you is to preserve the levers of power and the armed forces of Herceg-Bosna and, while establishing the Federation, to actually consolidate /Herceg-Bosna/ within the framework of the Federation, rather than believe that you are getting weaker in the process.

24. During a meeting in Zagreb on 27 December 1991, Franjo Tudjman summarised the joint criminal enterprise's objective, saying: "[I]t is time that we take the opportunity to gather the Croatian people inside the widest possible borders." In a meeting on 17 September 1992, Franjo Tudjman told other leaders of the joint criminal enterprise, including Gojko Šušak, Mate Boban and JADRANKO PRLIĆ, after first discussing the Croatian Banovina, that it was in the "vital interest" of the Croatian state "that we secure our position, in the national and territorial sense, in Bosnia and Herzegovina."

### **The Referendum on BiH Independence**

24.1. On 28 February 1992 -- after Herceg-Bosna was established in November 1991, the Assembly of the Serbian People of Bosnia and Herzegovina adopted a "Constitution of the Serbian Republic of Bosnia and Herzegovina." This occurred on the first day of voting on Bosnia and Herzegovina's referendum on independence from Yugoslavia. The question on the ballot was: "Are you for a sovereign and independent Bosnia and Herzegovina, a state of citizens and peoples of Bosnia and Herzegovina with equal rights, Muslims, Serbs, Croats and members of other peoples who live in it?" Most Bosnian Serbs boycotted the referendum and Bosnian Croat voting on the first day was light. Officially, the HDZ-BiH/Herceg-Bosna leadership supported the referendum, but this was

<sup>85</sup> EXH No. P 06441, R018-0979-R018-1001 (Eng) / R015-6864-R015-6885 (BCS), p. 2.

<sup>86</sup> EXH No. P 08545, R018-0378-R018-0398 (Eng) / R015-8628-R015-8648 (BCS), p. 16.



no indication of support for a long-term, truly unified and sovereign BiH in its existing borders. Instead, a “yes” vote was simply one step on the way to fulfilling the Herceg-Bosna project and a Croatia within its *Banovina* borders. A “no” vote was hardly an attractive or realistic option, since it would have been a vote for remaining part of Yugoslavia -- a position which was utterly repugnant to Tudjman, Boban and their ilk. Voting was heavier on the second day and the referendum passed.

### **Implementing Greater Croatia in Bosnia and Herzegovina**

25. By a decision dated 8 April 1992, leaders and members of the joint criminal enterprise, including Mate Boban, established the Croatian Defence Council (the “HVO”) as Herceg-Bosna's “supreme defence body,” “to defend the sovereignty of the territories of the Croatian Community of Herceg-Bosna.” On 15 May 1992, the HVO was likewise declared Herceg-Bosna's “supreme executive and administrative body,” combining political, governmental and military powers. While the self-proclaimed political entity and its territory were referred to as “Herceg-Bosna,” the government and armed forces of Herceg-Bosna were called the “Croatian Defence Council” or “HVO.” The governmental and political leadership and administrative authorities of Herceg-Bosna and the HVO (the “Herceg-Bosna/HVO leadership” or “Herceg-Bosna/HVO authorities”) were in charge of, and worked closely with the Herceg-Bosna/HVO armed forces, special units, military and civilian police, security and intelligence services, paramilitaries, local defence forces and other persons acting under the supervision of or in co-ordination or association with such armed forces, police and other elements (“Herceg-Bosna/HVO forces”). While not every member of the HVO or the HDZ-BiH was part of the joint criminal enterprise, Herceg-Bosna, the HVO and the HDZ-BiH were essential structures and instruments of the joint criminal enterprise.

25.1. From the beginning, Herceg-Bosna acted as a State and the HVO acted as a Government, complete with laws, armed forces, police and taxes, in direct opposition to the BiH Government. The Croatian Defence Minister, Gojko Šušak, made it clear that the HVO was no social club. In a meeting with Bosnian Croat representatives on 8 March 1993, Šušak stated: “Let’s get something straight. Where the HVO is now, that

constitutes state authority, because there is no other authority.” Boban quickly added: “that’s our government.”<sup>87</sup>

25.2. A top level ECMM report stated in May 1993: “To all intents and purposes much of Herceg-Bosna was, by late 1992, behaving as an integral part of Croatia . . .”<sup>88</sup> On 17 September 1992, the accused and HVO President JADRANKO PRLIĆ reported to Tudjman: “We have organised the authorities. This is only starting, we have an official gazette. We are passing the necessary decrees, we are trying to take care, to take care of that civilian aspect in the liberated territories.”<sup>89</sup> PRLIĆ continued: “Mr. President, people are being born and dying and die [sic] with the Croatian Republic of H-B, it is both their birth and death certificate, and the flag under which they are buried. That has infiltrated all the people’s pores down there. Therefore people are both emotionally and profoundly connected to this.”<sup>90</sup>

25.3. The Herceg-Bosna leadership declared Mostar as Herceg-Bosna’s capital and set about making (or attempting to make) Mostar into a Croat city, despite the fact that Croats comprised only a little over a third of its population, as its second-largest ethnic group.<sup>91</sup> While the defence of Mostar against the Serbs was initially contemplated as a joint Croat-Muslim effort and a 29 April 1992 agreement<sup>92</sup> provided for the HVO to lead the town’s military defence based on a joint command structure, the April agreement was by no means permission for, and did not give any legitimacy to the HVO seizing all power, including governmental, military and political power. The HVO, however, quickly asserted control and most of the multi-ethnic command staff was removed or marginalised.

<sup>87</sup> EXH No. P 01622, L007-6022-L007-6035 (Eng) / 0132-2336-0132-2395 (BCS), p. 3 (Eng).

<sup>88</sup> EXH No. P 02427, DK00-5847-DK00-5847.

<sup>89</sup> EXH No. P 00498, L004-2480-L004-2488 (Eng) / 0150-8785-0150-8794 (BCS), p. 8.

<sup>90</sup> EXH No. P 08545, 0304-9383-0304-9386 (Eng) / 0132-4593-0132-4675 (BCS), p. 2.

<sup>91</sup> See, e.g., EXH No. P 08455, L007-5926-L007-5940 (Eng) / 0132-4029-0132-4246 (BCS), p. 10 (Tudjman: “Mostar should be the centre of the Croatian people in Herzegovina . . . all institutions should be there.”)

<sup>92</sup> EXH No. P 00180, 0099-6503-0099-6505 (Eng) / 0327-0532-0327-0535 (BCS).

25.4. The self-declared HVO institutions demanded and seized power in one municipality after another, across the territory claimed by Herceg-Bosna. The HVO's systematic taking of power largely followed a set pattern: there was often an initial pretext that shared, multi-ethnic bodies were possible, in resisting the "Serb aggressor," but in a short time, most previously-elected officials in multi-ethnic institutions were replaced by HVO-appointed officials.

25.5. A basic HVO blueprint for taking over municipal governments can be seen in the minutes of a September 1992 meeting, in which a "progress report" was given from each municipality on the HVO taking power and what remained to be done.<sup>93</sup> While many former HVO officials, including the Accused, now seek to distance themselves from these actions, the HVO in fact executed its plan with considerable efficiency and effect.

25.6. As a further consolidation of governmental, administrative and military power, the Herceg-Bosna/HVO leadership declared the creation of the Croatian Republic of Herceg-Bosna (or "HR H-B") on 28 August 1993, which was a continuation of the HZ H-B with some adjustments and even more trappings of Statehood.<sup>94</sup>

25.7. Here again, ICTY Judgements have established the following facts:

25.8. "[On 8 April 1992], [Herceg-Bosna's] military force[,] the "Croatian Defence Council" was formed." *Prosecutor v. Aleksovski*, Judgement, Case No. IT-95-14/1-T, Trial Chamber I, 25 June 1999 (hereafter "*Aleksovski* TJ"), para. 22.

25.9. "On [8 April 1992,] the Presidency of the HZ H-B, at an emergency session, issued a decision establishing the HVO as the "supreme defence body of the Croatian people" in HZ H-B." *Kordić* TJ, para. 483 (d).

25.10. "The year 1992 saw the take-over by the HVO of municipalities in the HZ H-B and the beginning of the conflict between Muslims and Croats." *Kordić* TJ, para. 473.

<sup>93</sup> EXH No. P 00519, 0093-0244-0093-0244 (Eng) / 0029-9414-0029-9414 (BCS).

<sup>94</sup> EXH No. P 04583, 0050-7967-0050-7966 (Eng) / 0050-8005-0050-8006 (BCS).

25.11. "The HVO became the supreme executive and defence authority for the HZ H-B and the BH Croats. This meant that in this part of Bosnia and Herzegovina, the HZ H-B had the actual authority." *Naletilić* TJ, para. 16.

25.12. On 5 September 1992 a meeting of the HDZ Travnik Presidency was held with Kordić and Koštroman representing the HZ H-B. The minutes record that only one HVO government existed for the Croatian people in the municipality and the Croatian people did not accept a unitary State of BiH." *Kordić* TJ, para. 522 (d).

25.13. "On 30 September 1992 Kordić, as Vice-President of HZ H-B, was present at a meeting of the Presidency of the Kakanj HVO, a neighbouring municipality to Vareš." *Kordić* TJ, para. 522 (e).

25.14. "The minutes of the meeting [of 30 September 1992] record Kordić as saying that the HVO was the government of the HZ H-B and what they were doing with the HZ H-B was the realisation of a complete political platform: they would not take Kakanj by force but "it is a question of time whether we will take or give up what is ours. It has been written down that Vareš and Kakanj are in HZ H-B. The Muslims are losing morale and then it will end with "give us what you will." *Kordić* TJ, para. 522 (e).

25.15. "On 28 August 1993, the HZ H-B instituted the new Croat Republic of Herceg-Bosna (HR H-B) with Mate Boban as President." *Kordić* TJ, para. 732.

### **The 21 July 1992 Agreement**

25.16. On July 1992, Tudjman and BiH President Izetbegović signed an agreement for a joint defence against the Serbs.<sup>95</sup> Like the April agreement in Mostar, it was only a military, and not a political agreement, and in fact made it clear that all local authorities, as well as the HVO military, were subject to, and required to conform itself with, the BiH Government. Tudjman himself understood that the July 1992 agreement gave neither the

<sup>95</sup> EXH No. P 00339, 0081-0567-0081-0571.

HVO nor the HV (Croatian Army) any legitimacy in Bosnia and Herzegovina: "Here at this table we had long discussions where Mr. Izetgebović insisted that the HV [sic] be recognized as a military, not a political power of the people."<sup>96</sup> In reality, the agreement was never implemented, but was spun by the Herceg-Bosna/HVO leadership to suit their own agenda.

### **The Discriminatory and Persecutory Nature of Herceg-Bosna and its Rejection by the Bosnian Muslims**

26. Following Herceg-Bosna's establishment in November 1991, and especially from May 1992 forward, the Herceg-Bosna/HVO leadership (including the accused and other leaders and members of the joint criminal enterprise) engaged in continuing and co-ordinated efforts to dominate and "Croatise" the municipalities which they claimed were part of Herceg-Bosna, with increasing persecution and discrimination directed against the Bosnian Muslim population. The HVO took control of many municipal governments and services, removing or marginalising local Bosnian Muslim leaders. Herceg-Bosna/HVO authorities and forces took control of the media and imposed Croatian ideas and propaganda. Croatian symbols and currency were introduced, and Croatian curricula and the "Croatian language" were introduced in schools. Many Bosnian Muslims were removed from positions in government and private business; humanitarian aid was managed and distributed to the Muslims' disadvantage; and Muslims in general were increasingly harassed.

26.1. It was clear to the Herceg-Bosna/HVO leadership from the beginning that most Bosnian Muslims would probably resist Herceg-Bosna being imposed on them. At the 27 December 1991 meeting in Zagreb, Boban said:

I think that the Muslim people are practically—I am not defending them, when it comes to my personal opinion, I would also want Croatia, the one in the borders of 50-60 years ago—but I think that it is hard to divide them. They are a people with their own firm positions and I think that it will be very hard. As soon as Herceg Bosna emerged there were objections, from Jablanica, for instance, and from other places, which are not accepting such conceptions.<sup>97</sup>

<sup>96</sup> EXH No. P 00498, L005-0972-L005-1009 (Eng) / 0150-8827-0150-8864 (BCS), p. 7. That Tudjman intended to say "HVO" rather than "HV" is clear from the context.

<sup>97</sup> EXH No. P 00089, 0083-7861-0083-7927 (Eng) / 0085-0386-0085-0510 (BCS), p. 25 (Eng).

26.2. In fact -- and as Boban predicted, most Bosnian Muslims did not accept HVO control, even when it was thrust upon them. It was patently clear that Tudjman's and the Herceg-Bosna/HVO leadership's Greater Croatia project could not be achieved by only political or peaceful means. Instead, clearly necessary components and plainly foreseeable results and aspects of the enterprise were political and religious persecution, ethnic violence, armed conflict and forcible, involuntary population transfers -- in short, what unfortunately became known in the 1990s as "ethnic cleansing."

26.3. In what followed, the substantial scope, complexity and co-ordination of the HVO taking political power and displacing Muslims in one area after another (or simultaneously) is itself evidence that the persecutions and related crimes were planned, widespread and systematic -- that they were part and parcel of a premeditated, co-ordinated enterprise.

26.4. Some acts of persecution were aimed and carried out directly against Herceg-Bosna's Muslim population. Other forms of persecution were as simple or subtle (or perhaps not so subtle) as the use of symbols, flags, songs and similar devices. The Croatian coat of arms was used (including on license plates), and street names were changed to Croat names, or to the names of historical Croat figures.<sup>98</sup> Croatian money was introduced and clearly encouraged or required by the HDZ-HVO authorities -- even though the Croatian dinar was an extremely weak currency.

26.5. One of the first areas in which the HVO demonstrated their early intention to create a purely Croat space in Herceg-Bosna was education. They renamed the Mostar University, which had been multi-ethnic and named after Džemal Bijedić, to the "Croat University in Mostar." The University board was stacked with Croat members along with a small number of hand-picked Muslims. The "Croatian language" was introduced in schools.

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<sup>98</sup> See, e.g., EXH No. P08538, L003-1927-L003-1927 (ENG) / 0229-4663-0229-4663 (BCS); EXH No. P 00772, 0050-7619-0050-7620 (Eng) / 0050-7644-0050-7645 (BCS); EXH No. P 09424, 0465-9591-0465-9591 (photo of HVO badge); EXH No. P 09402, 0465-9592-0465-9592 (photo of Croatian flag); EXH No. P 09331, 0465-9593-0465-9593 (Coat of Arms of the Republic of Croatia); and EXH No. P 09467, 0465-9594-0465-9594 (flag of RBiH in 1992).

26.6. The HVO also seized much of the local or regional media. In May 1992, Radio Mostar was re-named Croat Radio Mostar. The media was then used to promote the HVO's programs, and was used at major moments, such as the HVO's mass arrests and expulsions of Muslims in Mostar on 9 - 10 May 1993, to the sounds of Croatian marches and the HVO anthem "Jure and Boban" ("Evo zora evo dana") played on the radio.

26.7. Ethnic persecution and discrimination included the loss of jobs and livelihoods. As early as April 1992, Muslims who worked for Mostar's Post Telephone and Telegraph Company -- an essential communication asset -- were fired and replaced by Croats from outside of town. Herceg-Bosna Prime Minister JADRANKO PRLIĆ told Tudjman in 1994: "Mr. President, every Croat in Bosnia and Herzegovina is a paid Croat. Everyone is on the salary of the Herceg-Bosna budget except for the part that is in Serbian territory."<sup>99</sup>

26.8. ICTY Trial and Appeals Chambers have confirmed the following facts:

26.9. "Croat nationalism and discrimination against Muslims was on the increase in central Bosnia in 1992-1993." *Prosecutor v. Kupreškić et. al.*, Judgement, Case No. IT-95-16-T, Trial Chamber II, 14 January 2000 (hereafter "*Kupreškić TJ*"), para. 54.

26.10. "By declaring Croatia as a State for the Croatian people, [Tudjman] encouraged loyalty from Croats living outside the territorial boundaries of the Croatian State, including the 800,000 Croats living in neighbouring Bosnia and Herzegovina; to this end, ethnic Croats residing abroad were given the right to vote in national elections." *Kordić TJ*, para. 133.

26.11. "A provision adopted by the Republic of Croatia gave to all members of the Croatian nation the right to citizenship." *Blaškić TJ*, para. 130.

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<sup>99</sup> EXH No. P 04759, L007-5407-L007-5424 (Eng) / 0132-3954-0132-4028 (BCS), p. 16.

26.12. "Another law authorized all Croats to vote in the elections in Croatia, thus allowing the Bosnian Croats with Bosnian nationality to vote in the parliamentary elections in the Republic of Croatia." *Blaškić* TJ, para. 130.

26.13. "BH Croats could with ease obtain Croatian passports, enjoy Croatian nationality and vote in elections in the Republic of Croatia." *Naletilić* TJ, para. 198.

26.14. "Croatia's policy towards the Bosnian Croats placed more emphasis on their ethnic background than on their nationality." *Blaškić* TJ, para. 130.

26.15. "The gradual "Croatianisation" of the HZ H-B [included] the flying of the Croatian flag over buildings of public authorities, widespread use of the Croatian currency, and Tudjman's representation of the Bosnian Croats in many international forums." *Kordić* TJ, para. 140.

26.16. "[The supporters of the HVO] treated the Muslims as foreigners in Croatian territory." *Blaškić* TJ, para. 133.

26.17. "The Bosnian Croat officials considered the Bosnian Muslims and Serbs to be people of another nationality or another people altogether." *Blaškić* TJ, para. 131.

**The Croats and Serbs, 1992-Early 1994: Tudjman and Koljević in Zagreb, Boban and Karadžić at Graz**

27. In the spring and early summer of 1992, the Herceg-Bosna/HVO authorities and forces, while asserting their control and engaging in the actions described above, carried out military operations with armed forces of the Government of Bosnia and Herzegovina in response to JNA and Bosnian Serb military actions in Herzegovina and elsewhere. In connection with or following the Serb forces leaving Mostar, the Herceg-Bosna/HVO-led forces destroyed the city's Serbian Orthodox Church and nearby Serb houses. Many Serbs left Mostar during this time, while others were held in poor conditions in HVO-run detention camps. Notwithstanding the hostilities between the Herceg-Bosna/HVO forces and Bosnian Serb forces in the spring and summer of 1992, there was substantial ongoing



co-operation between the Bosnian Croats and Bosnian Serbs following a meeting between Radovan Karadžić and Mate Boban in Graz, Austria, on 6 May 1992, which co-operation continued in the parts of Bosnia and Herzegovina most relevant to the indictment, with minor exceptions, through the end of 1993.

27.1. Despite genuine conflicts in some parts of the former Yugoslavia, there was actually a broad consensus between the Croats and Serbs on the division of Bosnia and Herzegovina, and in those areas and during those times most directly related to this case, there was far more Croat-Serb co-operation than actual conflict. From mid-1992 to early 1994, including the time when the HVO was waging war against the BiH Government and Bosnian Muslims, both the Croats and Serbs, for the most part, recognised each other's core territorial claims and often assisted each other against the Muslims. Although the impression created for public consumption was that the HVO's principal enemy was the Serbs, their efforts in Herzegovina in 1993 and early 1994 were primarily directed against the BiH Government and Muslims.<sup>100</sup>

27.2. Tudjman's continuing ambitions towards Bosnia and Herzegovina are clearly evident in a meeting on 8 January 1992, during which Tudjman, along with the Croat member of the BiH Presidency, Franjo Boras, and the Serb member of the BiH Presidency, Nikola Koljević, discussed Bosnia's partition and the resettlement of populations.<sup>101</sup> Koljević mentioned that the three ethnic groups should have the opportunity for "normal development" with the nations living "next to each other but not on top of one another."<sup>102</sup> Boras stated that a reorganisation of municipalities would precede drawing up borders, and that the reorganisation would lead to "homogeneity of certain areas." Koljević then said:

Yes, the homogeneity of certain areas. We even thought about it because we noticed that people are already simply moving, they are exchanging flats on their

<sup>100</sup> This is not to say that there was no fighting between Croats and Serbs in the Herzegovina region, or that crimes were not committed between these two sides in 1992. There continued to be friction and localised fighting between the two in some areas. But in large measure, they acknowledged and left alone each other's principal territorial claims.

<sup>101</sup> EXH No. P 00108, L005-0143-L005-0197 (Eng) / 0150-9173-0150-9240 (BCS).

<sup>102</sup> EXH No. P 00108, L005-0143-L005-0197 (Eng) / 0150-9173-0150-9240 (BCS), pp. 6-7.

own, that it would be a good idea to establish an agency which would regulate the exchange of property, and raise this to a civilised level . . . It is not so impossible to divide Bosnia.<sup>103</sup>

27.3. Later, Mate Boban and the Bosnian Serb leader, Radovan Karadžić, held secret meetings at Graz, Austria, in the spring of 1992, to confirm agreement on the Croats' and Serbs' territorial claims on Bosnia and Herzegovina. A press release was issued as a result of this meeting which set out the broad areas of agreement and reserved several areas of disagreement:

1) In the city of Mostar, the Serbian side considers the Neretva River to be the borderline, while the Croatian side considers the entire city of Mostar to be within the Croatian constituent unit.

2) South of Mostar the Croatian side considers the entire area delineated in 1939, i.e., the borders of the Hrvatska Banovina, to be within the Croatian constituent unit.

The Serbian side considers the Neretva River to be the borderline between the Croatian and Serbia constituent units.<sup>104</sup>

27.4. This Croat-Serb formulation on carving up Bosnia, with the Serbs having one bank of the Neretva River and the Croats having all of the territory leading up to the opposite bank, begged the obvious question: "Where do these borders leave the Muslims?" The telling, if rather dark answer that then circulated among the Herzegovinian Muslims was: "In the Neretva."

27.5. The Croats and Serbs continued to accommodate each other's principal territorial needs, with Tudjman recognizing certain Serb claims,<sup>105</sup> and Milošević supporting, for example, the Croats' demand in late 1993 to have a corridor through Gornji Vakuf to link the claimed Croat territories in Herzegovina and central Bosnia.<sup>106</sup> Tudjman claimed that

<sup>103</sup> EXH No. P 00108, L005-0143-L005-0197 (Eng) / 0150-9173-0150-9240 (BCS), p. 13.

<sup>104</sup> EXH No. P 01163, 0027-4417-0027-4420.

<sup>105</sup> For example, in a meeting on 21 September 1993, Tudjman made it clear that the Serbs had a reasonable need for a corridor through the Posavina (in northeast Bosnia and Herzegovina), that it was part of the Serbs' basic conditions and should be allowed -- for them it is of "vital importance." EXH No. P 05255, R015-6649-R015-6693(BCS); (R018-2776) (English excerpt).

<sup>106</sup> EXH No. P 07230, R018-0774-R018-0792 (Eng) / R015-7242-R015-7250 (BCS), p. 4.

the Serbs had recognised Kupres as Croat territory, and the Croats would have to give the Serbs something in return.<sup>107</sup>

27.6. By the latter part of 1993, the Croat-Serb co-operation in carving up Bosnia and Herzegovina was so extensive that it drew the UN's continuing attention. On 20 December 1993, the General Assembly expressed its alarm at "extremist Bosnian Croat military elements for their aggressive acts against the Republic of Bosnia and Herzegovina" and "the collusion between Serbian forces and extremist Bosnian Croat elements and others to seek the dismemberment of the Republic of Bosnia and Herzegovina, in clear violation of the principles of the Charter of the United Nations and in total disregard of the relevant resolutions of the General Assembly and those of the Security Council."<sup>108</sup>

27.7. When, under international pressure, the possibility of peace with the Bosnian Muslims was considered by Tudjman and his advisors in late September 1993, serious concerns were expressed on how this changed relationship with the Muslims would affect the Croats' good co-operation with the Serbs. The accused SLOBODAN PRALJAK was particularly concerned, saying that "the relations between the Croats and the Serbs have improved, especially on the military plane, because our whole units depend on cooperation with the Serbs, in BH this agreement will aggravate that a lot." When Tudjman reminded him that the fighting against the Muslims should stop, PRALJAK argued that it would take time to adjust to this new situation. Šušak quickly reminded those in the meeting that the understanding with the Muslims was simply a cease fire, and "not unification and war against the Serbs."

### **The Balkan Context, August - December 1992**

27.8. By August 1992, the UN Security Council had repeatedly expressed its "grave alarm" at the widespread violations of international humanitarian law in the former

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<sup>107</sup> EXH No. P 06485, L007-5943-L007-5980 (Eng) / 0132-3004-0132-3040 (BCS), p. 2.

<sup>108</sup> EXH No. P 07277, UN General Assembly Resolution (A/RES/48/88; 20 December 1993), p. 1.

Yugoslavia, including “mass forcible expulsion and deportation of civilians, imprisonment and abuse of civilians in detention centers, deliberate attacks on non-combatants . . . , impeding the delivery of food and medical supplies to the civilian population, and wanton devastation and destruction of property. . .” It “strongly condemn[ed] any violations of international humanitarian law, including those involved in the practice of ‘ethnic cleansing.’”<sup>109</sup>

27.9. At the same time, the Security Council and the international community continued to affirm full support “for the Government and people of the Republic of Bosnia and Herzegovina in their just struggle to safeguard their sovereignty, political independence, territorial integrity and unity.”<sup>110</sup>

### **First Major Clash: Prozor and Novi Travnik, October 1992**

28. Despite some co-operation in the spring and summer of 1992, tensions between the Herceg-Bosna/HVO structures and Bosnian Muslims continued and increased over time. Significant violence broke out between the Herceg-Bosna/HVO forces and Bosnian Muslims on 19 October 1992 in Novi Travnik, the site of an important munitions factory, and in the course of several days thereafter, Herceg-Bosna/HVO forces cleansed most of the Muslims from the town of Prozor and several surrounding villages.

28.1. As a precursor of things to come, and as already repeatedly demonstrated in armed conflict and ethnic violence in the former Yugoslavia, the HVO actions in Prozor in October 1992 involved the widespread burning of Muslim houses and a number of killings. SLOBODAN PRALJAK, then Croatia's Assistant Minister of Defence, joined the HVO celebrations in Prozor, and said that the conflict “didn’t bode well for the Bosniaks in Herzegovina.” It was in this atmosphere of tension that the convicted war criminal Mladen Naletilić “Tuta” said in November 1992 that the Serbs and the Croats were the only constituent peoples in BiH.

<sup>109</sup> EXH No. P 00386, UN Security Council Resolution 771: Former Yugoslavia (13 August 1992), p. 1.

<sup>110</sup> EXH No. P 00406, Resolution adopted by the General Assembly at its 46th Session regarding the situation in Bosnia and Herzegovina (25 August 1992), para. 4.

### **The Vance-Owen Peace Plan**

29. In January 1993, United Nations and European Community peace negotiators met in Geneva with Croat, Serb and Muslim representatives and discussed a proposed peace agreement, known as the Vance-Owen Peace Plan, which would maintain a single, unified Bosnia and Herzegovina with a central government and ten numbered provinces. While neither the Serbs nor Muslims had agreed to the Vance-Owen proposals by mid-January 1993, Franjo Tudjman, Gojko Šušak and the Herceg-Bosna/HVO leadership (including the accused) found the plan, as they envisioned and interpreted it, much to their favour -- essentially giving them the Croatian Banovina and even additional territory, covered by the proposed Vance-Owen provinces 3, 8 and 10, despite the fact that many of the areas included in these provinces had majority or at least equal Muslim populations and were controlled or occupied by the Army of Bosnia and Herzegovina.

29.1. Indeed, the Vance-Owen proposal appeared to give the Croats, who comprised about 17.5% of the overall BiH population, approximately 28% of BiH's overall territory, in a map configuration which substantially corresponded to the *Banovina*, or even more.<sup>111</sup> It was because of this apparent favourable treatment that the Croats received under the Vance-Owen proposal (at least as interpreted by them) that the saying began circulating in Zagreb and BiH that "HVO" stood for "*H*vala, *V*ance-*O*wen." (Thank you, Vance-Owen).

29.2. By mid-January 1993, the Herceg-Bosna/HVO leadership was so eager to implement their vision of the Vance-Owen proposal that they refused to wait for the Muslims and Serbs to accept their interpretation and instead took unilateral action to implement it. This, even though the Vance-Owen talks that were then taking place in Geneva were, at the time, only that -- talks. (And in fact, the Vance-Owen plan was never agreed or implemented.)

30. At a meeting in Zagreb on 15 January 1993, Franjo Tudjman, Gojko Šušak and Mate Boban failed to convince Bosnia and Herzegovina's President, Alija Izetbegović, to

<sup>111</sup> See EXH No. P 01043, 0050-8401-0050-8401 and 0050-8403-0050-8403.

accept their views and immediately set out to implement their plans without the agreement of the BiH Government or the international peace negotiators. On the same day, the HVO President, JADRANKO PRLIĆ, signed a Decision that "[a]ll units of the Army of Bosnia and Herzegovina which at this moment are stationed in provinces 3, 8 and 10, which have been declared Croatian provinces in the Geneva accords, shall be subordinated to the Command of the Main Staff of the HVO Armed Forces. . . . The deadline for implementing this Decision is hereby set at five (5) days, starting from today, 15 January 1993."<sup>112</sup>

30.1. The PRLIĆ Decision was followed down the HVO chain-of-command, with HVO Defence Minister BRUNO STOJIĆ issuing his order to implement the plan<sup>113</sup>, followed by the corresponding order of Chief of the HVO Main Staff MILIVOJ PETKOVIĆ.<sup>114</sup>

31. Despite the fact that neither the President of Bosnia and Herzegovina nor the international peace negotiators had agreed to the unilateral implementation of their views of the Vance-Owen proposals, Herceg-Bosna/HVO authorities and forces, with the passage of the 15 January 1993 deadline and around that time, took military and violent actions to enforce the ultimatum, attacking and pressing the Muslims at a number of locations, including at Novi Travnik, Gornji Vakuf and Busovača. Following international protests, a cease-fire was put in place after some days.

31.1. As the 20 January deadline approached and passed, the first major armed confrontations between the HVO and Muslims since Prozor in October 1992 broke out in several parts of BiH, including Gornji Vakuf and Busovača. The international observers on the ground saw clearly that the confrontations were caused by the HVO's "premature and imperfect grab for control."<sup>115</sup> The BiH Headquarters of the UN Protection Force then in BiH (UNPROFOR) reported on 24 January 1993:

<sup>112</sup> EXH No. P 01155, 0041-8405-0041-8405 (Eng); 0109-4172-0109-4172 (BCS).

<sup>113</sup> EXH No. P 01140, 0041-8406-0041-8406 (Eng) / 0041-8285-0041-8285 (BCS).

<sup>114</sup> EXH No. P 01139, 0056-3122-0056-3122 (Eng) / 0055-9371-0055-9371 (BCS).

<sup>115</sup> EXH No. P 01285, R011-8365-R011-8365, p. 1.

Since the GENEVA talks in early January, tensions have steadily increased between elements of both the Croat HVO and the principally Muslim Army of [BH] in Central and Southern BH. \* \* \* Over the past week, the political and military leaders of the Croatian Community of HERCEG-BOSNA have begun to implement their 'understanding' of the proposed settlement . . . This premature and imperfect grab for control of provinces 3, 8 and 10 has resulted in extremely high tensions . . . and heavy fighting . . .

\* \* \*

Coincidental with the recent preparations for a return to GENEVA, HVO units from the clearly Croat-dominated southern *opstinas* have been moved into Central BH. Incidents of civil disobedience [disorder?] in Muslim-owned and -operated businesses and, almost certainly, the terrorist bombing of the car belonging to the Muslim Mayor of Travnik, trace back to members of these HVO elements from the South. \* \* \* More disturbingly, UN-source reports of soldiers wearing patches identifying them as members of Croatian Army (CA) units in this area have been received. The role of these soldiers is not clear, but the sightings tend to correlate to areas where HVO units from southern *opstinas* are positioned.<sup>116</sup>

31.2. By 1 February 1993, UNPROFOR reported: "The HVO continues to show strong resolution to control the future 'Croat provinces' 8 and 10. \* \* \* Without the prospect of a near term settlement, the basis for the HVO's assertion of control over proposed provinces 3, 8 and 10 is seriously diminished . . . Their premature grab for power clearly displayed to all concerned the Croatian Community's intentions . . ."<sup>117</sup>

31.3. Although local cease-fires were declared by late January and early February, Tudjman, Boban and the others had no intention of giving up on the Greater Croatia project. On 8 March 1993, Boban said to Tudjman, Šušak and a group of Bosnian Croat leaders: ". . . if Bosnia and Herzegovina exists at all, we shall have a border. We know exactly how. We have a plan prepared in advance. Herceg-Bosna will never cease to exist. Even within the framework of anything else, it will still be Herceg-Bosna."<sup>118</sup>

31.4. ICTY Judgements have confirmed the following facts:

<sup>116</sup> EXH No. P 01285, R011-8365-R011-8365.

<sup>117</sup> EXH No. 09516, 0007-8105-0007-8105 (emphasis added).

<sup>118</sup> EXH No. P 01622, R018-1127-R018-1140 (Eng) / R015-6309-R015-6368 (BCS), p. 9 (Eng).

31.5. "In January 1993 the active peace initiative was the so-called Vance-Owen Plan, which involved the establishment of 10 provinces in Bosnia and Herzegovina." *Naletilić* TJ, para. 19.

31.6. "The Vance-Owen Plan was presented, on 2 January 1993, at the first plenary session of the Bosnian parties, summoned to Geneva by the International Conference for the former Yugoslavia." *Blaškić* TJ, para. 368.

31.7. "On 2 January 1993, Peace Talks, attended by President Izetbegović, Dr Karadžić, Mr Boban, President Tudjman and the President of the FRY, Mr Čosić, took place in Geneva." *Kordić* TJ, para. 559.

31.8. "[On 2 January 1993] Mr Vance and Lord Owen put forward a peace plan and a proposed provincial map." *Kordić* TJ, para. 559.

31.9. "The [Vance Owen] peace plan proposed, *inter alia*, a decentralized Bosnia-Herzegovina, organized in ten provinces, each one substantially autonomous and administrated by a democratically elected local government." *Blaškić* TJ, para. 368.

31.10. "The idea [of the Vance-Owen Plan] was that during an interim period, these different provinces would be administered jointly by the three groups but with the dominating group appointing the Governor." *Naletilić* TJ, para. 19.

31.11. "The BH Croats would be in a majority in three of the provinces, which in the [Vance Owen] plan were referred to as number 3, 8 and 10." *Naletilić* TJ, para. 19.

31.12. "[According to the Vance Owen Peace Plan, the] Bosnian Croats would be in a majority in three of the provinces, numbered 3, 8 and 10." *Kordić* TJ, para. 559.

31.13. "The [Vance Owen Peace] Plan assigned the main responsibilities in Province 8 and 10 to the Croats and in Province 7 to the Muslims." *Blaškić* TJ, para. 369.



31.14. "Central Bosnia would form Province 10 and would include the municipalities of Travnik, Novi Travnik, Vitez, Busovača, Fojnica, Gornji Vakuf and part of Kiseljak." *Kordić* TJ, para. 559.

31.15. "According to the Vance-Owen Plan, the Lašva Valley would largely be in Province 10, and the rest (Southern part of the Kiseljak municipality) in Province 7 (Sarajevo)." *Blaškić* TJ, para. 369.

31.16. "Province 8 (Mostar) extended from Bosnia-Herzegovina's Southern border with Croatia to Prozor and Konic in the North." *Blaškić* TJ, para. 369.

31.17. "Mate Boban, the leader of the HDZ-BiH, immediately agreed to the terms of the [Vance Owen Peace] plan, as it promised huge gains in territory for the Bosnian Croats." *Kordić* TJ, para. 464.

31.17. "At the end of the [peace] talks [in January 1993], Mate Boban signed the provincial map; others did not." *Kordić* TJ, para. 559.

31.18. "Mate Boban signed the Vance-Owen Plan on behalf of the BH Croats on 2 January 1993. Neither the BH Serb nor the BH Muslim representatives had signed the plan at this stage." *Naletilić* TJ, para. 20.

31.19. "Croat leaders were certainly not prepared to accept the outcome of a democratic process, which could turn to their disadvantage in the municipalities with significant Muslim minorities in the three provinces, and were instead prepared to fight against any Muslim forces refusing to be subordinated to the HVO command." *Kordić* AJ, para. 406.

31.20. "Despite knowing that the other parties had not signed, but filled with confidence that they had the world's opinion behind them, the BH Croats attempted to implement the Vance-Owen Plan unilaterally." *Naletilić* TJ, para. 20.

31.21. "The Croatian Defence Council of Herceg-Bosna, at a special meeting in Mostar on 15 January [1993], decided "in line with the ... Geneva Agreement" that all units of the ABiH currently in Provinces 3, 8 and 10 ("which were proclaimed Croatian in the ... Agreements") were to be subordinate to the main HQ of the HVO while units of the HVO in Provinces 1, 5 and 9, where the Muslims were in majority, were to be subordinate to the ABiH Command: (this decision was to be implemented by 20 January 1993)." *Kordić TJ*, para. 562.

31.22. "This attempt [to implement unilaterally the Vance-Owen Plan] led to dramatically increased tensions between the BH Croats and the BH Muslims." *Naletilić TJ*, para. 20.

32. While tensions remained high and there were local skirmishes, major conflict was avoided until the end of March 1993, when President Izetbegović, following further negotiations, provisionally accepted the Vance-Owen plan (which the Serbs never accepted), with certain military aspects of the plan still to be resolved. As in January 1993, knowing that the Government of Bosnia and Herzegovina had not agreed on the remaining issues and that the Bosnian Serbs had not accepted the plan, the Herceg-Bosna/HVO leadership (including the accused) once again set a deadline, stating that all units of the Army of Bosnia and Herzegovina in provinces 3, 8 and 10, by 15 April 1993, either subordinate themselves to the HVO or leave the areas covered by the proposed provinces.

32.1. The Vance-Owen plan signed by Izetbegović did not provide for the subordination of ABiH units in provinces 8 and 10 to the HVO.<sup>119</sup> The plan expressly stated: "Both Bosnian Army and HVO forces shall be deployed in Provinces 5, 8, 9 and 10 under arrangements agreed between them."<sup>120</sup>

31.2. On Izetbegović signing the Vance-Owen plan (still not signed by the Serbs), the Herceg-Bosna/HVO leaders, just as they did in January, pushed to implement their vision

<sup>119</sup> EXH No. P 01398, 0212-2309-0212-2343, p. 280.

<sup>120</sup> EXH No. P 01398, 0212-2309-0212-2343, p. 280 ("Withdrawal of Forces") (emphasis added).

of the plan. Boban quickly proposed his 2 April 1993 "Joint Statement,"<sup>121</sup> which turned into an HVO ultimatum, setting a deadline of 15 April 1993 for the ABiH to subordinate its units to the HVO in provinces 8 and 10, or to withdraw.<sup>122</sup> As the ECMM reported on 18 April 1993:

The major concern this past week has been the rapidly deteriorating situation in Central Bosnia. The VANCE-OWEN Plan seems to have caused the problems. With both the Bosnian Muslims and Croats signed up to the peace plan, but [sic] the Croats are now demanding that the Muslims turn control of the Croat provinces over to them. This was to include the removal of BiH Army elements or to put them under command of the Croats. Of course this is totally unacceptable to the Muslims.<sup>123</sup>

32.3. President Izetbegović did not sign the "Joint Statement" or agree to its terms.<sup>124</sup> The minutes of an HVO cabinet meeting on 3 April 1993 indicate quite clearly that Izetbegović had not signed the statement.<sup>125</sup> In the meeting attended by Mate Boban, the Herceg-Bosna/HVO leadership announced their intention to set up the HVO Government in provinces 3, 8, and 10, whether Izetbegović signed the statement or not: "The HVO HZ H-B expresses the hope that Mr. Izetbegović will sign this document," but "If the common declaration is not carried out, military and other organs of the HVO HZ H-B will carry out this part of the Basic Document of the Peace Plan on the territories of provinces 3, 8, and 10." (Emphasis added.)

32.4. SLOBODAN PRALJAK explained the Tudjman/Greater Croatia version of the Vance-Owen plan to Bosnian Croat leaders in central Bosnia on 2 April 1993 in Busovača.<sup>126</sup> PRALJAK said that Bosnia would not be left with much territory after the plan was implemented and that populations would be "homogenised."

<sup>121</sup> EXH No. P 01792, 0062-5107a-0062-5107a (Eng) / 0062-0578-0062-0578 (BCS).

<sup>122</sup> See EXH No. P 01804, 0070-8992-0070-8993, 0050-8513-0050-8515 (Eng) / 0050-8516-0050-8517; see also EXH P 01804; EXH No. P 01808, 0054-8827-0054-8827 (Eng) / 0054-8826-0054-8826 (BCS), EXH No. P 01813, DK00-5051-DK00-5051, p. 3; 0059-2942-0059-2943; 0212-2366-0212-2374.

<sup>123</sup> EXH P 09592, 0212-2375-0212-2385, p. 10.

<sup>124</sup> EXH No. P 01786, 0091-7150-0091-7150 (Eng) / 0091-7149-0091-7149 (BCS).

<sup>125</sup> EXH No. P 01798, 0304-4466-0304-4471 (Eng) / 0154-8411-0154-8416 (BCS).

<sup>126</sup> EXH No. P 01796, L005-5257-L005-5257 (Eng) / 0104-3371-0104-3371 (BCS).

33. When the 15 April deadline passed without the BiH Government acceding to their position, Herceg-Bosna/HVO forces set about a broad campaign of persecutions, military actions, arrests and expulsions to enforce their demands, with more than thirty attacks on Muslim towns and villages on 16-18 April 1993, including the attacks and atrocities in Ahmići on 16 April, in Sovići and Doljani on 17 April, and in Parcani, Lizoperci and Tošćanica on 17-19 April.

33.1. The expiration of the HVO ultimatum was immediately followed by some of the most notorious crimes of the Croat-Muslim war -- with the HVO attack first at Ahmići, in Central Bosnia, on 16 April, and then at Sovići-Doljani, in Herzegovina, on 17 April.<sup>127</sup> Indeed, numerous reports from international observers (including the United Nations, UNPROFOR and the ECMM) made it abundantly clear that the HVO attacks and war crimes committed in central Bosnia and Herzegovina in mid- to late April 1993 were a continuing part of the Herceg-Bosna/HVO's efforts to implement their view of Vance-Owen.<sup>128</sup> The head of the ECMM mission covering central Bosnia and Herzegovina reported on 1 May 1993:

The latest meeting of the 'authorities of Herceg-Bosna' in Citluk, 30 April 1993<sup>129</sup>, has revealed the political side of the last military events. And it is time now, or never, to express the common, clear feeling of the 23 ECMM monitors of Bosnia-Herzegovina.

1. The Bosnian Croats continue to complain that they are attacked by the 'Muslim forces', 'on all fronts', despite the evidence that they are entirely responsible for the opening of the conflict on the 14 April and, largely, for its continuation.

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<sup>127</sup> See EXH No. P 02407, 0041-7614-0041-7701, ECMM Report on Inter-Ethnic Violence in Vitez, Busovača and Zenica, April 1993; EXH No. P 02301, 0053-7577-0053-7582 (Eng) / 0064-1691-0064-1696 (BCS) and EXH No. P 02458, 0008-5389-0008-5397.

<sup>128</sup> See, e.g., EXH No. P 01981, DK00-5377-DK00-5377; EXH No. P 02222, 0212-2388-0212-2401 ("Interim Report on the Republic of Bosnia and Herzegovina, Report on Massive Human Rights Violations in the Lasva Valley region of Central Bosnia and Herzegovina"); EXH No. P 02237, ZA01-2739-ZA01-2741 ("New HVO Offensives"); EXH No. P 02301, 0053-7577-0053-7582 (Eng) / 0064-1691-0064-1696 (BCS); EXH No. P 02430, DK00-5843-DK00-5843 ("Situation in Mostar"); EXH No. P 02458, 0008-5389-0008-5397 (UN Report, including Mostar); Delayed disclosure exhibit.

<sup>129</sup> See EXH No. P 02149, DK00-5681-DK00-5681.

-- The fighting began without doubt on the initiative of the HVO, claiming that it was only answering a systematic anti-Croat attitude. It was obviously an attempt to seize and secure the 'Croat provinces.'<sup>130</sup>

33.2. "On 17 April 1993, the UN Security Council adopted Resolution 820, reaffirming that any taking of territory by force or any practice of 'ethnic cleansing' is unlawful and totally unacceptable' and calling on the Secretary-General to submit a report on the establishment of an international war crimes tribunal 'at the earliest possible date. . .'"<sup>131</sup>

33.3. A Security Council Mission to Bosnia and Herzegovina in late April 1993 included an inquiry into the HVO massacre of Bosnian Muslims in Ahmići just a few days earlier, on 16 April. A British UNPROFOR commander (Robert Stewart) "demanded that the [HVO] give a full explanation. "In this context the Mission spoke in unequivocal terms with Mr. Mate Boban and with President Tudjman of Croatia. Both were informed of the Security Council's condemnation of these events and the Mission called upon them to act immediately in order to avoid similar recurrences."<sup>132</sup>

33.4. While Boban expressed to the UN mission his condemnation of such acts, he denied the participation of HVO forces in the acts -- which is now known, of course, to have been plainly false. "The Mission expressed its deep concern and told him that these developments could seriously tarnish his image and that of the Croats in general, not to mention the repercussions that it could have on the Republic of Croatia." Boban stated "that he favoured the creation of an international tribunal to judge acts of atrocities" and stated that HVO forces "would 'shoot' anyone who committed any atrocity." "The Mission also conveyed to [President Tudjman] its shock and horror at the killings by Croats of Muslims in central Bosnia" and called on him to help bring "those responsible to immediate justice." "President Tudjman agreed that the acts of inhumanity were unpardonable . . . [and] promised to use his influence to see that the guilty were

<sup>130</sup> EXH No. P 02168, DK00-5687-DK00-5687.

<sup>131</sup> EXH No. P 01924, UN Security Council Resolution 820: Bosnia and Herzegovina (12 April 1993), p. 1.

<sup>132</sup> EXH No. P 02150, Report of the Security Council Mission established pursuant to Resolution 819 (1993) (30 April 1993), para. 35.

punished.”<sup>133</sup> In fact, neither the Croats nor Bosnian Croats ever punished, disciplined or prosecuted anyone for the mid-April HVO atrocities.

33.5. The ICTY has confirmed the following facts:

33.6. “The negotiations around the Vance-Owen Plan continued in February and March 1993.” *Naletilić* TJ, para. 21.

33.7. “President Izetbegović signed the [Vance-Owen] plan on behalf of the BH Muslims on 25 March 1993. The BH Serb representative still did not agree to the plan.” *Naletilić* TJ, para. 21.

33.8. “After the BH Croat signing of the Vance-Owen Plan, the point of view of the Croats was clear regarding the arrangements in relation to the respective forces. Mate Boban drew up a proposal for a Joint Statement, which he intended to be signed by Alija Izetbegović and himself, outlining how their respective armies would operate within the different provinces.” *Naletilić* TJ, para. 22.

33.9. “Alija Izetbegović never signed the statement, which meant that there never was a “Joint Statement,” but only a “Boban’s Statement.” In his statement Mate Boban repeated the demands of the BH Croats, that all ABiH units were to be subordinated to the HVO in the “Croat” provinces.” *Naletilić* TJ, para. 22.

33.10. “On 3 April 1993, the HVO leadership met in Mostar to discuss the implementation of the Vance-Owen Peace Plan.” *Kordić* TJ, para. 603(c).

### **The Forcible Expulsion of Muslims from Herceg-Bosna**

34. The Herceg-Bosna/HVO attacks, arrests and expulsions in the second half of April 1993 set in motion an extensive campaign of such actions, interrupted by occasional

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<sup>133</sup> *Id.*, paras. 36-41.

ceasefires, which continued even after the signing of another peace plan, the Washington Agreement, in March 1994.

34.1. Faced with the Muslims' hardly surprising rejection of Herceg-Bosna, the HVO set out again, in mid-April, to obtain an ethnically pure (or at least ethnically subjugated) Herceg-Bosna by violent and illegal means. If the Muslims would not go quietly, then the HVO would move them by more extreme persecution, force and violence. Power would be further consolidated. Concentration camps would be established or expanded. Muslim men aged 16 to 60 (and in fact both younger and older) would be imprisoned, and Muslim women, children and elderly would be expelled. Homes would be burned. Humanitarian aid would be blocked. Mosques would be destroyed.

34.2. Indeed, it was clear to Tudjman and the Herceg-Bosna/HVO leaders from an early date that a Greater Croatia would eventually involve drawing borders and moving people. At a meeting in Zagreb on 8 January 1992, the Serb representative Koljević told Tudjman that the Serbs and Croats would first change the municipal borders and then begin the "civilised transfer of property and population . . ." Koljević then complained that the term "homogeneity" had been vilified in Yugoslavia before Tudjman interrupted him, as if to say to Koljević, "don't worry." Tudjman stated: "Wherever national problems so conceived emerged as they did with us, that was resolved, from World War I and World War II, that was brought to a conclusion by exchanges." <sup>134</sup>

34.3. In looking ahead to where all of the above (and what follows below) would take the people in Bosnia and Herzegovina during the period from April 1993 to March 1994, one may consider a high-level briefing paper prepared in June 1993 by the European Community Monitoring Mission, based on its extensive on-the-ground observations and experiences in BiH. The ECMM observed and concluded:

<sup>134</sup> EXH No. P 00108, L005-0143-L005-0197 (Eng) / 0150-9173-0150-9240 (BCS), p. 32. Tudjman repeated the same notion in September 1993, telling a group of Bosnian Croats: "After World War One a million people were resettled between Greece and Turkey until /1920/ and even later . . . After World War II, 12 million people in Europe were moved or exiled. Therefore, that terrible war, that tragedy for man, family, certain regions, the greatest tragedy in the sense of demarcation between nations creates even more favorable circumstances for the survival of certain nations in the future." EXH No. P 05255, R018-2768-R018-2787 (Eng) / R015-6649-R015-6668 (BCS), pp. 18-19.

Relations between Croat and Muslim peoples in Bosnia Hercegovina have deteriorated since January from occasional isolated conflict to the present widespread confrontation. Presently the conflict involves three separate areas: Mostar city, Jablanica/Konjic and the Travnik to Kiseljak road.

In Mostar the HVO are trying to bring the Moslems under total control. The HVO assault is aimed at cleansing all non-Croats from the west bank and eventually moving all Moslems out of the city. The Moslems are now encircled on the east bank without water, electricity or communications.

Heavy fighting in the Jablanica/Konjic area involves HVO attempts to eliminate Moslem influence in the area. The HVO have suffered losses resulting in withdrawal and loss of influence in both towns.

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The HVO aims appear to be to:

- a. militarily establish a front-line between provinces 8/10 and the 'Moslem' province 9.
- b. eliminate all Moslem resistance to their plans within provinces 8 and 10.
- c. eventually cleanse provinces 8 and 10 of Moslems in pursuit of their dream of 'Herceg Bosna.'
- d. establish a loose confederation with Croatia in due course.

\* \* \*

The following actions are urgently required . . .

- a. HVO grant unrestricted movement of persons and goods through areas under their control . . . something promised by the HVO but never delivered, witness the ordeal of the Tuzla convoy.

\* \* \*

- c. Croatia terminate HV [Croatian Army] military activity and all other material support for the HVO in Bosnia Hercegovina such as troops, weapons and money . . .

- d. HVO ensure unrestricted access to all areas (such as that northwest of Jablanica) to UNPROFOR, UNMO, ECMM and ICRC in order that they may observe and confirm a. b. and c. above . . .

- e. HVO respect minority groups and release political leaders such as (Demirovic) the SDA leader presently held in Mostar.<sup>135</sup>

<sup>135</sup> EXH No. P 02787, DK00-6673-DK00-6680.



34.4. An important part of the HVO effort to physically rid Herceg-Bosna of its Muslim population (or at least most of it) was the April 1993 decision in Mostar which led to the denial of humanitarian assistance for roughly 10,000 needy persons.<sup>136</sup> The decision was nothing less than a form of ethnic cleansing. Indeed, after the decision was issued, humanitarian organisations reported that Muslims had been given a 9 May deadline to leave abandoned apartments -- the very day on which the ethnic cleansing of Muslims in Mostar commenced with full and violent force.

34.5. During this same time, on 27 April 1993, Mate Boban, Franjo Tudjman and President Izetbegović signed a Joint Statement in Zagreb, calling for a cessation of all hostilities between the Croat and BiH Government forces in Bosnia and Herzegovina, "which have caused many casualties and serious violations of international humanitarian law. . ." The statement condemned "most severely all violations of the rules of international humanitarian law," and admitted that both sides, including the Croats, "had violated such law, based on the available information." Boban and the others undertook "to urgently initiate joint and individual inquests concerning each instance of violation of such rights and immediately examine personal responsibility for the conflicts and crimes perpetrated against the civilian population."<sup>137</sup> The ink of Boban's signature was hardly dry before the HVO attacked Mostar less than two weeks later.

35. On 9-10 May 1993, Herceg-Bosna/HVO forces attacked Bosnian Muslims in Mostar, a city on the Neretva River in southwest Bosnia and Herzegovina. The Herceg-Bosna/HVO forces rounded up hundreds, if not thousands, of Bosnian Muslim men, women, children and elderly. Large numbers of Bosnian Muslims were expelled into east Mostar, while hundreds of others were detained at the Heliodrom prison. By June 1993, the Herceg-Bosna/HVO forces had commenced a siege against east Mostar which continued to April 1994 and involved continual shelling, sniper fire, blocking of humanitarian aid and horrible deprivations, directed against the Bosnian Muslims in east Mostar.

<sup>136</sup> EXH P 09593, R018-2376-R018-2379, R018-2330-R018-2331 (Eng) / R013-7516- R013-7525 (BCS).

<sup>137</sup> EXH No. P 02102, Letter dated 26 April 1993 from the Permanent Representative of Croatia to the UN addressed to the President of the Security Council, Annex.

35.1. ECMM reported: "The fighting in Mostar began on Sunday 9th of May, with an HVO strong attack . . . Even if the Bosnian Croats claimed that they have been provoked, there is no doubt for all observers, UNPROFOR and ECMM, that the attack was planned, precisely organised and conducted."<sup>138</sup> While the HVO sputtered that the reason for the mass arrests was the safety of the persons being detained, it was hardly convincing. Apparently, the Croats living next door were not at risk and their safety was not a concern. The expulsion of Muslims in Mostar continued in late May and into June, with the later expulsions being even more widespread and systematic than the earlier one.<sup>139</sup>

35.2. The UN's reaction to the HVO attacks in the Mostar region was immediate:

The Security Council, recalling its statement of 21 April 1993 (S/25646) concerning the atrocities and killings in areas north and west of Sarajevo [including the atrocities at Ahmići], expresses its grave concern at the major new military offensive launched by Bosnian Croat paramilitary units in the areas of Mostar, Jablanica and Dreznica.

The Security Council strongly condemns this major military offensive launched by Bosnian Croat paramilitary units which is totally inconsistent with the signature of the Peace Plan for the Republic of Bosnia and Herzegovina by the Bosnian Croat party. The Council demands that the attacks against the areas of Mostar, Jablanica and Dreznica cease forthwith; that Bosnian Croat paramilitary units withdraw immediately from the area and that all the parties strictly comply with their previous commitments as well as the cease-fire agreed to today between the Government of the Republic of Bosnia and Herzegovina and the Bosnian Croat party.

The Security Council also expresses its deep concern that the UNPROFOR battalion in the area has been forced under fire to redeploy as a result of this latest offensive and condemns the refusal of Bosnian Croat paramilitary units to allow the presence of United Nations military observers, in particular in the city of Mostar.

The Security Council once again reiterates its demand that UNPROFOR personnel be allowed unimpeded access throughout the Republic of Bosnia and Herzegovina and, in this particular case, demands that the Bosnian Croat paramilitary units ensure the safety and security of UNPROFOR as well as all United Nations personnel in the areas of Mostar, Jablanica and Dreznica. In this connection, the Council expresses its deep concern at the increasing hostile attitude of Bosnian Croat paramilitary units towards UNPROFOR personnel.

The Security Council calls upon the Republic of Croatia, in accordance with the commitments under the Zagreb agreement of 25 April 1993 (S/25659), to exert all its influence on the Bosnian Croat leadership and paramilitary units with a view to

<sup>138</sup> EXH No. P 02430, DK00-5843-DK00-5843.

<sup>139</sup> Delayed Disclosure Exhibit.

ceasing immediately their attacks particularly in the areas of Mostar, Jablanica and Dreznica. It further calls on the Republic of Croatia to adhere strictly to its obligations under Security Council resolution 752, including putting an end to all forms of interference and respecting the territorial integrity of the Republic of Bosnia and Herzegovina.

The Security Council once again reaffirms the sovereignty, territorial integrity and independence of the Republic of Bosnia and Herzegovina and the inacceptability of the acquisition of territory by force and the practice of 'ethnic cleansing'.<sup>140</sup>

36. After an attack by the Army of Bosnia and Herzegovina ("ABiH") on an HVO camp in the northern part of Mostar town on 30 June 1993, JADRANKO PRLIĆ and BRUNO STOJIĆ issued a proclamation stating that Croat civilians were being exterminated, that the very existence of Croats in Bosnia and Herzegovina was in extreme and imminent danger and that Mostar was and would remain a Croatian town. On 2 July 1993, criminal enterprise leader Franjo Tudjman told Gojko Šušak and others in a meeting in Zagreb that it was "important to put pressure on the Muslim units on the Neretva front."

37. In early July, Herceg-Bosna/HVO forces, supported by (and involving) the government and armed forces of the Republic of Croatia, launched a massive campaign to attack, arrest and cleanse Bosnian Muslims from areas claimed to be part of Herceg-Bosna (including the municipalities of Mostar, Prozor, Stolac, Čapljina and Ljubuški). From June through September 1993, Herceg-Bosna/HVO forces systematically arrested, mistreated and evicted tens of thousands of Bosnian Muslim men, women, children and elderly from their homes, detained them and/or transferred them to other areas or deported them to other countries. At the same time, the Herceg-Bosna/HVO authorities engaged in efforts throughout 1993 to transfer (or cause the transfer of) thousands of Bosnian Croats from other parts of Bosnia and Herzegovina, and in particular, Central Bosnia, to western Herzegovina.

37.1. In his fourth report, the UN Special Rapporteur Mazowiecki gave an overview of the HVO's mass arrest and imprisonment of Muslims and other non-Croats in the summer of 1993:

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<sup>140</sup> EXH No. P 02274, Note by the President of the Security Council (10 May 1993) (emphasis added).

16. The forced evictions in Mostar were accompanied by the arrest of Muslim men on a mass scale, both inside the city and in the surrounding areas of western Herzegovina. Most of those arrested are reported to have been men of fighting age, although some young boys and elderly men over 60 are also said to have been detained by HVO forces.

17. According to the figures currently available [in September 1993] from eye-witness sources and international humanitarian agencies, up to 10,000 men have been arrested in Mostar since May 1993; 4,000 in Čapljina since July 1993; several hundred more in Stolac, also in July 1993; and 92 in Gradska on 15 August 1993. HVO authorities told the Special Rapporteur's field officers that the arrests had been carried out for 'security' reasons and admitted that due process had not been observed. From the information available to the Special Rapporteur it appears that only a small number of these detainees were prisoners of war. Most appear to have been arrested because they were suspected of hostility to the HVO, or to provide a pool of prisoners to exchange for Bosnian Croats held as prisoners of war, or for use on the front-line as forced labour, or 'human shields' to protect the army's advance.

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19. The main detention centres are believed to be the Rodoc helidrome south of Mostar; a former JNA warehouse in Gabela, south of Čapljina; and former JNA warehouses at Dretelj, north of Čapljina. Other smaller detention centres are suspected to be at Otoci, Grabovina, Mostar, Čapljina, Ljubuški and Trebizat. The International Committee of the Red Cross (ICRC) was granted access to the Rodoc helidrome in mid-July and to the warehouse at Gabela on 30 August 1993, where it has since stated that it registered around 1,100 prisoners. At the time of preparing this report, the ICRC is still seeking access to the other suspected places of detention.

20. The picture of conditions inside these places of detention is still not complete, but the testimony of former detainees who were prepared to speak to international observers suggests they are brutal and degrading. One former detainee told the Special Rapporteur's field staff that between 2,000 and 3,000 men were held in the two hangars at Gabela at any one time. The daily food ration consisted of 650 grams of bread, to be shared between 16 prisoners, and a bowl of thin soup. On some occasions they received no food for two or three days consecutively, apparently at times when HVO forces had suffered defeats in areas of central Bosnia. The hangars were almost hermetically sealed, and during the summer months prisoners feared they would suffocate. Guards threatened to spray the hangar walls with heavy-calibre machine-gun fire if they knocked to ask for air.

21. Reports from Dretelj, as yet unconfirmed, suggest that some detainees may have died of dehydration in the heat of the tin-roofed underground hangar. According to testimony given to the Special Rapporteur's field staff by one former detainee, guards at Dretelj on one occasion sprayed the ceiling of the hangar with machine-gun fire, wounding three prisoners. On his release the detainee claimed that his family did not recognize him.

22. The Special Rapporteur is concerned by reports that detainees from Mostar and western Herzegovina, like detainees in other parts of the republic, have been forced to do dangerous work on the front-lines. Bosnian Muslim prisoners in Rodoc

helidrome, for instance, were taken by HVO forces for periods of up to 10 days to reinforce trenches on the front-line, where some of them were reportedly killed.<sup>141</sup>

### **Reverse Ethnic Cleansing: The Movement of Croats in Herceg-Bosna**

37.2. Removal of Muslims from HVO-controlled or -claimed territories was only part of the task in creating a Croat Herceg-Bosna. By a number of means, Croats from other parts of BiH were also prodded or "encouraged" to leave their homes in order to establish or consolidate a Croat majority in the municipalities more at the core of the *Banovina* and Herceg-Bosna. This part of the Greater Croatia/Herceg-Bosna program had at least three important goals. First, it was clear that that some municipalities and areas claimed by Herceg-Bosna were more "Croat" than others, with some of the areas on the fringes of Herceg-Bosna not having a strong Croat majority or even plurality. A judgement was made, or evolved over time, that it was ultimately more important to Herceg-Bosna's success to move the Croat population from more marginal areas into core areas where the Croat majority could be consolidated or reinforced. Tudjman himself recognised the benefits to be gained from moving Croats out of their own homes, even though difficult:

Of course, it is painful – apart from that, 200,000 Croats have already been driven out of their areas, there will probably be another 100,000 of them. It is awful for them, but even, looked at historically, you know, we shall have these 100,000 to 200,000 Croats, will firm up the Croatian territory, here from Istria to Baranja, you understand, when we finish that, and so on. So every bad thing is not just bad, but we have to make use of it here.<sup>142</sup>

37.3. Second, as a matter of political, military and economic practicalities and as part of the ultimate "horse trading" with the Serbs and Muslims, Tudjman and the Herceg-Bosna leaders recognised that they might have to give up or trade away some of the areas furthest from the core *Banovina* territory. Perhaps the best example of this was Vareš, the easternmost territory claimed by Herceg-Bosna and virtually surrounded by Serb and Muslim areas. Third, and equally important, relocating Croats from other parts of BiH and moving them into houses and flats seized from or abandoned by Muslim families made it much more difficult, if not impossible, for Muslims to return to the areas.

<sup>141</sup> Fourth Mazowiecki Report (UN Special Rapporteur; E/CN.4/1994/8; 6 September 1993), EXH No. P 04822 (0003-5730-0003-5736).

<sup>142</sup> EXH No. P 06485, L007-5943-L007-5980 (Eng) / 0132-3004-0132-3040 (BCS), p. 20.

37.4. Tudjman said as early as September of 1993: "I too have told our people, please settle these refugees in those areas, Tasovčići, Stolac etc., to be Croats, so that Croatian people are present there . . ." <sup>143</sup> In the same meeting, Tudjman told his Herzegovinian followers not to fall prey to the idea that the left bank of the Neretva River would become part of the Bosnian Republic, but do the opposite and "settle in those areas [Ravno, Čapljina, Neum and Stolac] and then we shall insist on it." <sup>144</sup>

### **HVO Strategies and Practices**

37.5. The systematic nature of the step-by-step removal of Muslims from Herceg-Bosna's claimed territory is evidenced by the imprisonment of much of their religious, political and intellectual leadership prior to the great majority of the expulsions. In early 1993, the HVO imprisoned roughly one hundred intellectuals, and in April, May and June 1993, any Imams who could be captured by the HVO were arrested, and a dozen were taken prisoner at this time. Underscoring that Muslim intellectuals were singled out for special punishment is the fact that they were largely gathered in one particular HVO prison at Ljubuški.

37.6. Ethnic cleansing moved forward during the summer of 1993 as all Muslim men of military age were arrested, despite international warnings to the Croat authorities that this was against international humanitarian law. While heavy fighting raged around the town, the HVO isolated East Mostar, blocking all attempted access by international organisations until the late summer. By late August, international representatives finally gained access to the town and the true horror of what was happening in East Mostar first began to be fully known.

38. The Herceg-Bosna/HVO actions followed a pattern: First, most of the Bosnian Muslim military-aged men (including many who had served in the HVO) were arrested and detained at various HVO prisons and concentration camps. Then, with most of the

<sup>143</sup> EXH No. P 05255, R018-2768-R018-2787 (Eng) / R015-6649-R015-6668 (BCS), p. 17.

<sup>144</sup> EXH No. P 05267, R018-2715-R018-2725 (Eng) / 0132-2707-0132-2709 (BCS), p. 9.

Muslim men removed, the HVO took control of towns and villages and systematically rounded up Bosnian Muslim women, children and elderly, who were then detained for varying lengths of time and/or transferred to ABiH-controlled areas or deported to other countries.

39. As part of and in the course of these actions, involving ethnic cleansing on a widespread and systematic basis, and in furtherance of the joint criminal enterprise, JADRANKO PRLIĆ, BRUNO STOJIĆ, SLOBODAN PRALJAK, MILIVOJ PETKOVIĆ, VALENTIN ĆORIĆ and BERISLAV PUŠIĆ, together with other leaders and members of the Herceg-Bosna/HVO authorities and forces, engaged in:

- (a) *Instigation and Fomentation of Political, Ethnic or Religious Strife, Division and Hatred:* By speeches, propaganda and false information, the Herceg-Bosna/HVO authorities created, instigated and supported a charged anti-Muslim atmosphere, promoted ethnic division and fostered religious mistrust.
- (b) *Use of Force, Intimidation and Terror:* Herceg-Bosna/HVO authorities and military and police units used force and the threat of force to dominate, suppress and persecute Bosnian Muslims. In the course of mass arrests and evictions, Bosnian Muslims were killed, severely injured, sexually assaulted,<sup>145</sup> robbed of their property and otherwise abused. Identity papers and similar documents were often taken from Muslims, placing them at various risks and limiting their freedom of movement. In attacks on Muslim towns, villages and areas, and in the siege of east Mostar, there was regular and widespread shelling and sniping of Muslim civilians.

<sup>145</sup> Tragically, the conflict in the former Yugoslavia further confirmed that sexual crimes are not simply the horrible acts of individual soldiers or other persons, but are also used as deliberate instruments of persecution and war. In a Resolution adopted on 20 December 1993 (A/RES/48/143), p. 2, the UN General Assembly "Strongly condemn[ed] the abhorrent practice of rape and abuse of women and children in the areas of armed conflict in the former Yugoslavia, which constitutes a war crime;" and "Express[ed] its outrage that the systematic practice of rape is being used as a weapon of war and an instrument of 'ethnic cleansing' against women and children in the areas of armed conflict in the former Yugoslavia, in particular against Muslim women and children in Bosnia and Herzegovina . . ." EXH No. P 07273.

- (c) *Appropriation and Destruction of Property:* Herceg-Bosna/HVO authorities and soldiers forced Bosnian Muslims to abandon their homes or sign them over to the HVO. Money, cars and personal property were often taken or looted. Muslim dwellings and other buildings, including public buildings and services, were appropriated, destroyed or severely damaged, together with Muslim buildings, sites and institutions dedicated to religion or education, including mosques.<sup>146</sup> Much of this destruction was meant to ensure that Muslims could not, or would not, return to their homes and communities. The Herceg-Bosna/HVO authorities appropriated public property belonging to the Republic of Bosnia and Herzegovina. Seized or abandoned Muslim apartments and homes were often given or assigned to HVO members or Croat refugees.
- (d) *Detention and Imprisonment:* The accused and other members of the joint criminal enterprise, together with various members of the Herceg-Bosna/HVO authorities and forces, established, supported and operated a system of ill-treatment, involving a network of prisons, concentration camps and other detention facilities (including, without limitation, the Heliodrom Camp, Ljubuški Prison, Dretelj Prison, Gabela Prison and Vojno Camp) to arrest, detain and imprison thousands of Bosnian Muslims, including women, children and elderly. Many of the imprisoned and detained Muslims were kept in horrible conditions and deprived of basic human necessities, such as adequate food, water and medical care. Many suffered inhumane treatment and physical and psychological abuse, including beatings and sexual assaults.
- (e) *Forcible Transfer and Deportation:* The accused and other members of the joint criminal enterprise, together with various members of the Herceg-Bosna/HVO authorities and forces, established, supported and operated a system of ill-treatment to deport Bosnian Muslims to other countries or transfer them to parts of Bosnia and Herzegovina not claimed or controlled by Herceg-Bosna. Many of the

<sup>146</sup> On 20 December 1993, the UN General Assembly expressed its alarm that, "although the conflict in Bosnia and Herzegovina is not a religious conflict, it has been characterized by the systematic destruction and profanation of mosques, churches and other places of worship, as well as other sites of cultural heritage, in particular in areas currently or previously under Bosnian Serb and Bosnian Croat control . . ." (A/RES/48/143; 20 December 1993), EXH No. P 07273, pp. 2-3.



transferred or deported Muslims were first imprisoned and detained as described above, and only "released" to be transferred or deported. Many persons so transferred or deported were forced to sign over their property to the HVO or to simply abandon their property and leave their belongings.

- (f) *Forced Labour:* Many Bosnian Muslims held by the HVO were forced to engage in physical labour, such as building military fortifications, digging trenches, carrying ammunition and retrieving bodies, often in combat and dangerous conditions, which resulted in many Bosnian Muslim detainees being killed or severely wounded. Some were used as human shields or to draw fire from enemy positions, in order to locate those positions. HVO units and soldiers used Muslim prisoners to plunder and loot Muslim homes and property.

39.1. Not surprisingly, the continued illegal forced transfer and imprisonment of civilians led the international community to place great pressure on the Herceg-Bosna/HVO authorities. On 6 September 1993, the HVO Cabinet held a special meeting to deal with these problems, having become alarmed at the political and public relations damage being done to the Croatian cause, both locally and in Zagreb.<sup>147</sup> After trying to pretend that the HVO cabinet was not responsible for the human rights violations in the very camps that they had established, enlarged and administered, they arranged for a few limited improvements, but made no immediate efforts to close the camps. The camps, after all, still had a reason to exist as long as Muslims remained in Herceg-Bosna. Only when most of the Muslims had been expelled from the most important areas were some of the camps closed, following continued international pressure.<sup>148</sup> And during this time, the HVO had successfully executed a scheme to deport Muslims out of Herceg-Bosna to third-countries, including via "transit centers" in Croatia. The cleansing continued.

39.2. Once again, the Tribunal has confirmed the facts outlined above:

<sup>147</sup> EXH No. P 04841, L004-7293-L004-7296 (Eng) / 0154-9043-0154-9044 (BCS).

<sup>148</sup> EXH No. P 07214, 0190-5493-0190-5500 (Eng) / 0102-6824-0102-6831 (BCS).

39.3. “[T]here was a widespread and systematic attack against the Muslim part of the civilian population in the area relevant to the Indictment. This campaign had a specific aim: to transform the formerly ethnically mixed area in and around Mostar into BH Croat territory, to be populated by an ethnically pure BH Croat population.” *Naletilić TJ*, para. 240 (footnote omitted).

39.4. Thousands of Muslim civilians were forced to leave their homes in Sovići, Doljani and West Mostar. *Naletilić TJ*, para. 55.

39.5. “The campaign against the BH Muslim population in the area reached a climax after the attack on Mostar in early May 1993, when following the hostilities, the BH Muslim civilian population was forced out of West Mostar in concerted actions.” *Naletilić TJ*, para. 239.

39.6. “The harassment of BH Muslims by forcing them out of their apartments and detaining them became common and widespread from 9 May throughout the autumn of 1993.” *Naletilić TJ*, para. 48.

39.7. “BH Muslim religious sites, like the mosques in the [Sovići and Doljani] area, were systematically destroyed.” *Naletilić TJ*, para. 238.

39.8. “The attacks [on Sovići, Doljani and Mostar] also resulted in a large number of both prisoners of war and civilian prisoners who were held at different detention centres in the area.” *Naletilić TJ*, para. 55.

39.9. “Detention facilities for the BH Muslim part of the population were established all over the area.” *Naletilić TJ*, para. 238.

39.10. “Prisoners were moved around between places and detention centres. For example, the ABiH soldiers who surrendered or were captured in Sovići and Doljani were brought to the Ljubuški prison on 18 April 1993 and were later moved to the Heliodrom.” *Naletilić TJ*, para. 55.

39.11. "Detained BH Muslim civilians and BH Muslim soldiers *hors de combat* were often subjected to humiliating and brutal mistreatment by soldiers who had unfettered access to the detention facilities." *Naletilić* TJ, para. 238.

39.12. "Many Muslim civilians and prisoners of war were beaten and otherwise severely mistreated in various detention facilities and the soldiers who engaged in this came from various military units." *Naletilić* TJ, para. 392.

40. The Herceg-Bosna/HVO campaign of attacks and ethnic cleansing continued into the latter part of 1993, as demonstrated by the HVO's 23 October 1993 attack on the Muslim village of Stupni Do. After discussions in Zagreb on what to do concerning the HVO officer who commanded the Herceg-Bosna/HVO forces involved in the killings at Stupni Do, senior political and military leaders engaged in what Franjo Tudjman described as a "game": the international community was told that the HVO officer had been removed, when in fact, he simply changed his name, remained in essentially the same position and was never punished.

40.1. In a resolution adopted on 20 December 1993, the General Assembly "condemn[ed] the indiscriminate shelling of cities and civilian and murder of non-combatants, the destruction of services and besieging of cities and the use of military force against civilian populations and relief operations by all sides, recognizing that the main responsibility lies with the Bosnian Serbs, who have used such tactics as a matter of policy, and the Bosnian Croats," and called on the international community to make "an effective response to counter the policy of "ethnic cleansing" perpetrated by any side, particularly the Bosnian Serb forces, who have used such tactics as a matter of policy, and Bosnian Croat forces . . ." <sup>149</sup> In the same action, the General Assembly urged the Government of Croatia to "use its influence with the self-proclaimed Croatian authorities in Bosnia and Herzegovina to bring the practice of 'ethnic cleansing' to an immediate end and to reverse the effects of that practice . . ." <sup>150</sup>

<sup>149</sup> EXH No. P 07268, A/RES/48/153; 20 December 1993, paras. 6, [25](c) (emphasis added).

<sup>150</sup> *Id.*, para. 11.

40.2. The UN Special Rapporteur Mazowiecki summarized the situation of ethnic cleansing in Bosnia and Herzegovina as follows:

5. War continues unabated in Bosnia and Herzegovina and continues to be characterized by wholesale violation of human rights and of humanitarian law. Whole populations remain victim to terrorization and harassment, particularly, though not exclusively, on territory controlled by Bosnian Serb and Bosnian Croat forces.

\* \* \*

7. Tragically, the terrorization of members of ethnic communities persists, with particular prevalence in territories under the control of Bosnian Serbs and Bosnian Croats. . . .

\* \* \*

15. 'Ethnic cleansing' and general harassment of Muslims and Bosnian Serbs has been systematic and characterized by brutality, theft and eviction, absence of any due process of law and frequent detention. It is also characterized by the withholding of humanitarian aid (see below paras. 64-74). Many Muslims and Bosnian Serbs are in detention and others have either been issued with Croatian transit visas or forced into *de facto* ghettos such as eastern Mostar, an area rendered unfit for human habitation.

16. Control of the eastern part of the city Mostar is exercised by [BiH] Government forces and of the western part by Bosnian Croat, forces. The 'ethnic cleansing' of Mostar was first directed against Serbs and then against Muslims. A result of the 'ethnic cleansing' of Serbs is that their population in Mostar has been reduced from a pre-war figure of 30,000 to just 400. Unlike their counterparts in western Mostar, who are subject to numerous abuses by the Croat population, Serbs in the eastern part of the city do not appear to be the victims of any form of invidious discrimination by the Muslim majority.

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287. The General Assembly, in its resolutions 48/153 of 8 December 1993 referred to 'ethnic cleansing' in paragraphs 11 and 25. In the latter paragraph the Assembly urged all States and competent organizations to consider implementation of the recommendations of the Special Rapporteur, including the need for an effective response to the policy of 'ethnic cleansing' as perpetrated by Bosnian Serb and Bosnian Croat forces.<sup>151</sup>

41. As a result of the Herceg-Bosna/HVO campaign of persecution and ethnic cleansing, the Bosnian Muslim population in many parts of Herceg-Bosna was substantially reduced, and those who remained were plainly dominated by the Herceg-

<sup>151</sup> Sixth Mazowiecki Report (UN Special Rapporteur; E/CN.4/1994/110; 21 February 1994), EXH No. P 07917 (0009-0867-0009-0930) (emphasis added).

Bosna/HVO authorities and forces, as planned and intended by the joint criminal enterprise, including the accused.

41.1. By the late fall of 1993, the cleansing of Muslims from many parts of Herceg-Bosna was largely completed,<sup>152</sup> and there was little continuing need for the camps. While in September there were still 8,000 Muslims in Stolac and 14,000 in Čapljina, by November there were no Muslims in Stolac and only 3,852 in Čapljina. The HVO leaders (including the Accused) had conducted their work with great efficiency.

41.2. The full extent of, and success of their efforts was clearly known to the Herceg-Bosna/HVO leadership. In one meeting, the convicted war criminal and Bosnian Croat vice-president, Dario Kordić, reported that “about 75,000 Muslims have been expelled by the HV.”<sup>153</sup> Zoran Marić bragged to Tudjman in March 1993: “At the moment there are very few Muslims in Busovača.” Many wished to return, but “we put Croats in their homes . . .”<sup>154</sup> Likewise, in September 1993, Andjelko Marković informed Tudjman: “Today there is not a single Muslim in Stolac. We have populated Stolac with our refugees from Bosnia.” Tudjman responded: “Andjelko, I know all that.”

41.3. Any Muslims who still remained after all of this active HVO cleansing, or those who might return, would have to change their national identities. Tudjman told various Croat leaders: “Start working on it right now to get them [to declare themselves as] Croats of the Muslim faith – get down to it right now, we have no other choice.”<sup>155</sup>

41.4. Again, Tudjman and his conspirators were well aware of the horrible violence which was occurring in Mostar in 1993, as well as the fact that the Herceg-Bosna leadership was doing little or nothing about it. Šušak confronted Boban in late November: “In Mostar, Mate, murders, all around.” After Boban said that the killings had stopped,

<sup>152</sup> Delayed Disclosure Exhibit.

<sup>153</sup> EXH No. P 08597, 0304-8417-8418(Eng) / 0132-5187-0132-5257 (BCS), p. 1.

<sup>154</sup> EXH No. P 01622, L007-5981-L007-5986.doc (Eng) / 0132-2336-0132-2395 (BCS), p. 4 (Eng).

<sup>155</sup> EXH No. P 08288, L007-5399-L007-5404 (Eng) / 0132-5187-0132-5257 (BCS), p. 1.

Šušak replied, "You don't have to tell me it stopped, but that we have not a single person in court for something."<sup>156</sup>

42. On about 1 March 1994, Franjo Tudjman and the Herceg-Bosna/HVO leadership entered into the Washington Agreement, which established the Croat-Muslim federation and ended the large-scale open fighting between the two sides.

### **PROZOR MUNICIPALITY**

43. Prozor Municipality is located in central Bosnia and Herzegovina, with a 1991 population of approximately 19,760 persons. In the 1991 census, about 62% of the municipality's inhabitants declared themselves Croat, and 36.5% declared themselves Muslim. The principal town in Prozor Municipality is Prozor. Its 1991 population (about 3,500 persons) was approximately 60% Muslim.

44. The 18 November 1991 proclamation of Herceg-Bosna included Prozor Municipality as part of Herceg-Bosna. By a decision of Mate Boban, the HVO Municipal Government was officially established in Prozor Municipality on 12 August 1992.<sup>157</sup>

45. From August to October 1992, tensions between the HVO and ABiH increased. In mid-October 1992, the Croatian flag was raised on the police station in Prozor town.<sup>158</sup> On the morning of 23 October 1992, the HVO President in Prozor told the Bosnian Muslims, *inter alia*, that the increasing Croat-Muslim tensions would be solved by the Bosnian Muslims' immediate acceptance of Herceg-Bosna/HVO political and military control.<sup>159</sup> The Muslims did not accept the HVO proposal.

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<sup>156</sup> EXH No. P 06930, L007-6202-L007-6249 (Eng) / 0132-3127-0132-3173(BCS), p. 26.

<sup>157</sup> EXH No. P 00302, 0026-6615-0026-6616 / 0050-7549-0050-7550 (Eng); EXH No. P 00382, 0152-7567-0152-7567 / ET 0152-7567-0152-7567 (Eng).

<sup>158</sup> EXH No. P 00608, 0152-5590-0152-5590 / L005-0887-L005-0887 (Eng).

<sup>159</sup> EXH No. P 00682, 0152-7602-0152-7602 / L005-1096-L005-1098 (Eng).

46. On the afternoon of 23 October 1992, Herceg-Bosna/HVO forces attacked the Bosnian Muslims in Prozor town. On 23-24 October 1992, after they had taken control of Prozor town, the Herceg-Bosna/HVO forces plundered, burned and destroyed Bosnian Muslim homes and other properties.<sup>160</sup> See Confidential Amended Annex (hereafter "Annex").<sup>161</sup>

47. On 24 October 1992, Herceg-Bosna/HVO forces rounded up Bosnian Muslims, promising that no harm would be done to them. In fact, the Herceg-Bosna/HVO forces arrested the Bosnian Muslim men and detained them in the Ripci primary school. Some of the Muslim men were kept for several days, while others were kept for several weeks. Herceg-Bosna/HVO forces severely beat a number of the Muslim detainees. (Annex)

48. On about 24 October 1992, Herceg-Bosna/HVO forces attacked Paljike, a predominantly Muslim village approximately one kilometer south of Prozor town. The Herceg-Bosna/HVO forces deliberately destroyed Bosnian Muslim houses and property. HVO forces confined four Bosnian Muslims inside a house and then fired shots and threw hand grenades inside the house, killing two of the civilians. (Annex) The Herceg-Bosna/HVO forces detained all of the Bosnian Muslim men in one house in the village and transferred them the next day to the Ripci primary school. (Annex)

49. On the evening of 24 October 1992, an area HVO commander reported that Prozor town was "ethnically pure," the Muslim population having been detained or having fled.<sup>162</sup> On 26 October 1992, BRUNO STOJIĆ, MILIVOJ PETKOVIĆ, Janko Bobetko and others were informed that the HVO had taken control of Prozor on 25 October, with many casualties on the Muslim side.<sup>163</sup>

<sup>160</sup> EXH No. P 00721, 0152-5584-0152-5584 / ET 0152-5584-0152-5584 (Eng).

<sup>161</sup> The Amended Annex lists victims related to referenced parts of this indictment. [The foregoing is the original text of footnote 1 of the Amended Indictment. References to "Annex" in this brief are quotes and references from the Amended Indictment, and refer to the confidential Amended Annexes that are part of the indictment, which remain confidential and are not attached or disclosed here. Any annex specifically related to this brief are referenced as "Brief Annex."]

<sup>162</sup> EXH No. P 00647, 0151-5592-0151-5594.

<sup>163</sup> EXH No. P 00653, 0151-3855-0151-3856 / L003-0031-L0003-0034 (Eng). The events in Prozor in October 1992 are briefly described in the first report of the UN's Special Rapporteur on the Balkan

50. In November 1992, after negotiations between the Herceg-Bosna/HVO and ABiH authorities, Bosnian Muslim civilians returned to Prozor Municipality. The HVO, however, continued to harass and persecute the Bosnian Muslim population. (Annex)

50.1. For example, on 27 January 1993, the HVO *Rama* Brigade commander issued an order to his military police not to allow Muslims through the checkpoints in Prozor Municipality and to remove Muslims from buses passing through the municipality. Goods and cargo of Muslims passing through the municipality were to be confiscated.<sup>164</sup>

51. On about 17-19 April 1993, Herceg-Bosna/HVO forces attacked several villages, including Parcani, Lizoperci and Tošćanica. In Parcani, Lizoperci and Tošćanica, most inhabitants fled into the surrounding woods for safety when they saw the HVO soldiers approaching the villages. The Herceg-Bosna/HVO forces killed Bosnian Muslim civilians in Tošćanica (Annex), entered the villages, burned houses, destroyed livestock and looted the area.

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conflict, Mr. Tadeusz Mazowiecki (E/CN.4/1993/50; 10 February 1993), EXH No. P 01462 (0006-9738-0006-9896):

30. There are accounts of ethnic cleansing being carried out by Croat forces in the area of Prozor towards the end of 1992. Clashes between Muslim and Croat forces resulted in as many as 3,000 Muslims fleeing into the mountains in October 1992. There are reports of large-scale arbitrary detention of Muslim men, women and children by Croat forces. Muslim detainees were also reportedly asked to sign an oath of allegiance to the Croat authorities. It is estimated that 70 to 80 Muslim homes were destroyed in Prozor even after combat had stopped. Non-violent attempts by Muslim residents to return to the town after the fighting were reportedly blocked by Croats. The freedom of movement of those Muslims who remain in Prozor has reportedly been severely restricted.

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80. Incidents of arbitrary detention of Muslims by Croat forces have been reported during clashes between Croat and [BiH] government forces in and around Prozor, near Gornji Vakuf, in October and November 1992. These include the case of a 14-year-old Muslim boy who was reportedly detained by HVO (Croatian Defence Council) military police. He was reportedly only released four days later when his father and others surrendered their arms.

<sup>164</sup> EXH No. P 01327, 0152-5455-0152-5455.



52. Beginning in the summer of 1993, the Herceg-Bosna/HVO authorities required that all movements of Bosnian Muslims into, out of or within Prozor Municipality be approved by Herceg-Bosna/HVO authorities.<sup>165</sup> (Annex)

53. From June to mid-August 1993, Herceg-Bosna/HVO forces attacked Bosnian Muslim civilians and destroyed and looted Bosnian Muslim civilian property in or about the villages of Duge, Lug, Lizoperci, Skrobućani, Parcani, Munikoze, Podonis (sometimes referenced as Podaniš) and Gračanica. The Herceg-Bosna/HVO forces also attacked Muslim civilians hiding in the region of Prajine and Tolavac, killing six of them. (Annex) Herceg-Bosna/HVO forces burned down the mosque in Skrobućani and the Islamic Community building in Prozor town, and seriously damaged the mosque in Lizoperci.

53.1. The HVO civilian police—as well as soldiers and military police of the Prozor-based HVO *Rama* Brigade were involved in this criminal activity, including arson, theft and looting.<sup>166</sup>

53.2. Criminal activity was systematic, according to a report dated 14 August 1993 that describes extortion, “liquidation” of Muslims and other criminal activity in Prozor Municipality.<sup>167</sup>

54. From spring 1993 until the end of that year, Herceg-Bosna/HVO forces arrested Bosnian Muslim men and took them to various detention centres in Prozor Municipality, including the Secondary School Centre, the Unis building, the military police building located at the fire station and the Ministry of Interior (“MUP”) building. Herceg-Bosna/HVO forces physically abused the Muslim detainees, some of whom were taken away and never seen again. Beginning in July 1993, the HVO transferred some detainees to other detention facilities at Ljubuški, the Heliodrom, Dretelj and Gabela.<sup>168</sup> (Annex)

<sup>165</sup> See, for example, EXH No. P 03557, 0156-1211-0156-1211 / 0156-1211-0156-1211 (Eng); EXH No. P 03887, 0156-1208-0156-1208 / ET 0156-1208-0156-1208; EXH No. P 04310, 0156-1197-0156-1197 / ET 0156-1197-0156-1197; EXH No. P 04663, 0156-1190-0156-1190 / ET 0156-1190-0156-1190.

<sup>166</sup> EXH No. P 03458, 0151-5379-0151-5379.

<sup>167</sup> EXH No. P 04177, 0150-5692-0150-5694.

<sup>168</sup> EXH No. P 04307, R020-7471-R020-7472.

54.1. On 6 July 1993, the *Rama* Brigade Commander issued an explicit order to “Arrest and detain all Muslim men aged between 16 and 60.”<sup>169</sup>

54.2. By 19 August 1993, 167 Muslims were detained at the “Tech School” in Prozor and some of these detainees were taken for forced labour.<sup>170</sup>

55. Herceg-Bosna/HVO forces used Bosnian Muslim detainees to perform forced labour, including construction of military fortifications and digging trenches. Some Muslim detainees died or were injured while performing forced labour.<sup>171</sup> HVO soldiers often beat and humiliated Muslim detainees while they were being held or used as labourers, and on some occasions forced them to perform sexual acts.<sup>172</sup> (Annex)

56. On or about 31 July 1993, Herceg-Bosna/HVO forces took approximately fifty Muslim detainees from the Secondary School Centre to the confrontation line at Makljen Crni Vrh. The Herceg-Bosna/HVO forces tied the detainees together with telephone cable around their arms and necks and forced them to walk in front of HVO soldiers in the direction of ABiH positions near the forest. While the detainees were walking in front of the HVO soldiers, the HVO soldiers opened fire in their direction and at least twenty detainees were killed. The dead detainees were untied and left behind while the HVO forced the remaining detainees to walk toward the forest. (Annex)

57. During July and August 1993, the Herceg-Bosna/HVO forces collected and confined (in houses under HVO control) several thousand Bosnian Muslim women, children and elderly in or about the villages of Lapsunj and Duge and in a part of Prozor town called Podgrade. The various locations were over-crowded and the living conditions were deplorable. Herceg-Bosna/HVO forces frequently robbed, abused and humiliated the

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<sup>169</sup> EXH No. P 03234, 0155-3825-0155-3825.

<sup>170</sup> EXH No. P 04307, R020-7471-R020-7472.

<sup>171</sup> EXH No. P 03831, 0152-5297-0152-5298 / 0300-1526-0300-1527 (Eng).

<sup>172</sup> EXH No. P 04307, R020-7471-R020-7472.

### **Eliminating the Opposition: The HDZ-BiH Party Coup**

20.2. Part of Tudjman's plan was the elimination of internal opposition to his scheme. In the beginning, Tudjman not only had to deal with Muslims who would not voluntarily give up their lands, property and rights to Tudjman, Herceg-Bosna and the HVO, but also with more moderate Bosnian Croats and Bosnian Serbs who supported a genuinely integral, unitary, multi-ethnic and independent BiH. All persons falling within these groups were considered the opposition. The removal or silencing of such persons was initially accomplished by putting persons in HDZ-BiH leadership positions who were committed to, and willing to execute Tudjman's goals.

20.3. The faction of the HDZ-BiH under the leadership of then-party President Stjepan Kljuić, which supported a united, multi-ethnic BiH, began to lose power in the latter part of 1991. This was the result of a campaign of the pro-Herceg-Bosna wing of the HDZ-BiH party, which was comprised of Tudjman's loyal followers, including Mate Boban, Dario Kordić, Božo Rajić, Franjo Boras, Ivan Bender, Ignac Koštroman and others. When Kljuić and others would not go along with the plans for a Greater Croatia, including Herceg-Bosna, they were removed.

20.4. Tudjman's designs toward Bosnia found fertile ground in much of western Hercegovina, where the Croat population often (but not always) formed a majority. Along with like-minded persons from Central Bosnia, a group of more extreme nationalists became the core of the HDZ-BiH on which Herceg-Bosna was built. Tudjman himself said so, noting that in the year and a half from late 1990 to early 1992, "representatives from Western Herzegovina and the Croatian Bosnian Posavina" came to him, and together they formed a common policy which became increasingly different from Kljuić's position.<sup>66</sup>

### **Reclaiming the Banovina: Establishing Herceg-Bosna**

20.5. Throughout the second half of 1991, the pro-Herceg-Bosna faction of the HDZ-BiH gained the upper hand. Boban was selected by, and served at the pleasure of,

<sup>66</sup> EXH No. P 00134 (0302-6237-0302-6249 (Eng) / 0150-8963-0150-8994 (BCS)), p. 1.

Tudjman to place the targeted territories under Croat control.<sup>67</sup> In order to consolidate their control over more moderate elements, the HDZ hard-liners regionalized the party's structures. This allowed them to set up a base from which they could attack the moderates in Sarajevo, and provided the building-blocks for forming the Croatian Community of Herceg-Bosna. The HDZ communities were established as the result of the "Proposal for the regionalization of Municipal Committees of the Croatian Democratic Union of Bosnia and Herzegovina" brought forth at a meeting of the Presidency of the HDZ-BiH on 23 August 1991 in Sarajevo.<sup>68</sup>

20.6. The next step was to place the municipalities in the regional communities into one union. A meeting called by the Herzegovina and Travnik regional communities (headed by Boban and Kordić, respectively) on 12 November 1991 set the stage for the actual decision establishing Herceg-Bosna on 18 November 1991. Herceg-Bosna's founders stated at the meeting: In "proclaiming a Croatian Banovina" and proposing a "referendum on joining the Republic of Croatia," they called for an "active policy which will realise our eternal dream -- a common Croatian State." They categorically stated: "Our people will not accept, under any conditions, any other solution except within the borders of a free Croatia."<sup>69</sup>

21. On 18 November 1991, the more extreme nationalist elements of the HDZ-BiH, led by Mate Boban and Dario Kordić, proclaimed the existence of the Croatian Community of Herceg-Bosna, as a separate "political, cultural, economic and territorial whole," on the territory of Bosnia and Herzegovina. On 28 August 1993, the Croatian Community of Herceg-Bosna declared itself the Croatian Republic of Herceg-Bosna. (As stated earlier, this entity, whether as the "Community" or "Republic," is referenced hereafter as "Herceg-Bosna.") Neither the Republic of Bosnia and Herzegovina nor the international community ever recognised Herceg-Bosna as a State. The Constitutional Court of Bosnia

<sup>67</sup> Indeed, time would show that Tudjman even had the ultimate power, in late 1993, to remove Herceg-Bosna's president, despite Boban pleading for his job, when the international pressure concerning the Herceg-Bosna/HVO leadership became too much for Tudjman to handle. See EXH No. P 06936, R018-0635-R018-0682 (Eng) / R015-7100-R015-7146 (BCS), pp. 29-48.

<sup>68</sup> EXH No. P 00049, 0086-0132-0086-0132 (Eng) / 0085-1235-0085-1236 (BCS).

<sup>69</sup> EXH No. P 00069, 0069-2927-0069-2929 (Eng) / 0068-6058-0068-6058 (BCS) (emphasis added).

Bosnian Muslim women, children and elderly and looted their property. Members of the Herceg-Bosna/HVO forces often raped Bosnian Muslim women.<sup>173</sup> (Annex)

57.1. In a report submitted to the HVO Information and Security Service ("SIS") dated 14 August 1993, the SIS Chief for the HVO *Rama* Brigade noted: "the entire Muslim population from Rama municipality is accommodated in three collection centres, Pograđe, Duge and Lapsunj. The relocation of these Muslims was done by the military police under the command of Ilija FRANJIĆ."<sup>174</sup> The same document also reported:

The arrival of soldiers and civilians into the municipality has caused an increase in crime, prostitution, the removal of Muslims from prison and their liquidation, the extortion of gold, money and other valuables from Muslims, and liquidation after extortion.

Every day women and girls are taken out from the collection centres of Pograđe, Lapčun /as printed/ and Duge, which are not secure, and taken to houses where they are raped, abused and humiliated. For example, naked women have to serve them, they are beaten until they agree to have sex, and some have their hair shaven off.

Men also go to Muslim houses and daughters are stripped naked in front of their fathers and vice versa.

All this has been happening systematically for a considerable time now, even though we informed the HVO /Croatian Defence Council/ President Mijo JOZIĆ, the Brigade Commander and the commanders of the military and civilian police of this in writing.<sup>175</sup>

57.2. Representatives of the international community reported on conditions in the area on 19 August 1993, indicating that in Pograđe, there were 1,760 "old men, women and children."<sup>176</sup> The houses in the area were "filled with a minimum of thirty occupants each. Conditions are poor but there is sufficient food provided by Merhamit."<sup>177</sup> Less than ten days later, however, the international monitors reported: "The Muslims in Prozor no

<sup>173</sup> EXH No. P 04307, R020-7471-R020-7472.

<sup>174</sup> EXH No. P 04177, 0150-5692-0150-5694 / L003-0838-L003-0842. See also EXH No. P 04307, R020-7471-R020-7472.

<sup>175</sup> EXH No. P 04177, 0150-5692-0150-5694 / L003-0838-L003-0842.

<sup>176</sup> EXH No. P 04307, R020-7471-R020-7472.

<sup>177</sup> EXH No. P 04307, R020-7471-R020-7472. Merhamet is an NGO that provided food aid during the war.

longer have access to the Merharmet warehouse in this town. The warehouse was locked by the Croats.”<sup>178</sup>

58. In late August 1993, Herceg-Bosna/HVO forces gathered the several thousand Bosnian Muslim civilians kept in the three villages, loaded them onto trucks and took them to the village of Kučani near the frontline, where they were forced to walk in the direction of ABiH-held territory. As the Muslim civilians walked toward ABiH territory, the HVO fired shots at them, resulting in several Muslims being injured. (Annex)

59. At the end of August 1993 and thereafter, Herceg-Bosna/HVO forces continued to persecute and mistreat Bosnian Muslim civilians who remained in Prozor Municipality, subjecting them to harassment, physical and sexual assault and humiliating acts. (Annex) By December 1993, there were only about 500 to 600 Muslims in Prozor Municipality and by the end of the month, most of them were either in HVO prisons or concentration camps, sent to ABiH-held territory or deported to other countries.<sup>179</sup>

59.1. A further statement of facts concerning Prozor Municipality is contained in Confidential Brief Annex 1.

60. By the foregoing acts, conduct, practices and omissions and as further described in Paragraphs 15-17, 17.1-17.6, 39 and 218-230, JADRANKO PRLIĆ, BRUNO STOJIĆ, SLOBODAN PRALJAK, MILIVOJ PETKOVIĆ, VALENTIN ĆORIĆ and BERISLAV PUŠIĆ are responsible for the following crimes: persecutions, as charged in Count 1; murder (Count 2); wilful killing (Count 3); rape (Count 4); inhuman treatment (sexual assault) (Count 5); deportation (Count 6); unlawful deportation of a civilian (Count 7); inhumane acts (forcible transfer) (Count 8); unlawful transfer of a civilian (Count 9); imprisonment (Count 10); unlawful confinement of a civilian (Count 11); inhumane acts (conditions of confinement) (Count 12); inhuman treatment (conditions of confinement) (Count 13); cruel treatment (conditions of confinement) (Count 14); inhumane acts (Count 15); inhuman treatment (Count 16); cruel treatment (Count 17); unlawful labour (Count

<sup>178</sup> EXH No. P 04598, ZA00-0380-ZA00-0381.

<sup>179</sup> EXH No. P 06569, 0151-4074-0151-4075 / ET 0151-4074-0151-4075 (Eng).

18); extensive destruction of property (Count 19); wanton destruction (Count 20); destruction or wilful damage to institutions dedicated to religion or education (Count 21); appropriation of property (Count 22); and plunder (Count 23).

### **GORNJI VAKUF MUNICIPALITY**

61. Gornji Vakuf Municipality is located in central Bosnia and Herzegovina, with a 1991 population of approximately 25,181 persons. In the 1991 census, about 56% (or 14,063) of the municipality's inhabitants declared themselves Muslim, and about 42.5% (or 10,706 persons) as Croat.

61.1. "According to the 1991 census the population of Gornji Vakuf municipality was 25,000 with 5,000 in the town itself: the Muslims accounted for 56 per cent of the total population and the Croats 43 per cent." *Kordić* TJ, para. 561.

61.2. "Gornji Vakuf is a town of strategic importance at a crossroads en route to Central Bosnia. It is 48 kilometres from Novi Travnik and about one hour's drive from Vitez in an armoured vehicle." *Kordić* TJ, para. 561.

62. The 18 November 1991 proclamation of Herceg-Bosna included Gornji Vakuf Municipality as part of Herceg-Bosna. By a decision of Mate Boban, the HVO armed forces were officially established in Gornji Vakuf on 8 April 1992. In the first few months of its existence, the HVO recruited a large number of Bosnian Croats and set up various checkpoints to control population movement in the municipality.

62.1. "By 19 May (1992), General Bobetko had already established a forward command post in Gornji Vakuf in Bosnia-Herzegovina." *Blaškić* TJ, para. 112.

62.2. "Although the HV soldiers were primarily in the Mostar, Prozor and Gornji Vakuf regions and in a region to the east of Čapljina, there is also proof of HV presence in the Lašva Valley." *Blaškić* TJ, para. 94.

62.3. “There were several sightings of Croatian troops in [Gornji Vakuf and Prozor], and the Chamber infers that some of these troops were being deployed in relation to the conflict in Central Bosnia between the Bosnian Croats and the Bosnian Muslims.” *Kordić TJ*, para. 108.

62.4. On 24 October 1992, the HVO *Ante Starčević* Brigade was ordered to put Gornji Vakuf under HVO control and to assist other HVO brigades in “freeing” the Gornji Vakuf-Prozor route.<sup>180</sup>

63. On or about 24-25 October 1992, shortly after Herceg-Bosna/HVO forces attacked Bosnian Muslims in neighbouring Prozor Municipality on 23 October 1992, Herceg-Bosna/HVO and ABiH forces engaged in fighting in Gornji Vakuf town, and the HVO seized control of several factories and the MUP building.

64. On 6 January 1993, two days after Mate Boban announced that the Herceg-Bosna/HVO authorities had accepted the Vance-Owen peace plan, Herceg-Bosna/HVO forces provoked the predominantly Muslim population in Gornji Vakuf town by raising a Croatian flag. An HVO policeman shot at an ABiH soldier who tried to remove the flag. On 11-12 January 1993, open fighting between the HVO and ABiH broke out and continued in Gornji Vakuf town and several surrounding villages, including Duša, Hrasnica, Uzričje and Ždrimci.

64.1. The HVO *Ante Starčević* Brigade was ordered on 12 January 1993 to engage and clear the BH Army forces in Gornji Vakuf, to secure the Gornji Vakuf-Travnik road and to “prepare one 120 mm howitzer platoon to shell BH Army strongholds in the Muslim part of the town of Gornji Vakuf.”<sup>181</sup>

65. As described above, the Herceg-Bosna/HVO authorities demanded on 15 January 1993 that ABiH forces in large parts of Bosnia and Herzegovina, including Gornji Vakuf, either subordinate themselves to the HVO or withdraw from these areas. On 16 January

<sup>180</sup> EXH P 09594, 0154-2591-0154-2592; see also EXH P 00645, 0154-2586-0154-2586.

<sup>181</sup> EXH No. P 01107, 0154-2908-0154-2909.



1993, the HVO issued a specific ultimatum to the Bosnian Muslims in Gornji Vakuf, demanding, *inter alia*, that the ABiH troops withdraw from the area by midnight, 17 January 1993. The ABiH rejected the HVO ultimatum.<sup>182</sup>

65.1. "On 17 January 1993, Živko Totić, local commander of the HVO, ordered the ABiH commander to place himself under the authority of the HVO. Following the refusal to carry out that order, the HVO launched attacks against the army of Bosnia-Herzegovina on 19 January 1993 at 00:30 hours and set fire to several Muslim villages in the area." *Blaškić* TJ, para. 379.

65.2. "During cease-fire negotiations [in January 1993] at the Britbat HQ, Colonel Andrić, who was representing the HVO, demanded that the Muslim forces lay down their arms and accept HVO control of the town. These demands were unacceptable to the Muslims and Colonel Andrić threatened that if they did not agree, he would flatten Gornji Vakuf." *Kordić* TJ, para. 561.<sup>183</sup>

65.3. Following the breakdown of these negotiations, SLOBODAN PRALJAK sent a message to the ABiH that they would be "annihilated if they do not accept the decisions of the HZ HB."<sup>184</sup>

66. On 18 January 1993, Herceg-Bosna/HVO forces, using heavy artillery, attacked Bosnian Muslim residential areas in Gornji Vakuf town and several surrounding villages, including Duša, Hrasnica, Uzričje and Ždrimci. The HVO attacks and artillery fire killed a number of Bosnian Muslim civilians and destroyed or damaged a substantial amount of Bosnian Muslim property. (Annex)

67. Following the HVO attack on Duša, Hrasnica, Uzričje and Ždrimci, the HVO plundered and burned Bosnian Muslim houses and property in and around these

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<sup>182</sup> EXH No. P 01185, 0154-2979-0154-2981; 0027-4417-0027-4420.

<sup>183</sup> EXH No. P 01163, 0027-4417-0027-4420.

<sup>184</sup> EXH No. P 01162, 0151-5172-0151-5172.

villages.<sup>185</sup> The HVO robbed hundreds of arrested or captured Bosnian Muslims of their valuables and separated the Muslim men from the Muslim women, children and elderly. In most instances, the Herceg-Bosna/HVO forces took the Muslim men away to HVO detention facilities, while they detained the women, children and elderly in one or two houses in the village. During their detention, Muslim men, women, children and elderly were kept in harsh conditions and often mistreated or abused. The HVO actions resulted in hundreds of Muslim civilians leaving the Gornji Vakuf area. (Annex)

68. Following the HVO takeover of Ždrimci around 18 January 1993, the HVO forces separated Muslim women and children from the men and detained them in a few houses for approximately one month. (Annex) During this time, the HVO forces burned down the Muslim houses in the village. The Muslim women and children were often intimidated and harassed by the HVO forces, being forced to say Christian prayers and cross themselves. On one occasion, all of the Muslim women and children were lined up in front of a mekteb in the village. An HVO soldier asked them to take a Koran and set fire to the mekteb. When none of the Muslim women or children would do so, the HVO soldiers burned the mekteb down.

69. Following the HVO takeover of Hrasnica around 18 January 1993, the HVO transferred the Bosnian Muslim population in buses to a furniture factory in Trnovaća which served as an HVO detention center. After the first day of detention, the HVO took the Bosnian Muslim women, children and elderly to Muslim houses in the neighbourhood, where they were held for another two weeks. (Annex) On being released, HVO soldiers told the Muslims to go to ABiH-held territory and live there.

70. The Herceg-Bosna/HVO forces detained approximately sixty military-aged Bosnian Muslim men from Duša and Hrasnica in the Trnovaća furniture factory, for about two weeks. The Bosnian Muslim men were frequently beaten and subjected to physical and psychological abuse, intimidation and inhuman treatment by HVO soldiers. (Annex) After approximately two weeks, the Bosnian Muslim men from Duša were exchanged,

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<sup>185</sup> EXH No. P 01600, 0027-4268-0027-4271.

while the Muslim men from Hrasnica were transferred to an HVO detention facility in Prozor.

70.1. Despite Mate Boban's order to stop fighting on 19 January 1993, hostilities continued until 27 January 1993. *Blaškić* TJ, para. 379.

70.2. "On 19 January 1993 the ECMM reported a meeting with JADRANKO PRLIĆ (President of the HVO), Arif Pašalić (Commander 4th Corps, ABiH) and MILIVOJ PETKOVIĆ (HVO Chief of Staff), which reveals much of the thinking of the HVO at the time. While the parties agreed to an immediate cease-fire in Gornji Vakuf, the main contention between them was reported to be 'the fate of the ... troops in the process ... started in Geneva.'" *Kordić* TJ, para. 563.

70.3. "The HVO was reported as taking for granted that Cantons 8 and 10 will be under its control and wanting to incorporate all armed troops under its command. JADRANKO PRLIĆ blamed the trouble in Gornji Vakuf on Muslim extremists and said that the decision of the HVO to take control of the troops in its areas by 20 January was merely a consequence of the document signed in Geneva." *Kordić* TJ, para. 563.

71. After the HVO takeover of Uzričje around 22 January 1993, the HVO detained the entire Bosnian Muslim population in the only two remaining Muslim houses in the village for several weeks, under horrible conditions. It was winter and each house had only a wood stove, with no electricity. The fifty to sixty Muslims detained in the houses received no food and stayed alive by eating whatever was left in these houses. (Annex) When the HVO released the Muslim detainees, HVO soldiers told the Muslims to go to ABiH-held territory and live there.

71.1. A further statement of facts concerning Gornji Vakuf Municipality is contained in Confidential Brief Annex 2.

72. By the foregoing acts, conduct, practices and omissions and as further described in Paragraphs 15-17, 17.1-17.6, 39 and 218-230, JADRANKO PRLIĆ, BRUNO STOJIĆ,

SLOBODAN PRALJAK, MILIVOJ PETKOVIĆ and VALENTIN ĆORIĆ are responsible for the following crimes: persecutions, as charged in Count 1; murder (Count 2); wilful killing (Count 3); inhumane acts (forcible transfer) (Count 8); unlawful transfer of a civilian (Count 9); imprisonment (Count 10); unlawful confinement of a civilian (Count 11); inhumane acts (conditions of confinement) (Count 12); inhuman treatment (conditions of confinement) (Count 13); cruel treatment (conditions of confinement) (Count 14); inhumane acts (Count 15); inhuman treatment (Count 16); cruel treatment (Count 17); extensive destruction of property (Count 19); wanton destruction (Count 20); destruction or wilful damage to institutions dedicated to religion or education (Count 21); appropriation of property (Count 22); and plunder (Count 23).

**SOVIĆI AND DOLJANI**  
**(JABLANICA MUNICIPALITY)**

73. The villages of Sovići and Doljani are located in the western part of Jablanica Municipality. According to the 1991 census, about 71% of Jablanica Municipality's total population of approximately 12,691 inhabitants declared themselves Muslim, and 18% as Croat. The village of Sovići was predominantly Muslim, while Doljani was predominantly Croat.

74. The 18 November 1991 proclamation of Herceg-Bosna included Jablanica Municipality as part of Herceg-Bosna, despite the fact that the municipality was 71% Muslim.

75. As described above, in early April 1993, the Herceg-Bosna/HVO leadership issued statements calling for all ABiH forces in large areas of Bosnia and Herzegovina, including Jablanica Municipality and Sovići and Doljani, to either subordinate themselves to the HVO or leave these areas by no later than 15 April 1993.

75.1. "Tension increased further, and by mid-April 1993, it turned into a full-scale conflict between the HVO and the ABiH in central Bosnia and in the area relevant to the Indictment (*i.e. municipalities of Jablanica and Mostar*).” *Naletilić* TJ, para. 25.

75.2. “The BH Croats were determined to implement their view of the Vance-Owen Plan and the BH Muslims knew that if they did not agree to the demands of BH Croats, a conflict would be imminent. The ABiH soldiers as well as many of the BH Muslim women and children from Doljani left the village.” *Naletilić* TJ, para. 29.

76. Shortly after the 15 April 1993 deadline passed, and around the same time that Herceg-Bosna/HVO forces attacked other locations in Bosnia and Herzegovina, the HVO attacked Sovići and Doljani, on 17 April 1993. A number of Bosnian Muslim men attempted to defend the villages, but most resistance was quickly overcome by late afternoon on 17 April 1993, when the Bosnian Muslim commander surrendered.

76.1. “The attack on Sovići and Doljani was part of a larger HVO offensive aimed at taking Jablanica, the main BH Muslim dominated town in the area.” *Naletilić* TJ, para. 30.

76.2. “The larger HVO offensive on Jablanica had already started on 15 April 1993.” *Naletilić* TJ, para. 30.

76.3. “The HVO started shelling the village of Sovići early in the morning on 17 April 1993. The shelling came from the direction of Risovac, which is south of Sovići.” *Naletilić* TJ, para. 27.

76.4. “The HVO shelling of Sovići continued uninterrupted until about five in the afternoon on 17 April 1993. The artillery destroyed the upper part of Sovići, as well as some houses.” *Naletilić* TJ, para. 31.

76.5. “The ABiH was fighting back, but at about five p.m. [on 17 April 1993,] Džemal Ovnović, the ABiH commander in Sovići, surrendered.” *Naletilić* TJ, para. 31. “In total, about 170 soldiers were under the command of Ovnović and they belonged to the 4th Corps of the ABiH. Approximately 70 to 75 ABiH soldiers surrendered.” *Naletilić* TJ, para. 31.

76.6. “Despite the surrender by their commander, some ABiH soldiers did not lay down their arms, but instead fled into the hills and woods, or hid in houses and continued to shoot.” *Naletilić* TJ, para. 31.

76.7. “Although on that day the commander of the ABiH in Sovići surrendered to the HVO, many soldiers refused to give up their weapons; a search for these soldiers house by house, and for weapons, was deemed necessary. The fighting, together with the mopping up of ABiH soldiers, continued through 19, 20, 21, and 22 April 1993. The area was thus under occupation beyond any reasonable doubt only by 23 April 1993.” *Naletilić* TJ, paras. 587.

77. On 17-18 April 1993, the HVO collected and detained approximately 70 to 90 military-aged Bosnian Muslim men at a school in Sovići (the “Sovići school”). (Annex) During or about this time, the HVO forces executed at least four Bosnian Muslim men near the Sovići school. (Annex) The HVO forces severely beat, mistreated, and abused other Muslim men. (Annex)

77.1. “[On 17-18 April 1993, the] elementary school in Sovići was the main place of detention and interrogation of the captured ABiH soldiers.” *Naletilić* TJ, para. 32.

77.2. “[On 17 April 1993,] HVO soldiers searched the houses in Sovići for hidden weapons and soldiers. A few civilians were brought to the school but most of the women, children and elderly were ordered to stay in their houses.” *Naletilić* TJ, para. 31.

78. On about the evening of 18 April 1993, the Herceg-Bosna/HVO forces transported many of the Muslim men detained at the Sovići school to Ljubuški Prison, where they continued to be detained. (Annex) While being transported to Ljubuški, the HVO forces continued to beat, abuse and humiliate the Muslim men and forced them to sing nationalistic Croatian songs. (Annex)

78.1. "In the early evening of 18 April 1993, the detained ABiH soldiers were taken out of the Sovići school and were transported to Ljubuški prison, situated in the town of Ljubuški, about 26 kilometres Southwest of Mostar." *Naletilić* TJ, para. 32.

78.2. "The most serious maltreatment of prisoners was committed during their transport from Sovići to Ljubuški on 18 April 1993. The captured soldiers who were assembled in the Sovići school were taken out and loaded on buses in the presence of Čikota. While entering the bus, several of them were mistreated. Muharem Helbet was stabbed in the leg with a knife by Roba. Witnesses Y, Mustafa Kukić and a younger man Hamdija Lulić were hit. On the bus, they were made to sing Croatian nationalistic songs and forced to sing louder and louder." *Naletilić* TJ, para. 350.

78.3. An HVO military police commander reported to the HVO Military Police Administration in Mostar, on 19 April 1993: "The total of 85 individuals were interrogated, all Muslim. . . . At this moment there [are] altogether 84 individuals detained in Ljubuški."<sup>186</sup>

78.4. "Following the transfer of the captured ABiH soldiers to Ljubuški prison, the fighting continued in the hills surrounding Sovići and the HVO attitude hardened." *Naletilić* TJ, para. 33.

78.5. "The widespread and systematic attack against the Muslim civilian population in . . . Sovići and Doljani . . . started with the collection and detention of Muslim civilians after the fierce fighting around Sovići and Doljani and their subsequent transfer to detention centres and, later, to territory controlled by the ABiH." *Naletilić* TJ, para. 238.

79. Commencing on about 18 April 1993 and continuing thereafter, the HVO forces expelled and collected Bosnian Muslim men, women, children and elderly from their homes in the Sovići-Doljani area. The HVO detained several hundred Bosnian Muslim men, women (Annex), children (Annex) and elderly at the Sovići school and in about six or seven houses in the Junuzovići hamlet (the "Junuzovići houses"). The conditions at

<sup>186</sup> EXH No. P 01979, 0154-4032-0154-4032 (BCS); 0304-3017-0304-3017 (Eng).

these locations were harsh and inhumane, with little food or water and inadequate sanitation facilities. The HVO beat, mistreated, and abused many Muslim detainees, including women. (Annex)

80. In the following days, between approximately 18 April and 23 April 1993, other Bosnian Muslim men were either captured by the Herceg-Bosna/HVO forces or surrendered. The HVO forces took a number of these men to the HVO headquarters located at a fish farm near Doljani. There, the Herceg-Bosna/HVO forces mistreated, abused, interrogated and tortured the men. The HVO forces executed some of the Muslim detainees. (Annex)

80.1. "On 20 April 1993, Doljani was shelled and a smaller group of ABiH soldiers, who had resisted the HVO for some days were captured and brought for interrogation at the HVO headquarters, the fish farm. These soldiers received harsher treatment." *Naletilić* TJ, para. 33.

80.2. "Severe mistreatment of Muslim detainees occurred at the fish farm in Doljani on 20 April 1993 . . ." *Naletilić* TJ, para. 353.

81. The HVO forces used Bosnian Muslim men detained in the Sovići-Doljani area for forced labour at various places in the surrounding area, in building military fortifications, digging trenches and carrying ammunition. (Annex)

82. On 18 April 1993 and thereafter (continuing to about 24 April 1993), after all or most of the principal fighting had ended, the Herceg-Bosna/HVO forces deliberately burned or otherwise destroyed most of the Bosnian Muslim homes in Sovići and Doljani.

82.1. In his Report for 23 April 1993 at 12.00 hours, Marko Rožić, Head of the Jablanica HVO Department of Defence, reported to the HVO Defence Minister "Mr Slobodan BOŽIĆ personally":<sup>187</sup>

<sup>187</sup> EXH No. P 02056, 0091-3870-0091-3870 (Eng) / 0049-5011-0049-5011 (BCS); EXH No. P 02052, 0301-5273-0301-5273 (Eng) / 0103-1923-0103-1923 (BCS).



Following armed clashes in the populated villages of Doljani and Sovići, all the members of the BH Army and some civilians were detained and questioned. We have 422 women and children in total and 25 military recruits. Also 94 military recruits were sent to Ljubuški. So far, seven military recruits who had been killed have been buried and they were members of the BH Army in Sovići. After the cessation of hostilities in the area, all Muslim houses were torched, two mosques destroyed according to the orders of senior commanders. Since we do not have the possibility of contacting Muslim representatives, bearing in mind the situation we are in and in respect of our civilians imprisoned in Jablanica, we are asking for your instructions on further conduct towards the prisoners and with regard to negotiations.

82.2. In a weekly report for 17 - 24 April, the ECMM reported (emphasis added):<sup>188</sup>

During the fighting, the HVO have systematically burn [sic] Muslim houses and arrested Muslim civilians. The Muslims are only detained a few Croats and not burn houses. [sic]

The Croatian Community and Authorities at all levels consistently quote the Vance Owen Plan, and HVO will implement the plan without delay and by force if necessary.

82.3. “[M]ost of [the houses of detained Muslim] were torched after 18 April 1993. An evacuation must not involve the movement of protected person to places outside the occupied territory, unless it is physically impossible to do otherwise. The civilians were deliberately transferred to an area outside the occupied territory . . . [T]he BH Muslim civilian population in Sovići was not evacuated.” *Naletilić TJ*, para. 526.

82.4. “The deliberate destruction of houses in Doljani occurred on 21 and 22 April 1993 and, as in Sovići, only BH Muslim houses were targeted.” *Naletilić TJ*, para. 585.

82.5. [T]he BH Muslim buildings were not targeted randomly but on a discriminatory basis. The destruction of the houses was not a simple revenge action in the absence of discriminatory intent . . . The destruction of the BH Muslim houses in Doljani, was exclusively aimed at the BH Muslim civilian population, indicating the discriminatory character of the measure.” *Naletilić TJ*, para. 706.

<sup>188</sup>

EXH No. P 02090, 0061-0927-0061-0927.

82.6. "The destruction was not justified by military necessity as it occurred both in Sovići and Doljani after the actual shelling had ceased. The Chamber is satisfied that the houses in Sovići and Doljani were destroyed in violation of the law or customs of war under Article 3(b) of the Statute." *Naletilić* TJ, para. 589.

83. Between about 18 April and 22 April 1993, the HVO forces deliberately destroyed two buildings dedicated to the Muslim religion in Sovići and Doljani (including at least one mosque).

83.1. "[T]he Chamber is satisfied that the mosque was destroyed between 18 and 20 April 1993. Both the mosque in Sovići and the one in Doljani were destroyed." *Naletilić* TJ, para. 607.

84. On 17 April 1993 and for several days thereafter, the HVO authorities blocked international observers and peace-keeping forces from entering the Sovići-Doljani area, although much of the destruction and burning houses could be seen from a distance.

85. From 17 April 1993 to approximately 4 May 1993 and thereafter, Muslim property was confiscated, stolen, plundered and robbed by Herceg-Bosna/HVO members. (Annex) An HVO authorities' decision on 13 May 1993 declared that all property of the "exiled Muslim population" was HVO property.<sup>189</sup>

85.1. In the SPABAT Intsum No. 28 (covering 16 April to 30 April 1993), the Spanish Battalion set out a fuller summary of the tragic events in the villages around Jablanica and Sovići-Doljani:<sup>190</sup>

The HVO units apparently attacked the villages of Sovići (YJ 0943), Doljani (YJ 1441) and Slatina (YJ 1842). The Muslims in the latter village were able to flee to Jablanica and they may have mined the town. This was not the case in Sovići

<sup>189</sup> See Decision dated 13 May 1993 by Marko Rozić, Head of the HVO Defence Office in Jablanica, EXH No. P 02359 (0110-5368) ("All movable and immovable property of the exiled Muslim population shall be considered war booty and shall belong to the Croatian Defence Council of the HZ-HB.")

<sup>190</sup> EXH No. P 02185, 0190-7550-0190-7560.

and Doljani. It is suspected that there have been many casualties among the Muslim population which is apparently surrounded by the HVO forces.

According to the testimony of the Spanish platoon which reconnoitred the area, Doljani is half-destroyed and although they reached the vicinity of Sovići, they were unable to enter it because HVO check-points barred their way. They were nevertheless able to see a great cloud of smoke coming out of the village. The HVO in turn reported that the Muslim families from Sovići, Doljani and Slatina had been sent to Jablanica, with the exception of men who were interned in prisons. Thus the HVO seems to be dominating at present the mountains to the west of Jablanica, having reached positions some 5 km from the town.

There are reports that the HVO forces in this area are led by Tuta, an adventurer who has great influence on BOBAN and PETKOVIĆ and who is resolved to continue the offensive until the 'liberation' of the Croatian villages along the route to, but without reaching, Konjic itself which, as he estimates, will fall easily into the hands of Serbs. . . .

86. The Herceg-Bosna/HVO forces continued to hold Bosnian Muslim women, children and elderly at the Sovići school and the Junuzović houses until approximately 4-5 May 1993, when the HVO forces transported 400 to 500 Bosnian Muslim civilians toward Gornji Vakuf. There, the HVO forces unloaded the Muslim women, children and elderly and told them to walk toward ABiH-controlled territory. (Annex)

86.1. "There was a plan implemented in relation to the transfer of the civilians from Sovići. An essential part of the plan was the detention of the BH Muslim civilians, to be able to transfer them subsequently . . . Mladen Naletilić [Tuta] was aware of this plan and acted according to it." *Naletilić TJ*, para. 648, 711.

86.2. "There was a plan early on in the operation to have the BH Muslim civilian population transferred from Sovići, intending to use them in exchange for BH Croat prisoners taken by the ABiH elsewhere. The plan was implemented." *Naletilić TJ*, para. 529.

86.3. "The general situation in Sovići following the attack is that the women, children and older men were detained for at least ten days prior to the transfer; buses were provided by the HVO for the transfer and there was a general discriminatory threat from the HVO directed against the BH Muslims in Sovići." *Naletilić TJ*, para. 525.

86.4. "The transfer of the civilian population from Sovići was part of a plan drawn up by amongst others, Mladen Naletilić [Tuta]." *Naletilić TJ*, para. 531.

86.5. "Mladen Naletilić [Tuta] was in command of the forces which on the days following 19 April 1993, "confined the whole of the BH Muslim civilian population of Sovići, around 450 women and children and elderly, to the hamlet Junuzovići, and forcibly transferred them subsequently to the territory of Gornji Vakuf under control of the ABiH." *Naletilić TJ*, para. 522.

86.6. Starting on 18 April 1993, the civilians were forced by HVO soldiers to gather in the school in Sovići or in one of the six or seven houses in the Junuzovići hamlet, while the BH Croat civilians remained in their houses. In total, at least 400 BH Muslim civilians were detained. They were guarded by HVO soldiers - elderly men were mostly held in the school, while women and children were held in the Junuzovići houses." *Naletilić TJ*, para. 34.

86.7. "The detention of the BH Muslim civilians in Sovići and Doljani was unlawful and discriminatory." *Naletilić TJ*, para. 710.

86.8. "There was a widespread or systematic attack against civilians in Sovići. The civilians from Sovići were detained collectively. The measure was directed only towards civilians of Muslim ethnicity. The confinement lasted a considerable amount of time. There is no indication that it was absolutely necessary for the security of the Detaining Power or that it was justified on any other legal basis." *Naletilić TJ*, para. 646.

86.9. "The BH Muslim civilians of Sovići were forced or threatened by force by HVO soldiers to leave their homes." *Naletilić TJ*, para. 524.

86.10. "On 18 April 1993 [the Muslim women and children] they were forced by armed soldiers to leave their houses. They were then held under armed guard in crowded housing with approximately seventy people to each house. No imperative military reasons existed. When a genuine evacuation takes place, there is an obligation to bring the

population back when the hostilities have ended. No attempts to return them were made.”  
*Naletilić* TJ, para. 526.

86.11. On 4 May 1993, the Chief of the HVO Main Staff, the accused MILIVOJ PETKOVIĆ, ordered the HVO Herceg Stjepan Brigade in Doljani: “Release all detained civilians in Doljani and Sovići, keep men fit for military service.”<sup>191</sup>

86.12. “On 3 May 1993, a Joint Commission with General PETKOVIĆ representing the HVO and General Halilović representing the ABiH together with international representatives and medical personnel visited Sovići and Doljani.” *Naletilić* TJ, para. 35.

86.13. “The civilians were transferred from Sovići during the night between 4 and 5 May 1993.” *Naletilić* TJ, para. 526.

86.14. “The next evening [on 4 May 1993], the civilians held in the school and the Junuzović houses were called out and transported to somewhere close to Gornji Vakuf, which was an area controlled by the ABiH.” *Naletilić* TJ, para. 35.

86.15. On 5 May 1993, the HVO in Gornji Vakuf reported to the President of the HVO Government in Mostar: “Today at around 09:00 hours approximately three hundred persons were brought to the Sićaj petrol station in Pidriš, and there they were simply dumped out of 6 buses and 2 cars. These people are Muslims from Doljani and Sovići.”<sup>192</sup>

86.16. “The BH Muslim houses in the area were burnt to make sure that there would be no return of the Muslim population.” *Naletilić* TJ, para. 238.

86.17. A further statement of facts concerning Sovići and Doljani is contained in Confidential Brief Annex 3.

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<sup>191</sup> EXH No. P 02182, 0083-7510-0083-7510.

<sup>192</sup> EXH No. P 02191, 0460-4167-0460-4167.

87. By the foregoing acts, conduct, practices and omissions and as further described in Paragraphs 15-17, 17.1-17.6, 39 and 218-230, JADRANKO PRLIĆ, BRUNO STOJIĆ, SLOBODAN PRALJAK, MILIVOJ PETKOVIĆ, VALENTIN ĆORIĆ and BERISLAV PUŠIĆ are responsible for the following crimes: persecutions, as charged in Count 1; murder (Count 2); wilful killing (Count 3); inhumane acts (forcible transfer) (Count 8); unlawful transfer of a civilian (Count 9); imprisonment (Count 10); unlawful confinement of a civilian (Count 11); inhumane acts (conditions of confinement) (Count 12); inhuman treatment (conditions of confinement) (Count 13); cruel treatment (conditions of confinement) (Count 14); inhumane acts (Count 15); inhuman treatment (Count 16); cruel treatment (Count 17); unlawful labour (Count 18); extensive destruction of property (Count 19); wanton destruction (Count 20); destruction or wilful damage to institutions dedicated to religion or education (Count 21); appropriation of property (Count 22); and plunder (Count 23).

### **MOSTAR MUNICIPALITY**

88. Mostar Municipality is located in southwest Bosnia and Herzegovina, with a 1991 population of approximately 126,628 persons. In the 1991 census, approximately 34.6% of the municipality's inhabitants (43,856 persons) declared themselves Muslim, approximately 33.9% (43,037 persons) declared themselves Croat; 18.8% (23,846 persons) as Serb; and 12.3% (15,889) as Yugoslav or "other." The town of Mostar ("Mostar town") is the historical capital and largest city of that part of Bosnia and Herzegovina known as Herzegovina. As of 1991, Mostar town was approximately 34.2% Muslim, 28.7% Croat, 18.6% Serb, and 18.5% Yugoslav or "other."

88.1. "Mostar is the largest town in South-eastern Bosnia and Herzegovina and the historic capital of Herzegovina. According to the 1991 census the population of the municipality of Mostar was comprised of 126,628 inhabitants, of which 34.6% were BH Muslims, 33.9% BH Croats and 18.8% Serbs. The remainder were "Yugoslavs" and others." *Naletilić* TJ, para. 37.

89. The 18 November 1991 proclamation of Herceg-Bosna included Mostar Municipality as part of Herceg-Bosna. Despite the fact that Mostar town was only about 29% Croat, the Herceg-Bosna/HVO authorities claimed Mostar as Herceg-Bosna's capital.

90. As described above, Herceg-Bosna/HVO authorities, in 1992, engaged in a campaign to control and "Croatise" Mostar Municipality (including Mostar town), with increasing persecution and discrimination aimed at the municipality's Bosnian Muslim population. By mid-1992 and continuing into 1993, Bosnian Muslims, with few exceptions, were removed from positions in the municipal and local governments; humanitarian aid was distributed to the Muslims' disadvantage; and Muslims in general were increasingly harassed.

90.1. "Mostar was politically dominated by the BH Croats." *Naletilić* TJ, para. 37.

90.2. "Control in Mostar was exercised on the military side by the HVO and on the civilian side by the HZ H-B, however, these institutions were closely interrelated." *Naletilić* TJ, para. 37.

91. In October 1992, Herceg-Bosna/HVO authorities ordered the HVO Military Police to tighten its control over Mostar town. Herceg-Bosna/HVO forces occupied government and public buildings, disarmed Muslim soldiers, took over the refugee centers and raided the local headquarters of the leading Muslim political party, the Party of Democratic Action ("SDA"). The Herceg-Bosna/HVO authorities took the Muslim radio station off the air and imposed a curfew.

92. As described above, the Herceg-Bosna/HVO authorities demanded on 15 January 1993 that ABiH forces, including those in Mostar Municipality, either subordinate themselves to the HVO or withdraw from the area. In mid-January 1993, the Herceg-Bosna/HVO authorities raised the Mostar HVO forces' combat readiness to the highest level and imposed a curfew. All Muslim transports of weapons and military equipment were ordered confiscated.

93. As described above, the Herceg-Bosna/HVO authorities made a similar demand in early April 1993, with a deadline of 15 April 1993. On that same day, 15 April 1993, the HVO Mostar Municipal Government adopted a "Decision on the Statutory Rights of Refugees and Expelled and Displaced Persons in Mostar Municipality," which redefined the criteria for determining an individual's status as a "refugee," at a time when being classified as a "refugee" was a prerequisite to obtaining humanitarian aid. At that time, there were approximately 19,000 refugees in Mostar town, nearly 18,000 of whom were Muslim, and the effect of the Decision was to disqualify approximately 10,000 persons from receiving aid.

93.1. "The Office for Displaced Persons and Refugees of the HVO and HZ H-B issued a decision setting 9 May 1993 as the deadline for people who had taken refuge in Mostar following upheavals in Eastern Bosnia and Herzegovina in abandoned apartments (*i.e.* BH Muslims) to vacate them, without being given an alternative place to live. In addition, they would not be eligible for the humanitarian assistance given to refugees. This decision affected approximately 10,000 BH Muslims." *Naletilić* TJ, para. 43.

94. On the morning of 9 May 1993, Herceg-Bosna/HVO forces attacked Bosnian Muslims in Mostar town. As part of this operation, the Herceg-Bosna/HVO forces attacked the Vranica building complex, which was an apartment complex in West Mostar housing a large number of civilians. A part of the basement in one building serving as a local ABiH headquarters, with a small number of ABiH soldiers. On 10 May 1993, the Vranica building's civilian and military inhabitants surrendered to the HVO. Most of the military-aged Bosnian Muslim men were detained and taken to the Tobacco Institute, some to the Mechanical Engineering Faculty building, and some to the police station (or "MUP building"). The other Bosnian Muslim inhabitants were taken to the Velež football stadium and from there to the Heliodrom. The Bosnian Croat inhabitants were released. Muslim men taken to the Tobacco Institute -- where they were presented to a gathering of senior Herceg-Bosna/HVO officials and officers -- were beaten, mistreated and abused by the Herceg-Bosna/HVO forces. (Annex)



94.1. The HVO attack on Mostar on 9-10 May 1993 was planned and prepared in advance, at the same time that HVO leaders were promising peace to international observers. An HVO order dated 7 May is one example: "[I Order] 1. That the 1st Ljubuški Battalion, and then the 2nd Ljubuški Battalion, the Bekija Battalion, Grude, and the Brtnja Battalion, Čitluk, should each provide one company in a state of combat readiness, with at least 180 (one hundred and eighty) soldiers. 2. The deadline for the execution of this order is 0800 hours on 8 May 1993."<sup>193</sup>

94.2. The UNPROFOR forces in the area, the Spanish Battalion, in a report concerning the period April to September 1993 described the events as follows:

The tension between the HVO and the BiH units had been fighting hand in hand against the Serbs in previous campaigns, has been growing in the city since the end of March.

\* \* \*

The situation is degenerating very rapidly. It comes to a head on May 9th, the date which may be considered as the start of all the hostilities between the HVO and BiH units.

That date, 05:00, the HVO started to shell very intensively the Muslim quarter and all those buildings which remained under the Muslim control in the Croatian area such as, e.g., the HQ of the BiH 4th Corps (it sounds funny but it was less than 300 m from the HQ of the HVO Operative Zone) which was totally destroyed. The shelling was accompanied by fighting along the whole confrontation line (the Boulevard) but primarily in the neighborhood of TITO's Bridge. Alongside these military operations the HVO proceeds to detain all Muslims who lived in the Croatian zone. The prisoners are all brought to the football pitch and from there taken to the heliport by buses.

When the fighting started, the SPABAT Company which was in the area withdrew to safe zones in the vicinity of the Croatian hospital. However, at 1200B, at the request of the HVO they are compelled to leave the city. As of that day it is impossible to reach individual companies in MOSTAR since the HVO controls keep the city under total siege.<sup>194</sup>

94.3. ECMM also reported its observations, in a report on 17 May 1993:

The fighting in Mostar began on Sunday 9th of May, with an HVO strong attack on the BH army location on the west bank of the Neretva river, which was majoritarily

<sup>193</sup> Order by HVO Commander Ivica Tomić dated 7 May 1993, EXH No. P 02219 (0303-2173).

<sup>194</sup> EXH No. P 04698, R016-6291-R016-6304, pp. 2-4.

[sic] but not completely controlled by HVO. The HQ of the 4th BH Corps was so destroyed as well as other symbolic places, like the location of the SDA. . . . Even if the Bosnian Croats claimed that they have been provoked, there is no doubt for all observers, UNPROFOR and ECMM, that the attack was planned, precisely organised and conducted. Two proofs of that are the early systematic displacement of more than 1800 Muslims of Mostar with buses towards a jail out of Mostar (the Heliobrom), the use of a huge amount of artillery . . . <sup>195</sup>

94.4. In his second report to the United Nations, Special Rapporteur Tadeusz Mazowiecki described the events as follows (emphasis added): <sup>196</sup>

27. On the night of 9 May, large numbers of Muslim civilians, together with a much smaller number of Serbs, were rounded up in their homes and are now detained by Croat forces in a disused aircraft factory south of the town [the Heliobrom]. On 2 May, international relief workers were allowed very brief access to this detention camp where between 1,500 and 2,000 people are now held. The detainees include women and children who are kept separated from the male detainees and many are concerned as to the whereabouts of family members as no communication is allowed between the groups.

28. Conditions in the former factory and the adjacent buildings being used to house the detainees are reported to be squalid, especially for the men. Up to 60 people are held in one room, frequently without mattresses or blankets to sleep on. Some rooms in the men's quarters have insufficient space for the men to sleep fully outstretched . . .

\* \* \*

30. The Croat forces running the camp argue that the women and children are free to leave and were brought to the camp to protect them from the heavy fighting in the city. The Croat forces running the camp have stated that those whose homes have not been destroyed by the fighting will be able to return there when the fighting ceases. The others would be kept at their current location.

31. It is certainly the case that there has been heavy fighting in the city. The vast majority of the detainees are Muslim with a handful of Serbs and it is reported that their Croat neighbors living in the same apartment blocks were not so detained. Selection for arbitrary detention was clearly made on the basis of ethnicity. Detainees have alleged that they were forcibly removed from their homes with only a few minutes' notice with some people being removed in their underwear. . . .

\* \* \*

36. From this behaviour it would appear that there is a deliberate attempt to partition Mostar, the capital of the Herzegovina area, into Croat and Muslim areas and then to exchange populations between the provinces which the peace plan proposed by the International Conference on the former Yugoslavia accords to the respective parties.

\* \* \*

<sup>195</sup> EXH No. P 02273, 0190-7561-0190-7565 (Eng) / 0302-4892-0302-4896 (BCS).

<sup>196</sup> Second Mazowiecki Report (UN Special Rapporteur; E/CN.4/1994/4; 19 May 1993), EXH No. P02458 (0008-5389-0008-5397).

38. The information gathered in the preparation of this report demonstrates that the recent eruption of hostilities between Croat and government forces in central Bosnia and Herzegovina involved massive and systematic violations of human rights and international humanitarian law.

39. The forced displacement and detention of civilians, arbitrary executions, attacks on towns as well as the destruction of villages and religious sites have become part of a deliberate and systematic policy of ethnic cleansing conducted by Croat forces in that region. . . .

\* \* \*

41. The credibility of the parties' commitment to human rights will be tested by their willingness to bring to justice the perpetrators of such atrocities as are outlined in this report.

42. Commitments which all parties to the conflicts in Bosnia and Herzegovina have repeatedly entered into to respect human rights and international humanitarian law, including written agreements concluded upon international mediation, have been systematically violated.

94.6. "In the early hours of 9 May 1993, the HVO attacked Mostar using artillery, mortars, heavy weapons and small arms." *Naletilić TJ*, para. 39.

94.7. "On 9 May 1993, the HVO commenced an attack on Mostar. BH Muslim civilians -- women, children and the elderly -- were rounded up from their houses and evicted. They were intimidated, and were forced out of their homes at gunpoint, accompanied by blows from the soldiers and rifles. These BH Muslim civilians were targeted specifically, which is evident as their BH Croat neighbours were not made to leave their houses. Many of those evicted were subsequently detained." *Naletilić TJ*, para. 649.

94.8. "The HVO attack had been well prepared and planned." *Naletilić TJ*, para. 39.

94.9. "The HVO controlled all roads leading into Mostar and international organisations were denied access." *Naletilić TJ*, para. 39.

94.10. "Radio Mostar announced that all BH Muslims should hang out a white flag from their windows." *Naletilić TJ*, para. 39.

94.11. "Both the HVO and ABiH had military formations positioned in the town. Mostar was divided into a Western part, which was dominated by the HVO and an Eastern part

where the ABiH was largely concentrated. However, the ABiH had its headquarters in West Mostar in the basement of a building complex referred to as Vranica.” *Naletilić* TJ, para. 39.

94.12. “One of the targets was the ABiH headquarters in the Vranica building, which also was residential housing for about 200 civilians.” *Naletilić* TJ, para. 40.

94.13. “Approximately 30 to 35 Muslim men from the Vranica building were made to walk to the Tobacco Institute.” *Naletilić* TJ, para. 41.

94.14. “The Muslim men of military age [from the Vranica building] were separated from the rest of the group and marched to the Ministry of Defence building.” *Naletilić* TJ, para. 377.<sup>197</sup>

94.15. “At the Tobacco Institute, Mladen Naletilić [Tuta] and other high HVO and HZ H-B representatives like the Mostar operational zone commander Miljenko Lasić, his deputy Petar Zelenika, the Minister of Interior of HZ H-B Branko Kvesić, the Minister of Defence of the RBiH at the time Božo Rajić, the commander of the 4th HVO Battalion at the time Mladen Mišić, and the commander of the 3rd HVO Brigade, Ivan Primorac, were awaiting the BH Muslim prisoners.” *Naletilić* TJ, para. 144.

94.16. “At the Tobacco Institute, “witness AA was recognised by his former superior. Mladen Naletilić [Tuta] was also there. His former superior approached witness AA and asked him why he had left his employment without asking him. Upon witness AA’s explanation that he did not want to shoot at his own people, his former superior called over Mladen Naletilić, telling him that witness AA had formerly been with him and that he had now turned his weapon against the Croats. Mladen Naletilić approached witness AA and started hitting him with his Motorola on the left side of his forehead, swearing at his “balija” mother. After witness AA told him that his mother was a Catholic, Mladen Naletilić struck him several times more with the Motorola. Mladen Naletilić then drew a

<sup>197</sup> The HVO Department or Ministry of Defence at the time was located at the Tobacco Institute. In this context, references to the Ministry of Defence and the Tobacco Institute concern the same location.

cross on witness AA's forehead with the aerial of the Motorola and stated that he sentenced him to death to serve as an example to others." *Naletilić* TJ, para. 378.

94.17. "Mladen Naletilić was present when KB soldiers under his command, among them Juka Prazina, maltreated the group of prisoners who had been taken from the Vranica building to the Tobacco Institute in Mostar by swearing at them, shooting at them and beating several of them. The random beating of and shooting at the prisoners created an atmosphere of terror that caused severe physical and mental suffering to the prisoners. The mistreatment committed by the soldiers under Mladen Naletilić's command was therefore sufficiently severe to amount to crimes under the Statute." *Naletilić* TJ, para. 394.

95. Twelve of the military-aged Muslim men who surrendered at the Vranica building on 10 May 1993 were taken to an HVO military police headquarters at the Mechanical Engineering Faculty building, where they were interrogated, severely beaten and humiliated. (Annex) One of the detainees had an ear cut off while being beaten and was subsequently shot to death. After the beatings, two HVO soldiers entered the room where the men were held and fired numerous shots at the detainees at close range. None of the twelve Muslim men were ever seen again.

96. Also commencing on 9 May 1993, at about the same time that the HVO attacked the Vranica building complex, and continuing on 10 May 1993, the HVO rounded up and detained hundreds of Bosnian Muslim men, women, children and elderly living in the part of Mostar west of the Neretva River. Some of the Bosnian Muslims were expelled into east Mostar, while many others were taken to the Velež football stadium, and then either transported or forced to walk to the Heliodrom (described below), just south of Mostar. Approximately 1,800 Bosnian Muslim civilians were detained by the Herceg-Bosna/HVO forces at the Heliodrom for varying periods, up to about ten days. Some Muslim detainees were transferred to Ljubuški Prison, while others continued to be held at the Heliodrom, notwithstanding an internationally negotiated cease-fire agreement. (Annex)

96.1. “Hundreds of people were taken to the Velež Stadium. Most of them ended up at the Heliodrom, west of Mostar in Radoč, which became the main HVO detention centre in the area. In total, between 1,500 and 2,500 Muslim civilians were rounded up and detained at the Heliodrom detention centre on that day.” *Naletilić* TJ, para. 45.

96.2. “BH Muslim civilians were transported to the Velež Stadium in Mostar and then taken to the Heliodrom. The people who were arrested and detained were not given a reason for their detention.” *Naletilić* TJ, para. 650.

96.3. “The prisoners at the Heliodrom had been arrested without being given a reason and did not know why they were detained.” *Naletilić* TJ, para. 46.

96.4. “The arrest and detention of the civilian population in Mostar was carried out on a discriminatory basis, as the BH Muslim population was targeted specifically while their Croat neighbours were left unharmed. It was unlawful since there was no legal basis for this measure.” *Naletilić* TJ, para. 651.

96.5. “The forcible transfers were part of a well-organised campaign aimed at removing the BH Muslim civilian population from the West bank of Mostar.” *Naletilić* TJ, para. 672.

96.6. “The forcible transfers were carried out on discriminatory grounds as BH Muslims were selected and forced out of their homes while their BH Croat neighbours were allowed to stay.” *Naletilić* TJ, para. 672.

96.7. “The street names of West Mostar were changed after the expulsion of the BH Muslim population.” *Naletilić* TJ, para. 240.

96.8. “The forcible transfers from Mostar amount[ed] to persecution.” *Naletilić* TJ, para. 711.

96.9. "The beatings of the BH Muslim civilians in the course of evictions amount[ed] to persecution . . ." *Naletilić* TJ, para. 712.

96.10. "The mental harm was inflicted on the victims on discriminatory grounds, since only the BH Muslim population of Mostar was forcibly evicted and mistreated." *Naletilić* TJ, para. 676.

97. On or about 9 May 1993, Herceg-Bosna/HVO forces blew up the Baba Besir Mosque (also known as the Balinovac Mosque) in the Balinovac district, in west Mostar. On or about 11 May 1993, Herceg-Bosna/HVO forces dynamited the Hadži Ali-Beg Lafo Mosque (sometimes known as the Hadji Ali-Bey Lafa Mosque) at Pijesak, also in west Mostar.

97.1. A local Catholic bishop, Ratko Perić, protested the destruction of the Balinovac mosque to HVO commander Milijov Petković on 10 May 1993: "It is my duty as a Bishop to express on behalf of the Catholic Church in Mostar and on behalf of human and Catholic morality my deep disapproval of the destruction of the Muslim mosque on Balinovac, which occurred several minutes ago. \* \* \* [I am] begging you with all my churchly authority to prevent, as regards the Croatian side, any destruction in these urban clashes of Islamic facilities and the cultural monuments of this town in general, regardless of their origin." <sup>198</sup>

98. The HVO actions on 9-10 May 1993 and thereafter resulted in Mostar town being divided by an HVO-ABiH confrontation line, running north and south along the Bulevar and Šantićeva Street, just west of the Neretva River. Most of the Bosnian Muslims were surrounded in a small area located on the east side of the river, together with a narrow strip of buildings on the west bank (hereafter "East Mostar"). The Bosnian Croats and HVO occupied most of the west bank ("West Mostar") and the areas north and south of the Muslim enclave, with Bosnian Serb forces to the east.

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<sup>198</sup> EXH No. P 02264, 0150-7796-0150-7796.

99. From 9 May 1993 and continuing to April 1994 and thereafter, the Herceg-Bosna/HVO forces engaged in the systematic expulsion and forcible transfer of thousands of Bosnian Muslim civilians from West Mostar. During and in the course of these expulsions, often at gunpoint, Bosnian Muslims were routinely beaten, sexually assaulted, shot at, robbed, had their property confiscated and were otherwise mistreated. Some of the evicted Bosnian Muslims were taken to HVO prisons and concentration camps and detained there, while many others were forced across the confrontation line into East Mostar. (Annex)

100. During and throughout this time, from May 1993 forward, the Herceg-Bosna/HVO authorities and forces allowed some Bosnian Muslims in West Mostar to go to ABiH-controlled parts of Bosnia and Herzegovina or other countries, so long as they left Herceg-Bosna. Hundreds of Bosnian Muslims were allowed to leave Mostar only if they signed a statement, required by the Herceg-Bosna/HVO authorities, that they "voluntarily" relinquished all of their belongings to the HVO. The homes and flats from which the Bosnian Muslims were evicted were assigned by the Herceg-Bosna/HVO authorities to HVO soldiers and Bosnian Croat civilians. (Annex)

101. While many Bosnian Muslims who were arrested and detained on 9-10 May 1993 were released after being held a short time, the Herceg-Bosna/HVO authorities and forces continued to evict Bosnian Muslims from their homes and flats in West Mostar, in the second half of May 1993. (Annex)

101.1. "The harassment of BH Muslims by forcing them out of their apartments and detaining them became common and widespread from 9 May throughout the autumn of 1993." *Naletilić TJ*, para. 48

101.2. "During the period 9 May 1993 to November 1993 unlawful transfers of BH Muslim civilians from West Mostar to East Mostar were regular and a common occurrence." *Naletilić TJ*, para. 542.



101.3. "BH Muslim civilians were forced out of their apartments and detained mostly at the Heliodrom detention centre and this became a consistent pattern from 9 May 1993 until November 1994." *Naletilić* TJ, para. 535.

101.4. "A general and systematic assault against BH Muslim civilian property was being carried out in connection with the military attack on Mostar since 9 May 1993." *Naletilić* TJ, para. 624.

101.5. "The women and children who were detained at the Heliodrom were released after a few days, pursuant to the cease-fire agreement entered into between the ABiH and the HVO." *Naletilić* TJ, para. 536.

101.6. "Many of the persons detained at the Heliodrom who were released, were subsequently detained again." *Naletilić* TJ, para. 536.

101.7. "A transfer of about 300 Muslim civilians to the eastern side of Mostar occurred on 25 May 1993. The civilians were taken by the HVO to East Mostar." *Naletilić* TJ, para. 547.

101.8. The unlawful arrest and detention of civilians in Mostar [was] persecution . . ." *Naletilić* TJ, para. 710.

102. In about mid-June 1993, Herceg-Bosna/HVO forces expelled and forcibly evicted a large number of Bosnian Muslims from their homes in West Mostar. (Annex)

102.1. The European Community Monitoring Mission ("ECMM") reported on 8 June 1993:<sup>199</sup>

. . . The HVO now tries by many means to take over power in Mostar as the capital of province 8, inspite of what has been signed on the 12th May. . . . The HVO uses many means of terrorising the Muslims on West- and Eastbank to come to a volunteer handover of the people. . . . Recommendations: A. Political warnings against HVO/HDZ on very high level not to terrorise the Muslim population or to attack the town by military means. \* \* \* To put all this together into an

<sup>199</sup> EXH No. P 02710, 0112-1137-0112-1141.

emotional word: Do something now for the Muslim people in Mostar or do it never.

102.2. In another report a few days later, on 14 June 1993, the ECMM observed:<sup>200</sup>

. . . again, since Saturday afternoon, Muslim families are being expelled by HVO soldiers from their homes via SE-quarter of Donja Mahala to the East Bank. Approximately more than 100 Muslim people were Sunday night and today expelled . . . On most of their apartments there were HVO stickers found or the apartments were occupied by HVO soldiers. \* \* \* The ethnic cleansing on the West Bank of Muslim families by HVO still goes on . . .

102.3. "An International Observer stated that first the transferred persons were mostly Muslims who were living in abandoned Serb flats, but by mid June 1993 the evictions had started to become more violent in character primarily targeting long-term BH Muslim residents of Mostar. The transfers were carried out well orchestrated and well organized. HVO soldiers would come to a building, shouting out that all Muslims had to leave the building and they would go from flat to flat." *Naletilić TJ*, para. 540.

102.4. "The forcing of BH Muslims civilians to the Eastern Side of Mostar escalated during the month of June 1993. On 13 and 14 June 1993, the HVO expelled witnesses WW together with between 88 and 100 BH Muslims from the DUM neighbourhood in West Mostar." *Naletilić TJ*, para. 549.

102.5. "A memorandum by an international observer states that evictions of BH Muslims on 12 and 13 June 1993 took place in upper middle-class neighbourhoods where the most desirable properties were to be found. In particular, on 13 June 1993 around 5 p.m., thirty soldiers evicted BH Muslims from their apartments, and proceeded to take away the name-plates on the doors. An ECMM report of 14 June 1993 also corroborates these findings, describing expulsions and dispossession of apartments in the DUM and Vatikana areas of Mostar." *Naletilić TJ*, para. 620.

103. On 30 June 1993, the ABiH attacked and occupied the HVO's "Tihomir Mišić" Barracks (also known as the "Northern Barracks"), in the north part of Mostar town. Following this attack, the HVO arrested several thousand military-aged Bosnian Muslim

<sup>200</sup> EXH No. P 02756, R016-2787-R016-2787.

men in and around Mostar, and detained them at the Heliodrom or Dretelj Prison. In connection with or following the mass arrest of Muslim men, approximately 400 Bosnian Muslim families (women, children and elderly) were expelled from West Mostar. (Annex)

103.1. "BH Muslim civilians crossed over to the Eastern side of Mostar in large numbers." *Naletilić* TJ, paras. 50, 539.

104. During the time from 9 May 1993 and thereafter, Herceg-Bosna/HVO forces used the Mechanical Engineering Faculty building in Mostar to detain, interrogate and mistreat arrested or captured Bosnian Muslim men. In the first week of July 1993, five Bosnian Muslim men were arrested near Drežnica and taken to the Mechanical Engineering Faculty building. HVO members severely beat the five men, two of whom died from the beating. (Annex)

105. In mid-July 1993, the Herceg-Bosna/HVO forces carried out another round of forcible evictions, expelling Bosnian Muslim women, children and elderly from their homes in West Mostar and into East Mostar. Around the same time, the Herceg-Bosna/HVO authorities offered to release Muslim men detained at the Heliodrom, as well as their families in the Mostar area, if they agreed to leave Bosnia and Herzegovina and go to another country. Approximately 800 Bosnian Muslims agreed to this proposal and were deported to the Republic of Croatia, as a transit point to other countries. (Annex)

105.1. The Spanish Battalion reported: "Alongside this [HVO offensive in mid-July 1993], HVO forces continue their ethnic cleansing of the Zone South. The Muslim prisoners are transferred to concentration camps in GABELA (YH 1971) and DRETELJ (YH 2078)." <sup>201</sup>

105.2. "Estimations show that after 29 June 1993, when the ABiH had attacked the HVO northern barracks, the population of East Mostar increased from approximately 30,000 to

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<sup>201</sup> EXH No. P 04698, R016-6291-R016-6304, p. 10.

55,000. The dramatic increase is attributed to movements from West Mostar, as well as from the area of Čapljina and Stolac.” *Naletilić* TJ, para. 541.

106. On about 14 July 1993, a Muslim boy and his grandfather were arrested at their home in Buna (just outside Mostar town) and taken to an HVO Military Police station, where they were interrogated and tortured by HVO Military Police. Later the same day, they were put in a van to be transported to Dretelj Prison. On their way to Dretelj Prison, the HVO Military Police stopped the van and ordered the boy and his grandfather to stand at the edge of the road, above the Neretva River. The HVO Military Police then fired a hail of bullets at them, seriously wounding the boy (who fell down the riverbank and survived) and killing his grandfather. (Annex)

107. During the same period of the continuing evictions from West Mostar, from May 1993 forward, Herceg-Bosna/HVO forces regularly engaged in looting, theft and plunder of Muslim property, either in the course of the continuing evictions themselves or by separately entering still occupied or abandoned Muslim homes and apartments. (Annex)

107.1. “Many of the BH Muslims, who were taken to the Heliodrom on 9 May 1993 and subsequently released, returned and found that their apartments had been emptied of valuables and movable property.” *Naletilić* TJ, para. 48.

107.2. “Plunder committed in Mostar after the attack of 9 May 1993 constitute[d] persecution.” *Naletilić* TJ, para. 713.

107.3. “The plunder was carried out on a discriminatory basis as only the property of BH Muslims was targeted.” *Naletilić* TJ, paras. 701-702.

107.4. “Property was chosen because of its monetary value, not its military usefulness.” *Naletilić* TJ, para. 625.

107.5. “Plunder was carried out by HVO soldiers directly or forcing prisoners to do it for them.” *Naletilić* TJ, para. 630.

107.6. "Witness F was forced to loot apartments after June 1993, loading the booty on trucks that soldiers would drive away." *Naletilić* TJ, para. 622.

108. On or about 24 August 1993, Herceg-Bosna/HVO forces attacked various locations around Mostar town, including the village of Raštani, the Mostar hydro-electric plant and the "Tihomir Mišić" Barracks. Herceg-Bosna/HVO forces entered Raštani and surrounded houses where ABiH soldiers were believed to be quartered. When HVO soldiers surrounded the house of one local Muslim man, he was the only ABiH soldier in the house, along with fifteen relatives and neighbours who were Muslim civilians. The Herceg-Bosna/HVO forces ordered all of the persons to come out of the house, and immediately shot and killed the unarmed ABiH soldier and three other unarmed military-aged Muslim men as they came out of the house. (Annex) The HVO forces lined the Muslim women and children in front of a wall and stole their money and jewellery and otherwise mistreated them. The surviving Muslims were then ordered to cross the Neretva River to ABiH-held territory. (Annex)

109. In late September 1993, the Herceg-Bosna/HVO forces engaged in another round of evictions of Bosnian Muslims from West Mostar, in the Centar II district. Approximately 600 Bosnian Muslim civilians were forced from their homes, and at least one Bosnian Muslim woman was raped. (Annex)

109.1. "International Observers reported that during one week (29 September - 5 October 1993) approximately 600 Muslims were forced from the area Centar II in West Mostar to East Mostar and that the highest number of evictions were carried out on 30 September 1993." *Naletilić* TJ, para. 559.

110. From about June 1993 to April 1994, East Mostar and certain areas connected to it, including Blagaj, were under siege. As a result of Bosnian Muslims being expelled into this enclave or fleeing to the enclave from other areas, the Muslim population in this area increased from a pre-war estimate of approximately 18,400 persons to a number estimated

as high as 51,600 persons. In East Mostar itself, the Muslim population increased from about 10,400 to approximately 27,700 persons.

110.1. "The population of East Mostar increased after 29 June 1993 from approximately 30,000 to 55,000." *Naletilić TJ*, para. 50.

111. During this time, from June 1993 to April 1994, there was continued fighting between Herceg-Bosna/HVO forces and the ABiH in and around Mostar town. While the Herceg-Bosna/HVO forces were generally better equipped with heavier weapons, including tanks and artillery, the smaller Muslim forces, using primarily light infantry weapons, resisted HVO advances and held the small strip of land west of the Neretva River.

111.1. "Following 9 May 1993, the fighting between the HVO and the ABiH was hard and bitter. The Bulevar, a main street in Mostar separated the two forces. Fighting for each meter and each building, both sides were constantly on guard against attacks and shooting from the other side. The opposing forces took up positions within shouting distance of each other." *Naletilić TJ*, para. 49.

112. The Bosnian Muslims in East Mostar lived, or attempted to live, in increasingly dangerous, squalid and horrific conditions. While the Herceg-Bosna/HVO forces regularly forced more Bosnian Muslims into the small, densely populated area of East Mostar, the same forces continually shelled East Mostar with artillery and fired at civilians using sniper and other direct fire weapons (including heavy machine guns and anti-aircraft weapons).<sup>202</sup> At the same time, the Herceg-Bosna/HVO authorities blocked and deprived the Bosnian Muslims in East Mostar of humanitarian aid, and cut off or failed to repair water and power supplies to that part of the city. Constant shelling and sniping forced the

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<sup>202</sup> "The largely Muslim population held in eastern Mostar has been shelled from Bosnian Croat positions in the west of the city since August 1993, up to 400 times in one day. Also, international observers have confirmed that Bosnian Croat snipers in Mostar and western Herzegovina used against civilians especially deadly 12.7 calibre rifles with an effective range of up to one km and equipped for night firing." Fifth Mazowiecki Report (UN Special Rapporteur; E/CN.4/1994/47; 17 November 1993), EXH No. P 06697 (0008-9843-0008-9881), para. 65.

civilian Muslim population into an underground life. Venturing out for food, water and other necessities was often a terrifying, dangerous experience.

112.1. "Military attacks on civilians, such as sniper attacks, indiscriminate shelling, bombing and land-mining, constitute flagrant violations of human rights and humanitarian law. Military forces of all the belligerents have been guilty of such practices: However, the Special Rapporteur draws particular attention to the fact that the scale of such practices as committed by Bosnian Serb and Croat forces exceeds that of the other warring parties."<sup>203</sup>

113. In the early part of the East Mostar siege, from approximately late June 1993 to late August 1993, international organisations and humanitarian agencies were completely or substantially blocked from entering East Mostar, which caused increasing hardships for the Bosnian Muslims in East Mostar, who were cut off from outside aid.

113.1. A UN report stated: "It is obvious that humanitarian aid has been used as an element in a political game, in particularly by the Bosnian Serbs and Bosnian Croats."<sup>204</sup> "A further 12-day delay began on 10 July, when Bosnian Croat authorities refused to issue aid convoys with permits to enter territory under their control."<sup>205</sup>

113.2. "Bosnian Croat forces have interfered with aid deliveries for or in transit through areas under their control. The result of such practices is demonstrated by, for instance, the situation of the citizens and displaced persons in eastern Mostar, among whom deaths from malnutrition and lack of medical services have been reported. Furthermore, reports

<sup>203</sup> Sixth Mazowiecki Report (UN Special Rapporteur; E/CN.4/1994/110; 21 February 1994), EXH No. P 07917 (0009-0867-0009-0930), para. 78.

<sup>204</sup> *Id.*, Sixth Mazowiecki Report, EXH No. P 07917, para. 305.

<sup>205</sup> Third Mazowiecki Report (UN Special Rapporteur; E/CN.4/1994/6; 26 August 1993), EXH No. P04541 (0003-5778-0003-5786). In his third periodic report (at para. 15), Mazowiecki, described in detail the blocking of humanitarian aid and the use or disruption of basic utilities as weapons of war and ethnic cleansing, stating, *inter alia*, that humanitarian convoys "have been obstructed or attacked by Bosnian Serb and Bosnian Croat forces and sometimes also by government forces." "Tension is exacerbated by the extent to which local agencies succeed in delivering aid (from Belgrade and Zagreb), for Bosnian Serbs and Bosnian Croats while locally organized aid for Muslims is blocked by hostile forces." Sixth Mazowiecki Report, EXH No. P 07917, para. 31.

from the western part of the town indicate that the authorities have denied aid to both Muslims and Serbs. . . . They have also interfered with delivery of medical supplies. Thus, on 23 December 1993, they refused to allow materials for a field hospital to be delivered to the eastern part of Mostar.”<sup>206</sup>

113.3. In its Resolution 859 dated August 1993), the Security Council expressed its great concern “about the continuing siege of Sarajevo, Mostar and other threatened cities,” “strongly condemn[ed] the disruption of public utilities (including water, electricity, fuel and communications) as a form or tool of ethnic cleansing, and demanded that “all concerned facilitate the unhindered flow of humanitarian assistance, including the provision of food, water, electricity, fuel and communications . . .”<sup>207</sup>

113.4. “The humanitarian situation on the Eastern side of Mostar was horrific. There was no running water, electricity and food. The Eastern side was completely encircled. The bombardment was constant.” *Naletilić TJ*, para. 50.

113.5. “The humanitarian conditions on the East bank of Mostar were appalling. While the Muslim population was swelling due to the intense expulsions from the West bank, water and electricity services were cut off and humanitarian organisations were denied access for weeks. Crucial public services, such as the hospital, were located on the West bank of Mostar and, thus, no longer accessible to the BH Muslim civilian population.” *Naletilić TJ*, para. 240.

113.6. “The siege of East Mostar continued until the beginning of 1994.” *Naletilić TJ*, para. 51.<sup>208</sup>

<sup>206</sup> Sixth Mazowiecki Report, EXH No. P 07917, para. 71.

<sup>207</sup> Even in May 1993, the Secretary-General recalled “that Security Council resolution 824 (1993), which declare[d] a number of “safe areas”, in addition to Sarajevo, Tuzla, Zepa, Gorazde, Bihac and Srebrenica, refers to “other such threatened areas,” and stated that Mostar in connection with what had, and was happening in May 1993, “obviously qualified” as a “threatened area.” Letter dated 14 May 1993 from the Secretary-General addressed to the President of the Security Council, EXH P 02483 (0466-6569-0466-6573), p. 1.

<sup>208</sup> The Fourth Mazowiecki Report (UN Special Rapporteur; E/CN.4/1994/8; 6 September 1993), EXH No. P04882 (0003-5730-0003-5736), described the situation in Mostar at length:



1. By August 1993 civilians in the eastern sector of Mostar were entering their second month of blockade by Bosnian Croat forces. The fate of all civilians in the city was cause for great concern, following reports of mass arrests, forced labour, evictions and rape carried out in the name of 'ethnic-cleansing' earlier in the year. \* \* \*

7. Mostar lies in western Herzegovina, straddling the banks of the Neretva river. Until 1991 it was a multi-ethnic city with the highest rate of inter-marriage in the then Federal Republic of Yugoslavia. The census of that year recorded a population that was 35 per cent Muslim, 34 per cent Croat and 19 per cent Serb, living intermingled both sides of the river.

8. After hostilities broke out in Bosnia and Herzegovina in 1992, a significant number of Bosnian Serbs moved out of Mostar. Many of them were said to be members of the Yugoslav National Army (JNA), who had reportedly been harassed or evicted from their homes at gunpoint by the local authorities. . . .

9. In April 1993 the tension, which had been growing between the Croat and Muslim populations in Mostar, came to a head when fighting broke out in central Bosnia between forces of Bosnian Croats (HVO) and the Government of Bosnia and Herzegovina. For several months the city, which dominates all communication routes between central Bosnia and the coast of Croatia, has been the scene of a bitter struggle for control between the warring parties.

10. Since early 1993 the Special Rapporteur has received reports that Bosnian Muslims were being systematically dismissed from their jobs in Mostar. On 15 April 1993 the city authorities adopted Statute No. 266/93, which severely curtailed the provision of humanitarian assistance to people seeking refuge in the city. It promised identity cards, on a temporary basis only, to minors and adults of pensionable age who had come from occupied areas of Bosnia and Herzegovina and were not occupying abandoned flats in Mostar. All other categories of displaced persons were to be deprived of humanitarian assistance and obliged to return to their home districts or move into collective centres. An estimated 10,000 of the Muslims who had fled to Mostar were in this way disqualified from assistance. According to local humanitarian organizations, Bosnian Muslims living in abandoned flats received a deadline from HVO forces to leave by 9 May 1993.

11. Numerous Muslims who fled the city around that time later told international observers that they had been forced to leave under threat of death by HVO forces, their houses had been burned down, and mosques and other historical Muslim sites in the area had been damaged or destroyed. \* \* \*

12. In June 1993 there began a systematic and bloody division of the city along ethnic lines. On 14 and 15 June alone several thousand Muslims are reported to have been expelled from their homes in western Mostar and forced across the bridge, under a hail of gunfire from HVO soldiers, to the eastern part of the city which is under the control of the Government. The head of UNHCR in Mostar sent a formal letter of protest about this incident to Mr. Mate Boban. However, the forcible evictions, and transfers of the population are said to be continuing. The Special Rapporteur's field staff learned, for instance, that on 23 August 1993 HVO soldiers opened fire on two-families of civilians they were forcing across the bridge, killing one man in front of his wife.

13. Eye-witnesses to some of the evictions in June 1993 report that HVO soldiers surrounded apartment buildings, shot off machine guns, and went from flat to flat, shouting that they were searching for "Balijs" (a derogatory term for Muslims). Muslim residents were rounded up and their personal papers -- including authorizations for their apartments -- were burned in the street. The soldiers also reportedly burned any medication they found, including the insulin of a diabetic. After the evictions, the soldiers replaced the name cards on the doors of the empty flats with their own names. They reportedly told neighbours that the apartments were being cleared for Bosnian Croat refugees from Travnik. Croats in Mostar who have tried to protect their Muslim neighbours are also reported to have been evicted and forced into the eastern sector of the city. \* \* \*

114. The HVO shelling of East Mostar killed or wounded hundreds of Bosnian Muslim civilians, of both sexes and all ages. Herceg-Bosna/HVO gunfire killed or wounded at least 135 civilians in East Mostar, including women, children and elderly. (Annex) Firemen responding to emergencies, women washing their clothes, family members going out for water and small children who ventured outside were killed or wounded by Herceg-Bosna/HVO snipers.

114.1. The ECMM reported on 29-30 September 1993:

. . . Casualties in last 24 hrs: 28 wounded civilians and soldiers. Two civilians killed by impacts and sniper fire (confirmed by UNMO's). HVO released 374 civilians, old men, women and children from West Mostar to East Mostar. HVO

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15. In early July 1993 United Nations peace-keeping forces and international relief agencies were forced out of Mostar under threat of attack by HVO forces. The efforts of relief agencies to get back into the city were blocked by the Bosnian Croat authorities. \* \* \*

25. The eastern sector of Mostar is now largely occupied by Bosnian Muslim civilians (many of them moved there by force) and some remaining residents of Croat and Serb origin. The Special Rapporteur's field officers found conditions of appalling devastation and deprivation.

26. Since early May 1993, the east bank of Mostar is reported to have been subjected to constant shelling and sniping from HVO positions on the west bank of the city. Governmental sources claim that between 200 and 400 shells have impacted on average every day, destroying around 50 per cent of the buildings and 90 per cent of the private housing. . . .

27. Shortages of food and medical supplies are a major problem on the east bank. The UNHCR convoy, carrying 200 tons of aid, was the first relief to reach the area for more than two months. On their arrival, international relief workers who assessed the situation feared that deaths through starvation were an imminent possibility. The Special Rapporteur learned that HVO forces have deliberately hindered the delivery of humanitarian aid to civilians in Mostar. \* \* \*

29. . . . On the west bank, civilians are able to get water from a number of hand pumps in the street, but for civilians on the east bank there is only one source for water, and they are obliged to risk sniper fire while crossing the bridge to reach it. During the mission of the Special Rapporteur's field staff, at least three people were reported to have been shot dead while doing so. \* \* \*

32. The policy of impeding humanitarian aid by any party to the conflict is to be deplored. This violates international law on the conduct of war.

33. The Special Rapporteur demands that immediate, unimpeded access to Mostar be guaranteed and that medical services be restored, including, if possible, by airlifts.

34. All detainees should be released immediately with guarantees for their safe return home under international protection.

35. The Special Rapporteur repeats once again that sniping at civilians to kill or wound those taking no part in hostilities constitutes a war crime. Snipers should therefore be among those tried and sentenced for grave breaches of humanitarian law.

opened fire on these people, killing two. UNMO's visited these people in refugee camp; report that they are in very bad condition.<sup>209</sup>

115. Members of international organisations were also routinely targeted by Herceg-Bosna/HVO sniper fire and, on occasion, were targeted by HVO artillery and mortar fire, with several UN peacekeepers and others being killed or wounded. (Annex)

115.1. The Spanish Battalion reported: “. . . the HVO, is not very happy with the UNPROFOR presence in the city. Direct and deliberate sniper attacks (Boulevard) on SPABAT vehicles are therefore starting.”<sup>210</sup> On 3 November 1993, a commander of the UN Military Observers sent a protest to the HVO Main Headquarters :<sup>211</sup>

We feel sorry that we are forced to inform you once more about truly deliberate shooting by HVO snipers towards UN military observers located on the left bank of the river Neretva in Mostar . . . [This] was the fourth confirmed incident within a single week. So, we do not believe that it happened by an accident or that somebody shot at random. Accuracy and frequency indicate that the sniper(s) were shooting in order to kill UN army observers. \* \* \* When the SPABAT tried to help, they found themselves exposed to the direct fire of a machine gun that was shooting upon their transporter.

116. As part of and in the course of the East Mostar siege, the Herceg-Bosna/HVO forces deliberately destroyed or significantly damaged the following mosques or religious properties in East Mostar: Sultan Selim Javuz Mosque (also known as the Mesdjid Sultan Selimov Javuza Mosque), Hadži Mehmed-Beg Karadžoz Mosque, Koski Mehmed-Paša Mosque, Nesuh Aga Vučjaković Mosque, Čejvan Čehaja Mosque, Hadži Ahmed Aga Lakišić Mosque, Roznamedžija Ibrahim Efendija Mosque, Čosa Jahja Hodža Mosque (also known as the Džamiha Čose Jahja Hodžina Mosque), the Hadži Kurto or Tabačica Mosque, and the Hadži Memija Cernica Mosque. On 9 November 1993, the Herceg-Bosna/HVO forces destroyed the Stari Most ("Old Bridge"), an international landmark that crossed the Neretva River between East and West Mostar.<sup>212</sup>

<sup>209</sup> EXH No. P 05519, R012-3084 - R012-3087.

<sup>210</sup> EXH No. P 04698, R016-6291-R016-6304, p. 5.

<sup>211</sup> EXH No. P 06389, 0152-4144-0152-4144.

<sup>212</sup> “The drive to eliminate ethnic diversity has in some areas been accompanied by efforts to obliterate all traces of minority culture. . . . A famous 16th century mosque was destroyed in Croat-held Pocitelj on 23 August 1993, after the last Muslims had been deported from the village. On 9 November 1993 the

117. The East Mostar siege ended around 12 April 1994, following a peace agreement signed by the Herceg-Bosna/HVO authorities and the Muslim side in Split, in the Republic of Croatia.

117.1. A further statement of facts concerning Mostar Municipality is contained in Confidential Brief Annex 4.

118. By the foregoing acts, conduct, practices and omissions and as further described in Paragraphs 15-17, 17.1-17.6, 39 and 218-230, JADRANKO PRLIĆ, BRUNO STOJIĆ, SLOBODAN PRALJAK, MILIVOJ PETKOVIĆ, VALENTIN ĆORIĆ and BERISLAV PUŠIĆ are responsible for the following crimes: persecutions, as charged in Count 1; murder (Count 2); wilful killing (Count 3); rape (Count 4); inhuman treatment (sexual assault) (Count 5); deportation (Count 6); unlawful deportation of a civilian (Count 7); inhumane acts (forcible transfer) (Count 8); unlawful transfer of a civilian (Count 9); imprisonment (Count 10); unlawful confinement of a civilian (Count 11); inhumane acts (Count 15); inhuman treatment (Count 16); cruel treatment (Count 17); extensive destruction of property (Count 19); wanton destruction (Count 20); destruction or wilful damage to institutions dedicated to religion or education (Count 21); appropriation of property (Count 22); plunder (Count 23); unlawful attack on civilians (Count 24); unlawful infliction of terror (Count 25); and cruel treatment (Mostar siege) (Count 26).

### **HELIODROM CAMP**

119. The Heliodrom Camp (also called the "Central Military Prison" or "Central Military Remand Prison") (the "Heliodrom") was located in Rodoč, just south of Mostar town, in Mostar Municipality. The Heliodrom was a complex of buildings, with some parts of the complex used as an HVO prison or detention facility, and other parts as barracks for HVO and other troops. The HVO prison/detention facility was established in

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historical Ottoman bridge in Mostar was destroyed by military action. It had been registered with UNESCO as a monument of major cultural importance and was also the only means by which water could be obtained by people in the eastern part of the town." Fifth Mazowiecki Report (UN Special Rapporteur; E/CN.4/1994/47; 17 November 1993) EXH No. P 06697 (0008-9843-0008-9881), para. 69.

September 1992, on the orders of BRUNO STOJIC and VALENTIN ĆORIC, and held Bosnian Muslim detainees until 21 April 1994.

119.1. On 3 September 1992, BRUNO STOJIC signed the order appointing Mile Pušić as the first warden of the Heliodrom Camp.<sup>213</sup>

120. As described above, on 9-10 May 1993, Herceg-Bosna/HVO forces systematically rounded up and detained hundreds of Bosnian Muslim men, women, children and elderly living in West Mostar. Hundreds of arrested Bosnian Muslims were either transported or forced to walk to the Heliodrom, where most of them were detained for periods up to about ten days.

120.1. "In total, between 1,500 and 2,500 Muslim civilians were rounded up [in Mostar] and detained at the Heliodrom detention centre on [9 May]." *Naletilić TJ*, para. 45.

120.2. The HVO Military Police Headquarters in Mostar prepared a list of persons arrested on 10 May 1993 categorised into three groups: women, children and elderly. According to this list, there were 216 women, 104 children and 31 elderly arrested on 10 May 1993 in Mostar.<sup>214</sup>

120.3. "Hundreds of people were taken to the Velež Stadium. Most of them ended up at the Heliodrom, west of Mostar in Radoč, which became the main HVO detention centre in the area." *Naletilić TJ*, para. 45.

120.4. "BH Muslim civilians were transported to the Velež Stadium in Mostar and then taken to the Heliodrom. The people who were arrested and detained were not given a reason for their detention." *Naletilić TJ*, para. 650.

120.5. "[The Muslim prisoners at the Heliodrom] had been arrested without being given a reason and did not know why they were detained." *Naletilić TJ*, para. 46.

<sup>213</sup> EXH No. P 00452, 0101-5214-0101-5214.

<sup>214</sup> EXH No. P 02266, 0153-6463-0153-6475.

120.6. “The position of the BH Croatian authorities was that people had been moved there for their own security. The majority of the detainees were of BH Muslim ethnicity, and since no BH Croats were detained, it could not be justified on security grounds.” *Naletilić TJ*, para. 46.

120.7. “There were old men and underage boys in the Heliodrom.” *Naletilić TJ*, para. 46.

120.8. “Following international pressure, the detained women and children were released after a few days. On 12 May 1993, a cease-fire agreement was signed between the HVO and ABiH providing the release of all prisoners. Not all prisoners were released.” *Naletilić TJ*, para. 47.

120.9. A SPABAT document dated 16 May 1993 indicates that UN Military Observers visited the Heliodrom Camp on the preceding day. At that point in time, there were 700-800 detainees at Heliodrom, housed in three building, one of which—a gymnasium—housed about 250 military-aged men in “precarious hygienic, dietary and living conditions.”<sup>215</sup>

120.10. “Another meeting on 18 May 1993 was attended by the President of the Republic of Croatia, Franjo Tuđman, and the President of Bosnia and Herzegovina, Alija Izetbegović, as well as high level international representatives. General Morillion of UNPROFOR was permitted to visit the Heliodrom. Following his visit, a large part of the male BH Muslim prisoners were released.” *Naletilić TJ*, para. 47.

120.11. “The women and children who were detained at the Heliodrom were released after a few days, pursuant to the cease-fire agreement entered into between the ABiH and the HVO.” *Naletilić TJ*, para. 536.

120.12. “Many of the persons detained at the Heliodrom who were released, were subsequently detained again.” *Naletilić TJ*, para. 536.

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<sup>215</sup> EXH No. P 02414, 0058-6826-0058-6829.

120.13. “Vinko Martinović was personally involved in the rounding up of the BH Muslim civilian population of Mostar, ordering and aiding and abetting their detention at the Heliodrom. He possessed the intent to discriminate against the BH Muslim part of the population in Mostar.” *Naletilić* TJ, para. 652.

120.14. “The unlawful arrest and detention of civilians in Mostar *ŠwasĆ* persecution . . .” *Naletilić* TJ, para. 710.

121. As described above, on 30 June 1993, the ABiH attacked and occupied the HVO's "Tihomir Mišić" or Northern Barracks. Following this attack, Herceg-Bosna/HVO forces arrested several thousand military-aged Muslim men in Herzegovina, and detained many of them at the Heliodrom, for extended periods of time.

122. As a result of the arrests, the prison population at the Heliodrom increased from a small number of persons prior to May 1993 to approximately 1,800 detainees around 9-10 May 1993, and then declined to about 500 persons by late June 1993. From July to December 1993, the prison population averaged several thousand persons, with an estimated maximum of about 6,000 detainees held at any one time. While the remaining Bosnian Muslim women were released from the Heliodrom on 17 December 1993, a substantial number of Muslim men were held there until April 1994.

123. Bosnian Muslim men were held and continued to be detained at the Heliodrom prison without any *bona fide* or adequate effort by the Herceg-Bosna/HVO authorities or forces to distinguish, classify or separate military prisoners from civilian detainees, or to provide for the release of civilian detainees.

124. Conditions at the Heliodrom prison were inhumane, with severe overcrowding, inadequate medical and sanitary facilities, insufficient food and water, inadequate ventilation, and in the summer, suffocating heat. Detainees often slept on concrete floors with no bedding or blankets. On some occasions, HVO guards withheld all food and water from the detainees, in retaliation for HVO military setbacks.

124.1. "Prisoners were moved around between places and detention centres. For example, the ABiH soldiers who surrendered or were captured in Sovići and Doljani were brought to the Ljubuški prison on 18 April 1993 and were later moved to the Heliodrom." *Naletilić* TJ, para. 55.

124.2. As a result of the horrific conditions that existed at the Heliodrom Camp, as described in the following paragraphs, Mate Boban made a hand-written note to VALENTIN ĆORIĆ on an urgent report that he had received from the Heliodrom Camp Camp Warden. In this note, Boban recognised that the conditions in Heliodrom represented "a very serious problem" and ĆORIĆ was directed to "sort the matter out" and report back to Boban.<sup>216</sup> In this report to Boban, the Heliodrom Camp Warden set forth a number of problems occurring in the camp

124.3. On 20 August 1993, the Heliodrom Camp Warden sent a report to BRUNO STOJIC setting out the complaints raised by the ICRC concerning the Heliodrom Camp, including the poor quality and lack of food provided to the prisoners, the bad conditions in the solitary cells and the fact that violations of the Geneva Conventions were occurring.<sup>217</sup>

125. Herceg-Bosna/HVO forces regularly mistreated and abused, and allowed the mistreatment and abuse of, Bosnian Muslim detainees, both at the Heliodrom itself (Annex) and at various locations where detainees were taken for forced labour or other purposes. (Annex) There was regular cruel treatment and infliction of great suffering, with HVO soldiers and guards routinely beating detainees, often to the point of unconsciousness and severe injuries. Muslim detainees lived in constant fear of physical and mental abuse. Passing HVO soldiers often fired their weapons indiscriminately at Muslim detainees held in crowded areas. Other detainees were attacked by HVO guard dogs which were released by the guards for the specific purpose of inflicting injury and fear. Muslim detainees were often humiliated in various ways, including being forced to sing nationalistic Croatian songs.

<sup>216</sup> EXH No. P 05792, 0153-8326-0153-8328.

<sup>217</sup> EXH No. P 04352, 0154-0450-0154-0450.



125.1. In September 1993, the Security Council protested the operation and condition of the HVO camps:

The Security Council expresses its profound concern over recent reports that Bosnian Croats have been holding Bosnian Muslims in detention camps under deplorable conditions. The Council recalls the international revulsion and condemnation that accompanied revelations last year of the conditions under which Bosnian Muslims and Bosnian Croats were being held in Bosnian Serb detention camps.

The Council reiterates the principle that the International Committee of the Red Cross (ICRC) must be given access to all detainees in Bosnia wherever they may be held. It notes that the ICRC has recently been given access to some detainees, but recalls with condemnation the obstacles which the Bosnian Croats have previously placed in the way of the ICRC's attempts to gain access to the camps in order to ascertain the conditions of the detained. . . .

\* \* \*

The Council calls upon the Bosnian Croats to supply immediately to the ICRC complete information on all camps where Bosnian Muslim and other prisoners are being held, and to assure the ICRC and all other legitimately concerned international bodies free and unhindered access to the detained, wherever they may be held.

The Council believes that the Government of Croatia has a responsibility to use its influence with the Bosnian Croats to secure compliance with this statement and calls on the Government of Croatia to take immediate steps to that end.<sup>218</sup>

125.2. "Heliodrom was under the authority of the military police, soldiers of the KB and other units had unfettered access to the Heliodrom and to the prisoners' cells where they mistreated the prisoners at random." *Naletilić TJ*, para. 436.

125.3. "Detained BH Muslim civilians and BH Muslim soldiers *hors de combat* were often subjected to humiliating and brutal mistreatment by soldiers who had unfettered access to the detention facilities." *Naletilić TJ*, para. 238.

125.4. "Many Muslim civilians and prisoners of war were beaten and otherwise severely mistreated in various detention facilities and the soldiers who engaged in this came from various military units." *Naletilić TJ*, para. 392.

<sup>218</sup> Note by the President of the Security Council, 14 September 1993, EXH No. P 05047 (ERN 0466-6599-0466-6600), p.1.

125.5. "In July or August 1993, Semir (Sema) Bošnjak, a soldier under Vinko Martinović's command, participated in the beating of a prisoner. The Chamber is further satisfied that soldiers under Vinko Martinović's command participated in the beating of the professor that took place sometime after 25 July 1993 and in the beating of a prisoner called Tsotsa which happened between June and August 1993. Vinko Martinović was present while his soldiers mistreated the persons and that he had the material ability to prevent those crimes from being committed. However, he wilfully decided not to." *Naletilić* TJ, para. 439.

125.6. "Prisoners in the Heliodrom were not only kept in the prison building but also in the school and the two gymnasiums." *Naletilić* TJ, para. 429.

125.7. "[T]he mistreatment and beating of BH Muslim prisoners was a common practice in the Heliodrom." *Naletilić* TJ, para. 429.

125.8. "Mladen Naletilić [Tuta] was physically present when prisoners were mistreated by soldiers who accompanied him and personally participated in the mistreatment of the Heliodrom prisoners. Witness FF, an ABiH member from Mostar, and witness Z, a prominent SDA member, were mistreated by Mladen Naletilić while being detained at the Heliodrom prison. Both witnesses were interrogated by Mladen Naletilić in the Heliodrom and physically and mentally maltreated in the course of their interrogation." *Naletilić* TJ, para. 435.

125.9. Mladen Naletilić knew that prisoners at the Heliodrom were mistreated, both physically and psychologically, by soldiers, including members of the KB, and that he failed to take any measures to prevent his subordinates from committing those crimes." *Naletilić* TJ, para. 436.

125.10. "[T]he frequent beatings of prisoners by Vinko Martinović as established for the incident in July or August 1993 involving several prisoners, the incident with the "Professor" and the one concerning the prisoner called Tsotsa amount to cruel treatment and wilfully causing great suffering or serious injury to body or health. The beatings

administered by Vinko Martinović in those incidents caused serious physical suffering to the victims who were protected persons.” *Naletilić* TJ, para. 389.

125.11. “The soldiers of the [Convicts Battalion] and the Vinko Škrobo ATG under the command of Mladen Naletilić and Vinko Martinović, namely Romeo Blažević, Ernest Takač, Robo and Ivan Hrkač, the brother of Čikota, participated in the severe beatings of the helpless prisoners.” *Naletilić* TJ, para. 428.

126. From approximately mid-May to 17 December 1993, at least thirty Bosnian Muslim women (Annex) (including some more than 70 years old and others with young children (Annex) with them) were detained at the Heliodrom prison, in the main building of the detention facility. Some were kept in the attic and others were placed in isolation cells in the basement. The conditions were inhumane, with insufficient sanitary facilities and medical attention, inadequate food and water and poor ventilation. They often slept on concrete floors with no bedding or blankets.

127. As described above, the HVO actions on and following 9-10 May 1993 resulted in Mostar town being divided by an HVO-ABiH confrontation line, running along the Bulevar and Šantićeva Street. During the period from May 1993 to April 1994, Bosnian Muslim men held at the Heliodrom were taken on a virtually daily basis to perform forced labour at the Mostar confrontation line and at other locations in the Mostar region. Such labour regularly involved building military fortifications, digging trenches, loading weapons, carrying ammunition and explosives, and retrieving the bodies of killed HVO soldiers, all in dangerous combat conditions, with many Muslim detainees being killed or wounded.

127.1. “Prisoners from the Heliodrom were taken to perform labour in different locations, but mainly on the frontline in Mostar.” *Naletilić* TJ, para. 56.

127.2. VALENTIN ĆORIĆ was aware that prisoners were taken from the Heliodrom Camp to perform work and that some of these prisoners were beaten while performing such work.<sup>219</sup>

127.3. BRUNO STOJIC was made aware of a number of complaints raised by the ICRC concerning the Heliodrom Camp, including the fact that detainees were sent out to perform work.<sup>220</sup>

127.4. "From July 1993 onwards, the HVO units deployed in the Sector Mostar Town Defence were the Vinko Škrobo ATG, the Benko Penavić ATG, the 4th and 9th Battalion of the 3rd HVO Brigade commanded by Ivan Primorac from October 1992 until 20 July 1993, and the 2nd Battalion of the 2nd HVO Brigade." *Naletilić TJ*, para. 137.

127.5. "Prisoners were taken from the Heliodrom to perform labour in the Šantićeva street. The labour involved included military related tasks, such as building bunkers, repairing trenches, filling sandbags and carrying them to the confrontation line, and was performed in extremely dangerous conditions, the prisoners finding themselves constantly in crossfire. Prisoners were used as human shields and injured while working in the Šantićeva Street." *Naletilić TJ*, para. 295.

127.6. "The Šantićeva street was under the responsibility of the 2nd HVO battalion." *Naletilić TJ*, para. 297.

127.7. "Vinko Škrobo's area of responsibility was at the Bulevar next to the Health Centre, which was a polyclinic of a length of about 200 metres. Adjacent to the South of Vinko Škrobo's area of responsibility was the one of the Benko Penavić ATG which was at Dr. Aleksić's house on the other side of the street. It was followed by the area of responsibility of the 4th HVO Battalion Tihomir Mišić. In the Šantićeva Street, which continues towards the north, different units alternated. It was an area belonging to the 2nd Battalion of the 2nd HVO Brigade." *Naletilić TJ*, para. 138.

<sup>219</sup> EXH No. P 04004, 0152-4914- 0152-4914.

<sup>220</sup> EXH No. P 04352, 0154-0450- 0154-0450.

127.8. “The Vinko Škrobo ATG regularly, and at times daily, requested the HVO military police, in charge of the Heliodrom detention centre, to provide detainees to perform labour for the unit, and that these requests were mostly granted by the commander of the first light assault battalion of the military police. The prisoners of war were sent on the request and for the discretionary needs of the individual units.” *Naletilić* TJ, para. 264.

127.9. “The military police did not bear all responsibility for the treatment of the detainees during the time they were discharged to work in the Vinko Škrobo ATG. The above-mentioned orders all expressly specify that the responsibility to treat the detainees in accordance with the Geneva Conventions rested on the member of the unit who came to pick them up. In some cases, Vinko Martinović himself was that person, but mostly, the driver of Vinko Martinović’s unit, a man named Dinko Knežović, would come . . . In any event, the commander of the unit using prisoners of war to perform labour does bear a responsibility for ensuring that the relevant provisions of the Geneva Conventions are applied in the course of this labour.” *Naletilić* TJ, para. 265.

127.10. “Upon arrival at the headquarters, Vinko Martinović gave orders and assigned labour.” *Naletilić* TJ, para. 266.

127.11. “Prisoners were forced to perform military support tasks in extremely dangerous conditions, such as digging trenches near the confrontation line sealing exposed windows or areas with sandbags, or other forms of fortification labour. The detainees were made to carry explosives across the confrontation line, or to retrieve bodies of wounded or killed HVO soldiers. The prisoners were often in direct exposure to fire from the other side of the front-line, as a result of which some were injured.” *Naletilić* TJ, para. 268.

127.12. “Prisoners were under constant guard and regularly mistreated while working for the Vinko Škrobo ATG. The atmosphere prevailing in and around the confrontation line was one of fear and threats. The nature of the work itself is also indicative of the fact that the prisoners did not have a real choice.” *Naletilić* TJ, para. 270.

127.14. “Vinko Martinović sometimes himself ordered the prisoners to perform labour and as a result, directly exposed them to a great risk of injury and possibly death. The Chamber is further satisfied that as a commander of the Vinko Škrobo ATG, Vinko Martinović knew that prisoners were used in his area of command to perform unlawful labour and that he did not take any measures to prevent such practice, or punish those responsible.” *Naletilić* TJ, para. 272.

127.15. From those persons taken from the Heliodrom Camp to the frontlines to perform work during August 1993, six prisoners were killed and 50 prisoners were wounded.<sup>221</sup>

127.16. On 20 August 1993, the Heliodrom Camp Warden sent a report to BRUNO STOJIC indicating that the number of prisoners killed and wounded while performing work was increasing by the day.<sup>222</sup>

128. From approximately August 1993 to March 1994, Bosnian Muslim men detained at the Heliodrom prison were transported to Vojno Camp (described below), often on a seven-day rotation, where they were used in forced labour in dangerous conditions. Many Muslim detainees were killed or injured in the course of such labour.

129. On a number of occasions, Herceg-Bosna/HVO forces used Muslim detainees as human shields, placing them between HVO and ABiH forces or making them walk in front of advancing HVO forces. On some occasions, Muslim detainees were given wooden rifles or otherwise made to look like HVO soldiers and forced to walk toward ABiH positions in order to draw fire and assist the HVO in identifying ABiH positions. (Annex)

129.1. “On 17 September 1993, at 12 pm, the HVO launched an offensive operation against the ABiH on the right bank of the Neretva river, which did not succeed in taking

<sup>221</sup> EXH No. P 05008, 0153-8335- 0153-8335.

<sup>222</sup> EXH No. P 04352, 0154-0450- 0154-0450.

any grounds, and led to many casualties among the HVO soldiers.” *Naletilić* TJ, para. 275.

129.2. “Mladen Naletilić at least together with the Southeast Herzegovina operational zone Commander Miljenko Lasić and the Commander of the Sector Mostar Town Defence Zlatan Mijo Jelić played an important role in the planning and operation of the attack on 17 September 1993.” *Naletilić* TJ, para. 150.

129.3. “In the morning of 17 September 1993, Dinko Knežović came to fetch approximately 30 prisoners from the Heliodrom to take them to the headquarters of the Vinko Škrobo ATG. Upon their arrival, Vinko Martinović ordered Ernest Takač to select four prisoners, who were taken down to the basement of the headquarters. There, Štela ordered them to wear camouflage uniforms. The prisoners also received wooden rifles.” *Naletilić* TJ, para. 276.

129.4. “Vinko Martinović was in command on the frontline in the area of the Health centre on 17 September 1993. The four prisoners in question were signed out to the Vinko Škrobo ATG. Vinko Martinović himself issued the instructions to the prisoners involved in the wooden rifle incident them. 17 September 1993, he directly ordered that the four selected prisoners be used as human shields.” *Naletilić* TJ, para. 290.

129.5. “The labour of prisoners of war at the frontline in Raštani [on 23 September 1993] was dangerous by its very nature. The detainees were exposed to shelling and gun fire in the conflict, and participated in tasks involving transporting food and ammunition, collecting bodies as well as search operations. Furthermore, this labour was not undertaken voluntarily. The circumstances in which the detainees were used and the nature of the work they were forced to perform caused them a serious mental suffering.” *Naletilić* TJ, paras. 302-303.

129.6. “The injuries sustained by some of the prisoners in the course of their work caused serious mental harm or physical suffering or injury.” *Naletilić* TJ, para. 271.

130. The use of Bosnian Muslim detainees held at the Heliodrom in forced labour or as human shields resulted in at least fifty-six Muslim detainees being killed (Annex) and at least one-hundred-and-seventy-eight being wounded. (Annex)

131. Some Bosnian Muslim detainees were released or permitted to leave the Heliodrom on the conditions that they surrender all of their property to the HVO and move to another country. On about 17 July 1993, the Herceg-Bosna/HVO authorities offered to release Muslim men detained at the Heliodrom if they agreed to be transferred to the Republic of Croatia, from where the HVO would allegedly assist them in relocating to other countries. Approximately 800 Bosnian Muslims accepted this proposal, and were transported to the island of Obonjan and Gašinci in the Republic of Croatia, with the direct involvement of Herceg-Bosna/HVO forces and Republic of Croatia police.

131.1. The UN Rapporteur Mazowiecki reported on the arrangements by which Muslim prisoners were released from HVO prisons and camps if they would Herceg-Bosna:

60. On 17 July 1993 detainees in Rodoc helidrome who had letters guaranteeing their entry to third countries were told to sign papers from the HVO Office for Displaced Persons and Refugees in Mostar saying that they wanted to leave Bosnia and Herzegovina. Even detainees without letters of guarantee were told that they should leave, on the false promise that when they arrived in the Republic of Croatia they would be resettled in a third country. Within a matter of hours, during which detainees had to see their families and pack their belongings, several hundred detainees were deported to the Republic of Croatia.

61. It was alleged that Croatian border police who stopped one convoy on 18 July 1993, took note of the number of detainees and their identity documents, if any. However, another convoy was apparently allowed to cross the border near Vrgorac unhindered. Detainees in a third convoy were allegedly transferred to Croatian vehicles at the border and given a Croatian police escort to Gasinci. These alleged incidents would indicate that authorities in the Republic of Croatia were actively involved in this deportation.<sup>223</sup>

132. Similar practices continued from July to November 1993, with the Herceg-Bosna/HVO authorities agreeing to release detained Muslim men on the usual condition that they leave Herceg-Bosna. Between 15-17 December 1993, at least 1,477 Muslim detainees were released from the Heliodrom. Many were deported to the Republic of Croatia or other countries (Annex), and some were sent or allowed to return to East

<sup>223</sup> Fifth Mazowiecki Report (UN Special Rapporteur; E/CN.4/1994/47; 17 November 1993), EXH No. P046697 (0008-9843-0008-9881).



Mostar. (Annex) On some occasions, Muslim detainees were also told they would be released if they signed loyalty oaths to the HVO.

132.1. On 20 December 1993, the UN General Assembly called for "the immediate closure of all detention facilities [in the former Yugoslavia] not in compliance with the Geneva Conventions of 12 August 1949. . ." <sup>224</sup>

133. On various occasions, the Herceg-Bosna/HVO authorities blocked international observers and humanitarian organisations from gaining full and truthful information about the existence and circumstances of Muslim detainees held at the Heliodrom, and on some occasions barred international observers from having contact with the detainees. On 18 May 1993, representatives of international humanitarian organisations who visited the Heliodrom were not permitted to inspect all of the premises where detainees were kept, and were given false information concerning the detention and release of Bosnian Muslims, including Muslim women. By August 1993, an international humanitarian organisation had notified the Herceg-Bosna/HVO authorities of violations of the Geneva Conventions related to the detention of Muslims at the Heliodrom, including their use in forced labour.

133.1. Once again, the Rapporteur Mazowiecki summarized the HVO's imprisonment of non-Croats, from May to at least the end of 1993:

57. The systematic arrest of Muslim men began in May 1993 and reached a peak at the end of July 1993 when an estimated 15,000 were in detention. During this period male Serbs and Roma (gypsies) living in western Herzegovina were also detained. Six hundred Muslims were freed on 19 October 1993 under the agreement brokered by ICRC. At the end of October 1993 HVO was holding 4,200 detainees in eight registered detention centres, one of the largest being Rodoc heliodrome outside Mostar.

58. Most arrestees were civilian men of fighting age, although some young boys and men over 60 were also detained. Around 6,300 Muslims were arrested in Mostar on 30 June 1993; 5,500 in Capljina between May and July 1993; 1,350 in Stolac in July 1993; and 92 in Gradska in August 1993. <sup>225</sup>

<sup>224</sup> EXH No. P 07273 (A/RES/48/143; 20 December 1993), para. 15.

<sup>225</sup> Fifth Mazowiecki Report (UN Special Rapporteur; E/CN.4/1994/47; 17 November 1993), EXH No. P 06697 (0008-9843-0008-9881).

133.2 "According to reliable estimates [in December 1993] around 40 per cent of detainees are held by Bosnian Croat authorities, 25 per cent by the Government, 13 per cent by the Bosnian Serbs and the remainder by the forces of the so-called 'autonomous province of western Bosnia'."<sup>226</sup>

134. In January 1994, representatives of an international humanitarian organisation were prevented from having contact with detainees who were still being used in forced labour.

134.1. A further statement of facts concerning the Heliodrom is contained in Confidential Brief Annex 5.

135. By the foregoing acts, conduct, practices and omissions and as further described in Paragraphs 15-17, 17.1-17.6, 39 and 218-230, JADRANKO PRLIĆ, BRUNO STOJIĆ, SLOBODAN PRALJAK, MILIVOJ PETKOVIĆ, VALENTIN ĆORIĆ and BERISLAV PUŠIĆ are responsible for the following crimes: persecutions, as charged in Count 1; murder (Count 2); wilful killing (Count 3); deportation (Count 6); unlawful deportation of a civilian (Count 7); inhumane acts (forcible transfer) (Count 8); unlawful transfer of a civilian (Count 9); imprisonment (Count 10); unlawful confinement of a civilian (Count 11); inhumane acts (conditions of confinement) (Count 12); inhuman treatment (conditions of confinement) (Count 13); cruel treatment (conditions of confinement) (Count 14); inhumane acts (Count 15); inhuman treatment (Count 16); cruel treatment (Count 17); and unlawful labour (Count 18).

### **VOJNO CAMP**

136. From approximately June 1993 to March 1994, the Herceg-Bosna/HVO forces used and operated several buildings in the area of Vojno, in Mostar Municipality, about twelve kilometers north of Mostar town, as a place to detain Bosnian Muslim men, women

<sup>226</sup> Sixth Mazowiecki Report (UN Special Rapporteur; E/CN.4/1994/110; 21 February 1994), EXH No. P 07917 (0009-0867-0009-0930), para. 34.

and children who had been arrested or otherwise taken into custody ("Vojno Camp"). The camp was located close to an active HVO-ABiH confrontation line.

137. Conditions at Vojno Camp were harsh and unhealthy, with overcrowding, insufficient food and water, poor ventilation, insufficient bedding and inadequate sanitation facilities.

138. The HVO forces physically and mentally abused Bosnian Muslim men detained at the Vojno Camp on a daily basis. Herceg-Bosna/HVO forces killed at least fifteen Muslim men while they were detained at Vojno Camp and injured many others. (Annex) The HVO forces routinely beat Bosnian Muslim men with fists, feet, rubber batons and various wooden objects. Muslim men were subjected to electrical shocks, often forced to beat each other and otherwise abused and humiliated. Muslim detainees were forced to witness the summary execution of other detainees. Detainees were often subjected to particularly severe mistreatment in retaliation for ABiH military successes. (Annex)

138.1. Statements were taken from prisoners at the Vojno Camp and a report was forwarded to the Herceg-Bosna/HVO authorities concerning the mistreatment inflicted upon the detainees. The victims described being burnt with cigarettes, insulted and struck with batons, bottles and other objects. The detainees were also forced to bite and hit each other.<sup>227</sup>

139. From approximately August 1993 to March 1994, Bosnian Muslim men detained at Vojno Camp, together with Bosnian Muslim men detained at the Heliodrom (who were often sent to Vojno Camp on a seven-day rotation) were used in forced labour in the Vojno area. The forced labour included building military fortifications, digging trenches, carrying ammunition to HVO soldiers, and retrieving killed and injured HVO soldiers, often along the confrontation line and in the midst of combat conditions. Bosnian Muslim men engaged in such labour were regularly exposed to mortar, sniper and other small arms fire, and at least thirty-eight Muslim men were killed (Annex) or wounded. (Annex)

<sup>227</sup> EXH No. P 04918, 0154-0422-0154-0427; see also EXH No. P 07796, 0154-7109-0154-7115.

140. The HVO forces detained approximately fifty civilian Bosnian Muslim women and girls (together with their small children) at Vojno Camp, from approximately June to December 1993. The Muslim women and others were held without any genuine or *bona fide* effort by the HVO authorities to determine their status or distinguish military detainees from civilians. Neither did the HVO provide for the civilians' release or transfer to a safe location.

141. HVO soldiers repeatedly raped and sexually assaulted Bosnian Muslim women and girls detained at Vojno Camp. (Annex) Such episodes of sexual assault were often preceded or accompanied by beatings or threats that non-compliance would result in the woman's child (or children) being killed.

142. Bosnian Muslim children detained at the Vojno Camp were regularly exposed to cruel treatment, hunger and separation from their mothers, resulting in physical suffering and trauma to these, some of the younger victims of the Herceg-Bosna/HVO persecution and cleansing. (Annex)

142.1. A further statement of facts concerning Vojno Camp is contained in Confidential Brief Annex 6.

143. By the foregoing acts, conduct, practices and omissions and as further described in Paragraphs 15-17, 17.1-17.6, 39 and 218-230, JADRANKO PRLIĆ, BRUNO STOJIĆ, SLOBODAN PRALJAK, MILIVOJ PETKOVIĆ, VALENTIN ĆORIĆ and BERISLAV PUŠIĆ are responsible for the following crimes: persecutions, as charged in Count 1; murder (Count 2); wilful killing (Count 3); rape (Count 4); inhuman treatment (sexual assault) (Count 5); imprisonment (Count 10); unlawful confinement of a civilian (Count 11); inhumane acts (conditions of confinement) (Count 12); inhuman treatment (conditions of confinement) (Count 13); cruel treatment (conditions of confinement) (Count 14); inhumane acts (Count 15); inhuman treatment (Count 16); cruel treatment (Count 17); and unlawful labour (Count 18).

**LJUBUŠKI MUNICIPALITY  
AND DETENTION CENTERS**

144. Ljubuški Municipality is located in southwest Bosnia and Herzegovina, bordering the Republic of Croatia. In 1991, approximately 92% of Ljubuški Municipality's total 28,340 inhabitants declared themselves Croat and only 5.6% (or about 1,592 persons) as Muslim.

145. The 18 November 1991 proclamation of Herceg-Bosna included Ljubuški Municipality as part of Herceg-Bosna. In 1992 and continuing into 1993, the Herceg-Bosna/HVO authorities and forces increasingly persecuted Bosnian Muslims in Ljubuški town and the villages of Gradska and Vitina.

145.1. On 7 May 1993, the Ljubuški Command Post of the HVO Stjepan Radić Brigade reported that the Muslim males in that brigade were to be disarmed so that these people did not try to "defend" the interests of the Muslims, and that the HVO civilian police would be recording all refugees and especially all military-aged men. As part of this effort, it was determined that it was necessary to "find all refugees from Mostar, Stolac, Čapljina, that have been hiding in the villages Gradska, Gožulj, Vitina, Ljubuški itself, and villages Dretelj, Medugorje, Čitluk etc."<sup>228</sup>

145.2. In-mid July 1993, Muslim residents of Gradska who were employed in Ljubuški were suspended from work and denied humanitarian assistance. This fit a pattern that existed in the summer of 1993 in villages throughout the region.<sup>229</sup>

145.3. On or about 27 July 1993, UNPROFOR Spanish Battalion soldiers reported seeing HVO Military Police vehicles escorting three buses and fifteen trucks carrying a "large number of civilians (women, children and the elderly)" in Vitina on the Grude-Ljubuški Road. All of the vehicles were driven by uniformed military personnel. The Spanish Battalion reported that no luggage or parcels were seen on the vehicles and that the

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<sup>228</sup> EXH No. P 02223, 0156-6096-0156-6097.

<sup>229</sup> Delayed disclosure exhibit.

“civilians looked like country people, they appeared dispirited and some women were crying.”<sup>230</sup>

145.4. On 14 and 15 August 1993, based on an order issued by the “HVO command,” the HVO 4th Brigade Military Police arrested 297 Muslim men in the area of Ljubuški Municipality.<sup>231</sup>

145.5. On 15 August 1993, the HVO arrested 92 Muslim men in Gradska,<sup>232</sup> leaving no military-age Muslim men in Gradska. The village was then subjected to nightly looting, leaving the civilian population isolated and “extremely fearful for their future.”<sup>233</sup>

145.6. On 29 October 1993, a document was signed for VALENTIN ĆORIĆ, Chief of the HVO Military Police Administration, indicating that five “vacated apartments” in “HVO Ljubuški Municipality” were available “for temporary use by Military Police employees.” These apartments had been the homes of Muslims.<sup>234</sup>

146. Commencing in April 1993 and continuing through March 1994, the Herceg-Bosna/HVO authorities and forces operated the Ljubuški Military Remand Prison (“Ljubuški Prison”) in Ljubuški town and another detention center located in a tin hangar in or near the hamlets of Vitina and Otok (“Vitina Hangar,” sometimes also known as the “Otok camp”). The HVO operated these camps, in whole or part, as places to detain and imprison Bosnian Muslims, including Bosnian Muslim leaders, civilian Muslim women and Muslim intellectuals, as well as Muslims arrested or collected in the Republic of Croatia and sent to Ljubuški Prison. (Annex)

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<sup>230</sup> EXH No. P 03744, R016-5970-R016-5973.

<sup>231</sup> EXH No. P 04225, 0156-2274-0156-2280.

<sup>232</sup> EXH No. P 05091, 0008-0265-0008-0265.

<sup>233</sup> Delayed disclosure exhibit.

<sup>234</sup> EXH No. P 06232, 0153-6179-0153-6179.

146.1. "A prison for captured BH Muslim civilians and former ABiH soldiers was operational in Ljubuški, a town 26 kilometres Southwest of Mostar, at least from April 1993 to March 1994. The prison also hosted BH Croatian HVO soldiers, who enjoyed a better treatment and a certain degree of freedom, which they used to mistreat BH Muslim civilians and soldiers. The prison was manned by policemen." *Naletilić TJ*, para. 654.

146.2. "Detention of BH Muslim civilians at Ljubuški was unlawful and grounded on a discriminatory basis. The confinement of prominent members of the BH Muslim community was conducted systematically, undermining the vitality and the possibility of physical and moral resistance of that part of the population. It only concerned the BH Muslim part of the population. *Naletilić TJ*, para. 657.

146.3. "The Ljubuški prison became infamous because "special" prisoners were held there. The detainees at the Ljubuški prison included men involved in the fighting in Sovići, Doljani and the Jablanica area, from the Vranica building in Mostar who had surrendered or had been otherwise captured. There were also non-combatants detained in Ljubuški Prison." *Naletilić TJ*, para. 55.

146.4. "As a consequence of the military conflict ensued on 17 April 1993, many people with rather different personal backgrounds were detained at Ljubuški. There were defenders of Sovići, Doljani and the Jablanica area, as well as of the Vranica building in Mostar who had surrendered or had been otherwise captured." *Naletilić TJ*, para. 655.

146.5. VALENTIN ĆORIĆ permitted representatives of the ICRC to visit Ljubuški prison in July 1993.<sup>235</sup>

146.6. The prisoners at Ljubuški (and other HVO prisons) were not properly registered and classified and on 6 August 1993, BRUNO STOJIĆ issued an order to register the prisoners by using a "personal data slip."<sup>236</sup>

<sup>235</sup> EXH No. P 03250, 0154-4486-0154-4488.

<sup>236</sup> EXH No. P 04141, 0102-7729-0102-7730.

146.7. In early October 1993, there were allegations that 715 persons were detained in "Otoka (between Ljubuški and Vitina)" in a farmhouse hanger.<sup>237</sup>

147. Conditions at the Ljubuški Prison and the Vitina Hangar were harsh and unhealthy due to overcrowding, bad ventilation, a complete lack of beds, insufficient bedding, insufficient food and water and poor sanitation facilities. (Annex)

148. From approximately April 1993 to March 1994, the HVO regularly used Bosnian Muslims detained at Ljubuški Prison and the Vitina Hangar to perform forced labour. (Annex) This labour included dangerous military-related tasks such as building bunkers and digging trenches in combat conditions, which resulted in the death or injury of a number of Muslim detainees.

148.1. "Mladen Naletilić was present on some occasions in Ljubuški prison and he even used some prisoners from this detention centre as labour force for construction works. A hand-written letter . . . shows a request by Mladen Naletilić to release a certain Feriz Januzović and his father from Ljubuški." *Naletilić* TJ, para. 658.<sup>238</sup>

148.2. "[The Convicts Battalion] could force some prisoners to work for them on certain occasions and . . . soldiers could access Ljubuški prison and beat the prisoners held there." *Naletilić* TJ, para. 659.

148.3. On 22 April 1993, the warden of the Ljubuški prison reported that in accordance with an order that he had received, he sent twelve prisoners to the front lines to "make trenches and shelters" and that these prisoners were used by the "Bekija" battalion.<sup>239</sup> Two days later, on 24 April 1993, sixty-five "healthy and fit" prisoners were sent from Ljubuški prison to perform work for different battalions.<sup>240</sup> On the following day, 25

<sup>237</sup> EXH No. P 07619, 0073-2791-0073-2796.

<sup>238</sup> EXH No. P 01974, 0304-3116-0304-3117 (Eng) / 0152-2785-0152-2787 (BCS).

<sup>239</sup> EXH No. P 02026, 0156-2345- 0156-2345.

<sup>240</sup> EXH No. P 02095, 0156-2342- 0156-2342.



April 1993, 75 prisoners were escorted to work at an HVO forward command post. Due to the close proximity to the front lines, sixteen of these prisoners were required to stay and work in the night.<sup>241</sup> This pattern of sending prisoners to the front line for work details continued throughout May,<sup>242</sup> July<sup>243</sup> and August 1993.<sup>244</sup>

148.4. Detainees from the Ljubuški and Otok detention facilities were sent to work on the front lines in Gornji Vukov between July and August 1993.<sup>245</sup>

149. Particularly during the time from May to July 1993, the HVO routinely beat, tortured, and mistreated Bosnian Muslims detained at Ljubuški Prison and the Vitina Hangar, both at the detention facilities themselves and while engaged in forced labour. (Annex)

149.1. "The beatings administered to Rudi Jozelić during his detention at the Ljubuški prison on at least three occasions were severe enough to amount to the crimes of cruel treatment and wilfully causing great suffering. The same finding applies with regard to the beating of witness BB with several objects, including thick electric cables, with regard to the electric-shocks applied to witness Z and the beatings administered to witness Y who already was in a desperate physical condition when he first arrived at the Ljubuški prison." *Naletilić* TJ, para. 427.

149.2. "Soldiers of the [Convicts Battalion] and the Vinko Škrobo ATG under the command of Mladen Naletilić and Vinko Martinović, namely Romeo Blažević, Ernest Takač, Robo and Ivan Hrkač, the brother of Čikota, participated in those severe beatings

<sup>241</sup> EXH No. P 02110, 0156-2341-0156-2341.

<sup>242</sup> 4 May 1993, EXH No. P 02197, 0156-2336-0156-2336; 5 May 1993, EXH No. P 02206, 0156-2335-0156-2335; 8 May 1993, EXH No. P 02229, 0156-2334-0156-2334; 9 May 1993, EXH No. P 02247, 0156-2333-0156-2333; 12 May 1993, EXH No. P 02319, 0156-2331-0156-2331; 18 May 1993, EXH No. P 02456, 0156-2326-0156-2326; 20 May 1993, EXH No. P 02465, 0156-2325-0156-2325; 27 May 1993, EXH No. P 02546, 0156-2318-0156-2318.

<sup>243</sup> 11 July 1993, EXH No. P 03401, 0156-2301-0156-2301; 12 July 1993, EXH No. P 03429, 0156-2300-0156-2300; 16 July 1993, EXH No. P 03507, 0156-2296-0156-2296.

<sup>244</sup> 16 August 1993, EXH No. P 04348, 0154-0452-0154-0452.

<sup>245</sup> EXH No. P 00284, 0156-9718-0156-9725.

of the helpless prisoners. . . . Mladen Naletilić had reason to know about these crimes being committed by his subordinates after he had seen for himself how KB soldiers, in particular Robo, had severely mistreated some of the same prisoners, as for instance, witness Y, already on the bus ride on their way to the Ljubuški prison. Mladen Naletilić merely told his soldiers on that occasion to stop and to get back on the bus. Mladen Naletilić's failure to punish his soldiers for the mistreatment of witness Y near Sovići conveyed the message that their behaviour was tolerable. After this incident, he knew that his soldiers engaged in brutal mistreatment of prisoners. He had reason to know that there was a high risk of his soldiers visiting the Ljubuški prison to continue their revenge action on enemy soldiers by maltreating prisoners there. *Naletilić* TJ, para. 428.

149.3. “. . . [T]he beatings of Rudolf Jozelić at Ljubuški prison were carried out with discriminatory basis. Jozelić was an ethnic BH Croat, married to a BH Muslim woman and member of the ABiH. Ernest Takač, one of the main perpetrators, told witness FF that he and other soldiers came to Ljubuški prison “to beat up balijas and to drink balija blood”. The term “balija” is a derogatory term for BH Muslims, carrying religious connotations. Jozelić was forced to sing the Croatian anthem, was beaten and told that traitors were not allowed to do so. He was made to pray the Muslim way although he himself was Christian. . . . Jozelić was mistreated on religious and political grounds and that the incident amounts to persecution pursuant to Article 5(h) of the Statute.” *Naletilić* TJ, para. 679.

150. Between 16 August 1993 and 28 August 1993, the Herceg-Bosna/HVO authorities deported the Bosnian Muslim populations of Gradska, Vitina and other parts of Ljubuški Municipality from Bosnia and Herzegovina. This mass deportation was accomplished by allowing Bosnian Muslims to leave HVO concentration camps and detention facilities only if they provided a letter of guarantee from another country willing to accept them and their families. Bosnian Muslims from Ljubuški Municipality were arrested, robbed of their property and subsequently deported with their families to third countries, via the Republic of Croatia. (Annex)

151. From July 1993 to March 1994, many of the Bosnian Muslims detained at the Ljubuški Prison and the Vitina Hangar were transferred to Vrda, Dretelj Prison, Gabela Prison or the Heliodrom, sent to East Mostar or ABiH-held territory or deported to third countries. (Annex)

151.1. "Prisoners were moved around between places and detention centres. For example, the ABiH soldiers who surrendered or were captured in Sovići and Doljani were brought to the Ljubuški prison on 18 April 1993 and were later moved to the Heliodrom." *Naletilić* TJ, para. 55.

151.2. In July 1993, after 237 Muslims were arrested by the HVO Military Police and transported to Ljubuški prison, the warden of that facility transferred them to Dretelj Prison after obtaining the authority to do so from VALENTIN ČORIĆ.<sup>246</sup>

151.3. On 9 or 10 August 1993, 121 prisoners were transferred from the Ljubuški Prison to the Dretelj Prison on the orders of the HVO Military Police Administration.<sup>247</sup>

151.4. More than 100 prisoners were transferred from the Otok Military Prison in Vitina to the Ljubuški Prison on 10 August 1993.<sup>248</sup>

152. In September 1993, the Herceg-Bosna/HVO forces destroyed the mosque in the village of Gradska, as part of the continuing persecution directed against the Bosnian Muslims.

152.1. A 26 October 1993 Spanish Battalion report indicates that the mosque in "GRASKA" had recently been destroyed and that the village was vacated: "windows and

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<sup>246</sup> EXH No. P 03401, 0156-2301- 0156-2301.

<sup>247</sup> EXH No. P 04101, 0153-6314- 0153-6314.

<sup>248</sup> EXH No. P 04068, 0156-9609- 0156-9609.

doors on the houses were open and smoke was coming out of some of them, which makes one think that the population was displaced towards other places.”<sup>249</sup>

152.2. A further statement of facts concerning Ljubuški Municipality and Detention Centers is contained in Confidential Brief Annex 7.

153. By the foregoing acts, conduct, practices and omissions and as further described in Paragraphs 15-17, 17.1-17.6, 39 and 218-230, JADRANKO PRLIĆ, BRUNO STOJIĆ, SLOBODAN PRALJAK, MILIVOJ PETKOVIĆ, VALENTIN ĆORIĆ and BERISLAV PUŠIĆ are responsible for the following crimes: persecutions, as charged in Count 1; deportation (Count 6); unlawful deportation of a civilian (Count 7); inhumane acts (forcible transfer) (Count 8); unlawful transfer of a civilian (Count 9); imprisonment (Count 10); unlawful confinement of a civilian (Count 11); inhumane acts (conditions of confinement) (Count 12); inhuman treatment (conditions of confinement) (Count 13); cruel treatment (conditions of confinement) (Count 14); inhumane acts (Count 15); inhuman treatment (Count 16); cruel treatment (Count 17); unlawful labour (Count 18); and destruction or wilful damage to institutions dedicated to religion or education (Count 21).

### **STOLAC MUNICIPALITY**

154. Stolac Municipality is located in southwest Bosnia and Herzegovina, with a 1991 population of approximately 18,681 persons. According to the 1991 census, 43.4% of the population (8,101 persons) declared themselves Muslim, and 33.1% (6,188 people) declared themselves Croat. The main town in the municipality is Stolac town, with a 1991 population of approximately 5,530 persons. About 62% of the town's inhabitants (3,426 persons) declared themselves Muslim, and approximately 12% (653 persons) declared themselves Croat.

155. The 18 November 1991 proclamation of Herceg-Bosna included Stolac Municipality as part of Herceg-Bosna, despite the fact that Bosnian Croats constituted a

<sup>249</sup> EXH No. P 06113, 0059-3387-0059-3392. The reference to “GRASKA” appears to be an error, and the correct reference is almost certainly the local town “Gradska.”

minority in the municipality. As in other municipalities described in this indictment, there were growing tensions between the Herceg-Bosna/HVO authorities and Bosnian Muslim population in 1992 and 1993, with increasing HVO persecution against the Muslims. When Bosnian Serb forces and much of the Serb population left Stolac town in mid-1992, the Herceg-Bosna/HVO authorities took control of the town.

156. Despite the HVO's efforts to Croatise the institutions and population in Stolac Municipality, the municipality's Bosnian Muslims rejected Herceg-Bosna/HVO control. In December 1992, the Bosnian Muslim members of the Stolac Crisis Staff refused to endorse the incorporation of Stolac Municipality into Herceg-Bosna.

157. During the early part of 1993, tensions between the Herceg-Bosna/HVO authorities and the Bosnian Muslims increased. Around 20 April 1993, the Herceg-Bosna/HVO authorities arrested prominent Bosnian Muslims in Stolac Municipality (including the Bosnian Muslim members of the Stolac Crisis Staff) and detained them for varying periods of time in HVO detention facilities at Dretelj, Gabela, Ljubuški and the Heliodrom. (Annex)

157.1. The commander of the HVO 1st *Knez Domagoj* Brigade issued an order on 16 April 1993 that any member of the ABiH wearing insignia of that army was to be arrested and disarmed.<sup>250</sup>

157.2. By early May 1993, there were over 300 Muslims detained in Čapljina, including a large percentage of the intelligentsia of Stolac and Čapljina Municipalities, including doctors, journalists, lawyers and members of the primarily Muslim SDA political party.<sup>251</sup>

157.3. The HVO 1st *Knez Domagoj* Brigade, including the Stolac Forward Command Post, was placed on the highest level of combat readiness on 6 May 1993.<sup>252</sup>

<sup>250</sup> EXH No. P 01871, 0152-0037- 0152-0037.

<sup>251</sup> Delayed disclosure exhibit.

<sup>252</sup> EXH No. P 02210, 0306-0097-0306-0098.

158. On or about 10 May 1993, the HVO converted the Koštana Hospital in Stolac to an HVO Military Police facility and transferred the hospital's bone disease patients to the Grabovina barracks in Čapljina Municipality. The HVO then used the Koštana Hospital building as a short-term detention facility for Bosnian Muslim men.

158.1. Several days prior to the conversion of the Koštana Hospital in Stolac, the Commander of the HVO 1st *Knez Domagoj* Brigade issued an order to the Commander of the Stolac Forward Command Post to, *inter alia*, "immediately block admission of new patients into the osteopathic hospital and the taking out of materiel and technical equipment from it."<sup>253</sup>

159. As described above, the Herceg-Bosna/HVO authorities, in July 1993, carried out a massive, orchestrated campaign to expel, cleanse and forcibly transfer Bosnian Muslims from various parts of Herzegovina, including Stolac Municipality. After first arresting and detaining most of the Bosnian Muslim men, the HVO systematically removed Bosnian Muslim women, children and elderly from their homes and ultimately expelled them to ABiH-controlled areas or to other countries, via the Republic of Croatia. In the course of expelling the Bosnian Muslim civilians, the Herceg-Bosna/HVO forces robbed them of their property.

159.1. On 1 July 1993, the Commander of the 3rd Company of the 3rd Battalion of the Čapljina Military Police reported that about 1,300 Muslims had been "apprehended and brought in from the municipalities of Stolac, Čapljina, Mostar and Neum on 30 June and 1 July 1993." This operation was carried out in cooperation with the Čapljina MUP Police Brigade and the 1st *Knez Domagoj* Brigade.<sup>254</sup>

159.2. On 2 July 1993, the top HVO commander MILIVOJ PETKOVIĆ, with the agreement of HVO Defence chief BRUNO STOJIC, issued a detailed order to units of the Southeast Herzegovina Operations Zone. The order assigned various commanders and

<sup>253</sup> EXH No. P 02215, 0152-4585-0152-4586; see also Delayed disclosure exhibit.

<sup>254</sup> EXH No. P 03075, 0151-9473-0151-9473.

their units, including the forces of the Čapljina and Stolac police stations and the municipal homeguard units, to operations and assignments.<sup>255</sup>

159.3 On 2 July 1993, the Commander of the 3rd Company of the 3rd Battalion of the Čapljina Military Police reported that 1,109 additional Muslims were “arrested and brought in” during the 24 hour period from 0700 on 1 July 1993 until 0700 on 2 July 1993. Again, this was a joint operation between forces of the Čapljina MUP Police Brigade, the 1st *Knez Domagoj* Brigade and the 3rd Company of the 3rd Battalion of the Čapljina Military Police.<sup>256</sup>

159.4. By 0700 hours on 3 July 1993, the Commander of the 3rd Company of the 3rd Battalion of the Čapljina Military Police reported that 1,820 Muslims had been taken into custody over the past three days.<sup>257</sup>

160. On or about 6 July 1993, the Herceg-Bosna/HVO forces expelled Bosnian Muslim civilians from in or around the village of Prenj. (Annex)

161. On or about 12-15 July 1993, Herceg-Bosna/HVO forces expelled Bosnian Muslim civilians from in or around the villages of Aladinići, Pješivac Greda and Rotimlja on the Dubrave Plateau. (Annex) In the course of forcibly expelling Bosnian Muslim civilians from Pješivac Greda on 12-13 July 1993, Herceg-Bosna/HVO forces shot and killed an eighteen-year-old Bosnian Muslim woman. (Annex)

162. In the course of expelling Bosnian Muslim civilians from the Dubrave Plateau, Herceg-Bosna/HVO forces, on 13-15 July 1993, destroyed Bosnian Muslim houses in Aladinići and Rotimlja, including Muslim houses and property in the Huskovići, Medine and Selo parts of Rotimlja. Herceg-Bosna/HVO forces destroyed the mosques in Aladinići and Rotimlja on 14 July 1993.

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<sup>255</sup> EXH No. P 03128, 0101-8042-0101-8044.

<sup>256</sup> EXH No. P 03121, 0151-9471-0151-9472.

<sup>257</sup> EXH No. P 03134, 0151-9468-0151-9470.

163. On 13-14 July 1993, in Stolac town, Herceg-Bosna/HVO forces expelled Bosnian Muslim women, children and elderly (Annex) and destroyed the Sultan Selim Mosque (also known as the Emperor Mosque).

164. In late July 1993, Herceg-Bosna/HVO forces destroyed Bosnian Muslim houses and property in Borojevići.

165. On 4-5 August 1993, Herceg-Bosna/HVO forces destroyed Bosnian Muslim houses and property in Prenj, including the mosque.

166. On or about 4 August 1993, Herceg-Bosna/HVO authorities forcibly expelled additional Bosnian Muslim civilians from Stolac town. During or about the time of 4 August 1993, the HVO destroyed the Begovina Complex and the old town center (including the market) in Stolac town, and three additional mosques -- the Ali Paša Rizvanbegović Mosque, the Hadži Alija Hadžisalihović Mosque and the Ismail Kapetan Šarić Mosque. Including the earlier expulsions on 13-14 July 1993, Herceg-Bosna/HVO forces expelled the vast majority of all Bosnian Muslims from Stolac town, totalling more than 3,000 persons.

166.1. At least four old mosques in Stolac were destroyed, as were a number of other historical buildings.<sup>258</sup>

167. As part of the expulsion campaign, Herceg-Bosna/HVO forces immediately placed Bosnian Muslims (primarily women, children and elderly) on trucks and buses and transported them to Muslim enclaves or ABiH-held territory or its vicinity. From there, the Herceg-Bosna/HVO forces forced or told the Bosnian Muslims to walk to such enclaves or territory. In Buna especially, Herceg-Bosna/HVO forces forced Bosnian Muslims to walk to Blagaj, often under gunfire. (Annex)

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<sup>258</sup> Delayed disclosure exhibit; see also EXH No. P 04303, 0012-5186-0012-5188. "In Stolac in western Herzegovina, for instance, when major expulsions of non-Croats began on 1 August 1993, four mosques were reportedly blown up." Fifth Mazowiecki Report (UN Special Rapporteur; E/CN.4/1994/47; 17 November 1993), EXH No. P 06697 (0008-9843-0008-9881), para. 69.



168. In other instances, the Herceg-Bosna/HVO authorities detained or held Bosnian Muslim civilians at various locations, including the Crnići School, the TGA factory and the VPD (Stolac Juvenile Correction Center). At other locations, Bosnian Muslim civilians were kept in private houses and severely limited in their freedom of movement. The conditions and practices at these locations were inhumane and overcrowded, involving cruel treatment, insufficient food and water, and inadequate sanitary facilities, bedding and medical care. Many of those detained were eventually transferred to ABiH-controlled areas. (Annex)

169. During the summer and fall of 1993, Herceg-Bosna/HVO members severely mistreated Bosnian Muslim men held at the Koštana Hospital detention facility, kicking and beating them with batons, clubs, rifle butts and chairs, often in the course of interrogations and for prolonged periods. (Annex) Many Muslim detainees died or were seriously injured by this mistreatment, with at least five Muslim men dying between July and mid-October 1993. (Annex) (One of the Muslim men died from his injuries after he was moved to Dretelj Prison.)

170. By the latter part of September 1993, Herceg-Bosna/HVO leaders assured President Tudjman in Zagreb that not a single Muslim remained in Stolac Municipality, and that the HVO had re-populated and filled the Muslim homes in the area with Croats from Central Bosnia.<sup>259</sup>

170.1. A further statement of facts concerning Stolac Municipality is contained in Confidential Brief Annex 8.

171. By the foregoing acts, conduct, practices and omissions and as further described in Paragraphs 15-17, 17.1-17.6, 39 and 218-230, JADRANKO PRLIĆ, BRUNO STOJIĆ, SLOBODAN PRALJAK, MILIVOJ PETKOVIĆ, VALENTIN ĆORIĆ and BERISLAV PUŠIĆ are responsible for the following crimes: persecutions, as charged in Count 1; murder (Count 2); wilful killing (Count 3); inhumane acts (forcible transfer) (Count 8); unlawful transfer of a civilian (Count 9); imprisonment (Count 10); unlawful confinement

<sup>259</sup> EXH No. P 05237, 0132-2676-0132-2695.

of a civilian (Count 11); inhumane acts (conditions of confinement) (Count 12); inhuman treatment (conditions of confinement) (Count 13); cruel treatment (conditions of confinement) (Count 14); inhumane acts (Count 15); inhuman treatment (Count 16); cruel treatment (Count 17); extensive destruction of property (Count 19); wanton destruction (Count 20); destruction or wilful damage to institutions dedicated to religion or education (Count 21); appropriation of property (Count 22); and plunder (Count 23).

### **ČAPLJINA MUNICIPALITY**

172. Čapljina Municipality is located in southwest Bosnia and Herzegovina, with a 1991 population of approximately 27,882 persons. According to the 1991 census, 53.7% of the municipality's inhabitants (or about 14,969 persons) declared themselves Croat, and 27.5% (7,672 persons) Muslim. The Bosnian Muslim population was concentrated in the municipality's principal town, Čapljina, and in villages on the Dubrave Plateau, which straddles Stolac and Čapljina Municipalities. In 1991, about 41% (or 3,067 persons) of Čapljina town's inhabitants declared themselves Croat, and 29.4% (or 2,191 persons) as Muslim.

173. The 18 November 1991 proclamation of Herceg-Bosna included Čapljina Municipality as part of Herceg-Bosna. As in other municipalities described in this indictment, there were growing tensions between the Herceg-Bosna/HVO authorities and Bosnian Muslim population in 1992 and 1993, with increasing HVO persecution against the Muslims. (Annex)

173.1. On 26 June 1992, HVO commander MILIVOJ PETKOVIĆ reported to the "municipal leadership and commanders of HVO units": "Today we have under control almost the entire territory of the Croatian municipalities (Neum, Ravno, Stolac, Čapljina, Ljubuški, Čitluk, Široki Brijeg and Mostar)." PETKOVIĆ continued:

Admittedly, there is still part of the territory, mostly in Mostar and Stolac municipalities that are not under control of HVO forces. Therefore, we have four main tasks in front of us:

1. To put under control the remaining area of Croatian municipalities;

2. To secure and fortify the achieved line;
3. To carry out reorganisation of the existing HVO forces; and
4. To establish Croatian rule over all municipalities.<sup>260</sup>

174. Around 20 April 1993, the Herceg-Bosna/HVO authorities arrested a substantial number of Bosnian Muslim men in Čapljina Municipality, including prominent Muslim men in that area, and detained them at various HVO detention facilities (including the Grabovina barracks) for varying periods of time. (Annex)

174.1. "On 13 June 1993 the Croat mayor of Capljina broadcast a radio statement saying that the lives and security of local Muslims could 'no longer be guaranteed.' After that, normal life for them reportedly became impossible: it was dangerous for Muslims to appear in the street and they could obtain food only with the help of Croat neighbours, friends or spouses. Muslim families became targets of night-time looting by masked thugs, their property was damaged and the Capljina police provided little protection. Similar attacks were reported in the village of Gradska from mid-August 1993. The homes of Muslim families were routinely looted by night and by day military police prevented them from reporting these incidents to United Nations Civilian Police patrols."<sup>261</sup>

175. During the days around 13 July 1993, the Herceg-Bosna/HVO authorities forcibly expelled Bosnian Muslim civilians from or around the village of Domanovići. (Annex) During these expulsions, the Herceg-Bosna/HVO forces shot and killed two young Bosnian Muslim women. (Annex)

176. During the days around 13 July 1993, the Herceg-Bosna/HVO forces expelled Bosnian Muslim civilians from or around the village of Bivolje Brdo. (Annex) In the course of these expulsions, HVO soldiers shot and killed an 83-year-old Bosnian Muslim

<sup>260</sup> EXH No. P 00279, 0155-1457-0155-1460.

<sup>261</sup> Fifth Mazowiecki Report (UN Special Rapporteur; E/CN.4/1994/47; 17 November 1993), EXH No. P 06697 (0008-9843-0008-9881), para. 56.

man at his home in the Kevčići hamlet, and destroyed Bosnian Muslim houses. (Annex) On 16 July 1993, in the course of expelling Bosnian Muslims from Bivolje Brdo, the Herceg-Bosna/HVO forces separated twelve Bosnian Muslim men, who went missing and were never seen alive again. (Annex)

177. Around 13 July 1993, the Herceg-Bosna/HVO forces expelled Bosnian Muslim civilians from in or around the village of Počitelj. Between 27 July 1993 and 5 August 1993, the Herceg-Bosna/HVO forces evicted additional Bosnian Muslims from Počitelj, including many who had fled there from other villages. The Herceg-Bosna/HVO forces loaded many of the Muslim civilians onto trucks and took them to Buna, where they were made to walk to Blagaj (which was part of the East Mostar enclave). (Annex)

178. The HVO's conduct and practices in the systematic and large-scale arrests and expulsions in other parts of Herzegovina in July 1993 were also applied to Bosnian Muslims in Čapljina Municipality.<sup>262</sup> After first arresting and detaining most of the Bosnian Muslim men, the Herceg-Bosna/HVO forces systematically removed Bosnian Muslim women, children and elderly from their homes, and expelled them to ABiH-controlled areas or other countries, via the Republic of Croatia. In the course of expelling the Bosnian Muslims, the Herceg-Bosna/HVO forces robbed them of their property.

179. Around 13 July 1993, and again from 27 July 1993 to 5 August 1993, Herceg-Bosna/HVO forces forcibly expelled Bosnian Muslim civilians from in or around the village of Opličići. (Annex) The Herceg-Bosna/HVO forces burnt and dynamited Bosnian Muslim houses and buildings in Opličići on 4 August 1993, and destroyed the mosque in Opličići on 7 August 1993.

180. During the time from 13 July to 15 July 1993, Herceg-Bosna/HVO forces expelled Bosnian Muslim civilians from in or around the village of Lokve. (Annex) The Herceg-Bosna/HVO forces destroyed the mosque in or about Lokve on 14 July 1993 and destroyed Bosnian Muslim houses there on 16 July 1993.

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<sup>262</sup> EXH No. P 03134, 0151-9468-0151-9470; EXH No. P 03121, 0151-9471-0151-9472; EXH No. P04505, 0151-9473; R016-8323-R016-8326.

181. On about 14 July 1993, Herceg-Bosna/HVO forces destroyed the mosque in or about the village of Višići. On 11 August 1993, Herceg-Bosna/HVO forces expelled Bosnian Muslim civilians from the village of Višići, initially detaining them for several days at Silos in Čapljina town, and then evicting them from HVO-held territory. (Annex)

181.1. At an HVO government meeting on 20 July 1993, attended by JADRANKO PRLIĆ, BRUNO STOJIC and others, the situation in Čapljina was discussed. An HVO working group proposed “the relocation of the part of the detained individuals from Čapljina so that the conditions in these facilities would meet the standards of the international conventions,” indicating that the facilities did not meet such standards. JADRANKO PRLIĆ was assigned to explore possibilities in Široki Brijeg Municipality for accommodating some of the individuals who were detained in Čapljina, thus alleviating the conditions in Čapljina so that international conventions could be satisfied.<sup>263</sup>

181.2. An HVO order dated 4 August 1993 clearly states the approach taken in and around Počitelj: “Round up the Muslim population from the wider territory in the depth of the area of responsibility of the 3rd battalion (Počitelj, Ševač Polje, up to the police checkpoint in Žitomislići).”<sup>264</sup> The order goes on to state that “[w]hen rounding them up, do not pay attention to age” and makes it clear that the detained persons are to be taken to collection centres in either Počitelj or Ševač Polje. The order provides clear instructions in the event that any Muslim resisted: “In case of resistance by them respond by opening fire from personal weapons.”

181.3. On 20 August 1993, the situation in Čapljina was such that a press release issued by the United Nations High Commissioner for Refugees entitled “Detentions, Human Rights Abuses in Mostar Region,” stated: “In July, all Muslim men in Čapljina were

<sup>263</sup> EXH No. P 03573, 0421-1660-0421-1661.

<sup>264</sup> EXH No. P 03940, 0151-1355-0151-1355 (emphasis added).

rounded up and detained, witnesses said. The whereabouts of Muslim women, children and old people from the town—which was at least 60 percent Muslim—are unknown.”<sup>265</sup>

181.4. This same UNHCR Press Release also referred to other instances of “ethnic cleansing” in Čapljina Municipality: “On 13 July, at least 420 women, children and elderly Muslims from seven villages between Čapljina and Stolac were reportedly forced into Bosnian Croat military trucks and held for some two weeks before being forced to cross the front lines under fire near Doljani, northwest of Jablanica.”<sup>266</sup>

181.5. The Special Rapporteur Mazowiecki reported to the UN the mass expulsions of Muslims in the Čapljina and Stolac areas in the summer of 1993:

54. Deportations of Muslims from other parts of western Herzegovina began on 13 July 1993, when around 500 civilians were collected from villages between Stolac and Čapljina and forced to walk across the confrontation line with government forces between Buna and Blagaj. HVO soldiers threatened to shoot any who returned. By late August 1993, 20,000 Muslims had been forced across the line.

55. Before the expulsions took place, Croat authorities had used administrative powers to harass Muslim residents and progressively curtail their rights. These measures included widespread job dismissals from late 1992; house searches by civilian and military police in April 1993; the house arrest of Muslim men in Stolac in April 1993; the disconnection of telephones in Čapljina and the requisitioning of cars by HVO soldiers on 4 July 1993. Similar activities occurred at the same time at Tomislavgrad and Livno.<sup>267</sup>

181.6. “It appeared that the arrests were part of a deliberate policy to rid western Herzegovina of non-Croats. Muslim former detainees from Čapljina, arrested without a warrant in late June 1993, were forced to sign a statement saying that they would ‘voluntarily’ leave Čapljina on their release.”<sup>268</sup>

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<sup>265</sup> Delayed Disclosure exhibit.

<sup>266</sup> Delayed Disclosure exhibit.

<sup>267</sup> Fifth Mazowiecki Report (UN Special Rapporteur; E/CN.4/1994/47; 17 November 1993), EXH No. P 06697 (0008-9843-0008-9881).

<sup>268</sup> *Id.*, Fifth Mazowiecki Report, EXH No. P 06697, para. 59.

182. During August and September 1993, Herceg-Bosna/HVO forces expelled and forcibly transferred Bosnian Muslim women, children and elderly from Čapljina town. The main expulsion occurred on or about 23 August 1993, when Herceg-Bosna/HVO forces loaded about 3,000 Bosnian Muslim civilians into a large convoy of trucks and removed them from the town. After a brief stop at Silos, where their personal property was taken from them, the Muslim civilians were removed to ABiH-held territory. Around 29 September 1993, Herceg-Bosna/HVO forces expelled the last remaining Bosnian Muslims from Čapljina town, even though many of these civilians had obtained letters of guarantee to go to other countries. Herceg-Bosna/HVO forces took the civilians to Buna and made them walk to Blagaj. (Annex)

183. During and as part of the expulsions, the Herceg-Bosna/HVO authorities placed some Bosnian Muslims on trucks and buses and transported them to Muslim enclaves or ABiH-held territory (or to its vicinity, from where they were told or forced to walk to such enclaves or territory). The HVO detained other Bosnian Muslim civilians for varying periods of time at various locations, such as the Silos in Čapljina town and at various houses and schools.<sup>269</sup> The Herceg-Bosna/HVO authorities often held the detained Bosnian Muslims in inhumane, overcrowded, and cruel conditions, with insufficient food and water and inadequate sanitary facilities, bedding, and medical care. Many of those detained were eventually transferred to ABiH-controlled areas, or deported to other countries, via the Republic of Croatia.

184. When the Herceg-Bosna/HVO authorities converted the Koštana Hospital in Stolac Municipality to an HVO Military Police facility on about 10 May 1993, they transferred the bone disease patients (most of whom were unable to move by themselves), to the Grabovina barracks in Čapljina Municipality. On 24 July 1993, Herceg-Bosna/HVO forces harshly loaded these bone disease patients onto the back of a truck without their wheelchairs or other medical aids, saying that the wheelchairs and aids would not be needed. The truck's Bosnian Muslim driver ignored the HVO's instructions to drive the truck to an isolated part of HVO-controlled territory and took the patients instead to an ABiH-controlled area.

<sup>269</sup> Delayed disclosure exhibit.

185. From July to September 1993, the Herceg-Bosna/HVO authorities expelled and forcibly transferred or deported thousands of Bosnian Muslim civilians from Čapljina Municipality.

185.1. A further statement of facts concerning Čapljina Municipality is contained in Confidential Brief Annex 9.

186. By the foregoing acts, conduct, practices and omissions and as further described in Paragraphs 15-17, 17.1-17.6, 39 and 218-230, JADRANKO PRLIĆ, BRUNO STOJIĆ, SLOBODAN PRALJAK, MILIVOJ PETKOVIĆ, VALENTIN ĆORIĆ and BERISLAV PUŠIĆ are responsible for the following crimes: persecutions, as charged in Count 1; murder (Count 2); wilful killing (Count 3); deportation (Count 6); unlawful deportation of a civilian (Count 7); inhumane acts (forcible transfer) (Count 8); unlawful transfer of a civilian (Count 9); imprisonment (Count 10); unlawful confinement of a civilian (Count 11); inhumane acts (conditions of confinement) (Count 12); inhuman treatment (conditions of confinement) (Count 13); cruel treatment (conditions of confinement) (Count 14); inhumane acts (Count 15); inhuman treatment (Count 16); cruel treatment (Count 17); extensive destruction of property (Count 19); wanton destruction (Count 20); destruction or wilful damage to institutions dedicated to religion or education (Count 21); appropriation of property (Count 22); and plunder (Count 23).

### **DRETELJ DISTRICT MILITARY PRISON**

187. Dretelj is a village located in Čapljina Municipality, approximately 1.5 kilometers from Čapljina town. The Dretelj District Military Prison ("Dretelj Prison") was part of, or located alongside, the Dretelj Barracks, and consisted of five tin hangars and two ammunition storage tunnels. The HVO used Dretelj Prison in 1992 and the first half of 1993 to hold arrested and captured Serbs.



187.1. Shortly before the Dretelj Prison was established, JADRANKO PRLIĆ, BRUNO STOJIĆ and Mate Boban visited the Dretelj Barracks on 4 April 1993.<sup>270</sup>

187.2. Members of the HVO Military Police and homeguards provided security at the Dretelj Barracks and Dretelj Prison.<sup>271</sup>

188. The HVO detained Bosnian Muslim men at the Dretelj Prison primarily from April to September 1993, with some Muslims being detained there until approximately April 1994. The prison population at Dretelj Prison peaked on 11 July 1993, when the HVO detained approximately 2,270 Bosnian Muslim men at the prison. After that, the detainee population averaged about 1,700 Muslim men.

189. As described elsewhere, during the time from 30 June until mid-July 1993, the Herceg-Bosna/HVO forces conducted mass arrests of Bosnian Muslim men, including Muslim members of the HVO, and detained many of them at Dretelj Prison. (Annex) The Herceg-Bosna/HVO authorities held and continued to detain Bosnian Muslim men at the Dretelj Prison irrespective of their civilian or military status, including a number of boys younger than sixteen and men older than sixty. The Herceg-Bosna/HVO authorities made no *bona fide* or adequate effort to distinguish military detainees from civilians, or to provide generally for the release of civilian detainees. During August and September 1993, the HVO criteria for releasing Bosnian Muslim men from detention included being married to a Croat woman or possessing a visa and letter of guarantee to leave Bosnia and Herzegovina to another country. Many Bosnian Muslims detained at Dretelj Prison were deported by the Herceg-Bosna/HVO authorities to other countries, via the Republic of Croatia. (Annex)

189.1. On 2 July 1993, the total population of detained men in Dretelj Prison was 1,820 and these men came from Čapljina, Stolac, Mostar and Neum Municipalities.<sup>272</sup>

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<sup>270</sup> EXH No. P 01802, 0151-9515-0151-9516.

<sup>271</sup> EXH No. P 05222, 0150-5808-0150-5809.

<sup>272</sup> EXH No. P 03134, 0151-9468-0151-9470.

189.2. A report to VALENTIN ĆORIĆ on 11 July 1993 stated that there were 2,270 prisoners in Dretelj Prison and that among the prisoners were six religious officials, ten company directors, and 60 persons who had engaged in "propaganda or political activities on behalf of the BH Army."<sup>273</sup>

189.3. As of 11 July 1993, the prisoners at Dretelj Prison included 127 persons over the age of 60, 54 persons under the age of 18 and 39 who were characterised as either handicapped or wounded.<sup>274</sup>

189.4. An HVO Military Police progress report to VALENTIN ĆORIĆ dated 5 August 1993 indicates that over 2,500 Muslim males had been registered in Dretelj since 30 June 1993.<sup>275</sup>

190. Conditions at Dretelj Prison were harsh and unhealthy due to overcrowding, bad ventilation, no beds and insufficient bedding, and inadequate sanitary facilities. The HVO provided the detainees with insufficient food and water and often made them eat under cruel and humiliating circumstances. In the heat of mid-July 1993, the HVO kept detainees locked up without food and water for a number of days, resulting in the death of at least one Bosnian Muslim detainee. (Annex)

191. Throughout the time that Bosnian Muslims were detained at Dretelj Prison, members of the Herceg-Bosna/HVO forces, including the prison warden and members of Herceg-Bosna/HVO forces not attached to the prison, subjected detainees to beatings and cruel treatment, including constant fear of physical and mental abuse. Bosnian Muslim detainees were sometimes forced or instigated to beat or abuse other Muslim detainees. Muslim detainees held in the isolation cell were particularly brutalised. Muslim detainees were harassed, subjected to ethnic insults and humiliated. (Annex)

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<sup>273</sup> EXH No. P 03377, 0152-6607-0152-6608.

<sup>274</sup> EXH No. P 03377, 0152-6607-0152-6608.

<sup>275</sup> EXH No. P 03960, 0155-0313-0155-0316.

192. The HVO acts and practices resulted in the serious injury and occasional death of many Bosnian Muslim detainees. At least four Bosnian Muslim detainees died at the Dretelj Prison as a result of being beaten or shot by HVO members. (Annex)

192.1. An Official Note by the Military Police Administration in Čapljina (dated 22 July 1993) indicates that a known HVO Military Police officer was responsible for the gunshot deaths of three detainees during the three-week period from 30 June until 22 July 1993. The document indicates that another HVO military police officer beat a Muslim prisoner, who died from the beating.<sup>276</sup>

192.2. As late as 20 September 1993, there were still 1,128 prisoners, including several minors, at Dretelj Prison and these persons were kept in three hangers and two tunnels.<sup>277</sup>

193. The HVO denied international observers and humanitarian organisations access to Dretelj Prison until approximately August 1993. At the end of August 1993, the HVO moved detained Muslim clerics, detainees in the worst physical condition and detainees held in the isolation cell to another location (Silos) in Čapljina, in order to conceal them from representatives of the International Committee of the Red Cross who visited the prison in early September 1993.

193.1. In September 1993, the HVO and HZ H-B authorities came under intense pressure to close the Dretelj camp after publication of a newspaper article in the British daily, *The Guardian*, sparked international outrage.

193.2. At a meeting with representatives of the ICRC, ECMM, UNPROFOR and Croatia on 20 September 1993 in which Dretelj Prison was discussed, JADRANKO PRLIĆ stated that he would initiate criminal charges against anyone responsible for violations of international law at that prison.<sup>278</sup>

<sup>276</sup> EXH No. P 03630, 0101-8258-0101-8259.

<sup>277</sup> EXH No. P 05222, 0150-5808-0150-5809. EXH No. P 09272, V000-2567-V000-2567 is a videotape of footage of the Dretelj camp, the hangars in which the prisoners were held, and their release on buses.

<sup>278</sup> EXH No. P 05219, R020-9290-R020-9292.

193.3. Immediately after this meeting, the group (including JADRANKO PRLIĆ and BRUNO STOJIĆ) toured Dretelj Prison, where they observed “some very sick looking and blank-faced prisoners in the 'sick bay'.”<sup>279</sup>

193.4. An HVO Department of Defence Security Sector document dated the same day (20 September 1993) describes the then-current living conditions in Dretelj Prison as follows: “The living conditions for the detainees are very bad and especially in the two tunnels that used to be underground ammunition depots. A large number of detainees are placed in a small space, on the concrete floor. Each detainee has two blankets, one of which they use to lie on. All detainees bathe once a week.”<sup>280</sup>

193.5. Moreover, “[w]hen international agencies obtained access to HVO detention centres they found conditions of appalling brutality and degradation. Broken ribs, broken fingers, bruising and heart dysfunction were common among detainees as a result of beatings they had received from guards.”<sup>281</sup>

193.6. Muslim detainees from Dretelj were apparently sent north to Jablanica as part of a prisoner exchange for Croats from the Konjić municipality. An HVO document titled “Information,” from the Information and Propaganda Service of the HVO *Knez Domagoj* Brigade and dated 25 September 1993, refers to the Muslims at Dretelj as “anathema” and describes them being sent north not as a “release” of prisoners, but as a “deportation,” noting that it was the HVO’s goal to “fill in these territories”:

The deportation of the detainees from Dretelj is for the purpose of removing the anathema from our territories imposed by the international community (the presence of MOS/ Muslim Armed Forces/ in the Dretelj barracks). Everything that has been done, has been done at the request of the Republic of Croatia. The detainees will not be released, but isolated till the moment of their exchange to Croats in Konjić.

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<sup>279</sup> EXH No. P 05219, R020-9290-R020-9292.

<sup>280</sup> EXH No. P 05222, 0150-5808-0150-5809.

<sup>281</sup> Fifth Mazowiecki Report (UN Special Rapporteur; E/CN.4/1994/47; 17 November 1993), EXH No. P 06697 (0008-9843-0008-9881), para. 63.

Colonel OBRADOVIĆ orders:

Let us get serious, fill in these territories, cover them! The destiny of the Croatian people is in our hands. We have no friends in the world, except our fatherland Croatia whose part we want to become.<sup>282</sup>

193.7. Following their release, some of the former Dretelj Prison detainees spoke with a group of physicians and indicated that they found it “difficult to accept the betrayal of their former fellow soldiers and especially fellow detainees who also beat them and took part in police tortures in the camp.” These former prisoners expressed two wishes: to return to their homes (while at the same time expressing their desire to “run away from Bosnia as far as possible”) and “[to] come back some time in the future when they have regained their dignity.”<sup>283</sup>

193.8. On or about 30 July 1993, four Muslim males were permitted to leave Dretelj Prison “because they had letters of guarantee to leave for the [sic] third country.”<sup>284</sup>

193.9. Between 31 October and 6 November 1993, a team of doctors and a representative of the Human Rights Committee visited a group of former Dretelj prisoners on the Croatian island of Badija. The medical professionals interviewed the former detainees and compiled information from completed questionnaires. The information paints an horrific picture of life at Dretelj prison: only 4% of the former prisoners stated that they were given enough food and water to drink; only 2% thought that their life in the prison could have been worse; 58% witnessed the murder of one or more unknown persons; 81% said that their health “seriously deteriorated” while in the prison; and only 4% were satisfied with their accommodations.<sup>285</sup>

193.10. A further statement of facts concerning Dretelj Prison is contained in Confidential Brief Annex 10.

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<sup>282</sup> EXH No. P 05383, 0155-3983-0155-3984 (emphasis added).

<sup>283</sup> EXH No. P 07358, 0030-8552-0030-8553.

<sup>284</sup> EXH No. P 03853, 0155-0323-0155-0324.

<sup>285</sup> EXH No. P 07353, 0030-8552-0030-8553.

194. By the foregoing acts, conduct, practices and omissions and as further described in Paragraphs 15-17, 17.1-17.6, 39 and 218-230, JADRANKO PRLIĆ, BRUNO STOJIĆ, SLOBODAN PRALJAK, MILIVOJ PETKOVIĆ, VALENTIN ĆORIĆ and BERISLAV PUŠIĆ are responsible for the following crimes: persecutions, as charged in Count 1; murder (Count 2); wilful killing (Count 3); deportation (Count 6); unlawful deportation of a civilian (Count 7); inhumane acts (forcible transfer) (Count 8); unlawful transfer of a civilian (Count 9); imprisonment (Count 10); unlawful confinement of a civilian (Count 11); inhumane acts (conditions of confinement) (Count 12); inhuman treatment (conditions of confinement) (Count 13); cruel treatment (conditions of confinement) (Count 14); inhumane acts (Count 15); inhuman treatment (Count 16); and cruel treatment (Count 17).

### **GABELA DISTRICT MILITARY PRISON**

195. Gabela is a village located in Čapljina Municipality, approximately 4.1 kilometers south of Čapljina town. The Gabela District Military Prison ("Gabela Prison") was located outside Gabela in a former JNA logistics base, where detainees were held in four tin hangers.

196. Although the Herceg-Bosna/HVO forces detained some Bosnian Muslim men in Gabela Prison after the arrest of prominent Bosnian Muslims from Stolac and Čapljina Municipalities in April 1993, the prison was officially established on 8 June 1993. While the HVO officially converted Gabela Prison to a transit center for released detainees on 22 December 1993, they continued to hold Muslim men at the prison until April 1994. During the principal time of its use (from July to December 1993), the HVO, at any one time, confined about 1,200 Muslim men at Gabela Prison.

196.1. As President of the HZ H-B HVO, JADRANKO PRLIĆ established the Gabela Prison and appointed the first Head of the prison, Boško Previšić.<sup>286</sup>

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<sup>286</sup> EXH No. P 02674, 0363-7047-0363-7048.

196.2. Like the other prisons described in the indictment, Gabela Prison was under the jurisdiction of the HVO Military Police Administration. When an HVO brigade commander issued an order that no one should be released from Gabela Prison without his personal signature, VALENTIN ĆORIĆ ordered this brigade commander to cancel this order, stating: "Military remand prisons are exclusively under the jurisdiction of the Military Police Administration, and you are therefore not authorised to issue an order regarding the release of prisoners."<sup>287</sup>

197. During the time of the mass arrests of Bosnian Muslim men from 30 June until mid-July 1993, the Herceg-Bosna / HVO forces detained many of the Bosnian Muslim men at the Gabela Prison. (Annex) The Herceg-Bosna/HVO authorities held and continued to detain Muslim men at Gabela Prison irrespective of their civilian or military status, including boys younger than age sixteen and men older than sixty. The authorities made no *bona fide* or adequate effort to distinguish military detainees from civilians, or to provide generally for the release of civilian detainees. As at Dretelj Prison, during August and September 1993, the HVO criteria for releasing Bosnian Muslim men from detention included being married to a Croat woman or possessing a visa and a letter of guarantee to leave Bosnia and Herzegovina to another country.

198. Conditions at Gabela Prison were harsh and unhealthy due to overcrowding, bad ventilation, no beds and insufficient bedding, and inadequate sanitary facilities. The HVO provided the Bosnian Muslim detainees with insufficient food and water and often made them eat under cruel and humiliating circumstances. In the heat of mid-July 1993, the HVO kept Muslim detainees locked up without food and water for several days. (Annex)

198.1. In July 1993, after learning that prisoners in Gabela Prison were being subjected to extreme brutality, Croatian Army (HV) Brigadier Luka Džanko informed HV General Janko Bobetko about what he had learned. After General Bobetko told him to conduct an inspection, Brigadier Džanko visited Gabela Prison on 21 July 1993, where he discovered that nearly all of the windows and doors were closed in one of the three wards, resulting in

<sup>287</sup> EXH No. P 03220, 0153-6255-0153-6256.

high temperatures. The toilets had not been cleaned and there was an “unbearable stench.”<sup>288</sup>

198.2. By mid-August 1993, the UNPROFOR Spanish Battalion reported that they had received information that there were about 1,000 prisoners at Gabela Prison and that 630 persons were detained in 500 square metres. This same report indicates that “living conditions are terrible” -- “at the beginning, there were 1,500 prisoners,” but 500 prisoners were transferred to Široki Brijeg for purposes of an exchange that never occurred.<sup>289</sup>

198.3. On 28 September 1993, an inspection of Gabela Prison was conducted and among other things, it was determined that the number of prisoners exceeded the physical capacities, leading to possible “epidemiological incidents;” there was a lack of dishes and cutlery, leading to potential “infectious intestinal diseases;” and “several severely malnourished detainees were observed.” The report was forwarded to the Cabinet of the President of the HR H-B, the HVO Main Staff and the Office for Exchange of Prisoners.<sup>290</sup>

198.4. A report of the HVO SIS and Military Police dated 18 November 1993 indicates that there were 1,268 Muslim men detained at Gabela Prison and that some were under 18 years of age and some were older than 60.<sup>291</sup>

198.5. On 6 August 1993, an HVO organisation chaired by BERISLAV PUŠIĆ was established to, *inter alia*, compile lists of prisoners and classify them into categories.<sup>292</sup>

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<sup>288</sup> EXH No. P 04253, 0150-5896-0150-5897.

<sup>289</sup> EXH No. P 04164, R016-5928-R016-5932.

<sup>290</sup> EXH No. P 05485, 0151-9982-0151-9984.

<sup>291</sup> EXH No. P 06729, 0102-6832-0102-6837.

<sup>292</sup> EXH No. P 03995, 0154-0463-0154-0463.



198.6. According to an HVO SIS and HVO Military Police report, however, as of mid-November 1993, nothing had been done in terms of separating or distinguishing between military detainees and civilians.<sup>293</sup>

198.7. As late as mid-December 1993, the Gabela Prison warden, Boško Previšić, acknowledged that about 100 persons from Živinice were civilians.<sup>294</sup>

198.8. According to the HVO SIS and Military Police Sector report dated 18 November 1993, the prisoners were "exhausted, most probably because of poor nourishment." At that point, each prisoner "received 2dl of a cooked dish and a piece of bread."<sup>295</sup> Contagious and infectious diseases were on the rise in November 1993, and there were many occurrences of health complaints, largely due to a lack of adequate sanitary and hygienic care.<sup>296</sup>

199. Throughout the time that Bosnian Muslims were detained at the Gabela Prison, members of the Herceg-Bosna/HVO forces, including the prison warden and members of Herceg-Bosna/HVO forces not attached to the prison, subjected detainees to beatings and cruel treatment, including constant fear of physical and mental abuse. Bosnian Muslim detainees were harassed, subjected to ethnic insults and humiliated. Muslim detainees were sometimes forced or instigated to beat or abuse other Muslim detainees. Muslim detainees held in the isolation cell were particularly brutalised. (Annex)

200. The HVO acts and practices described in the preceding paragraphs resulted in the serious injury and occasional death of Bosnian Muslim detainees. At least six Muslim detainees died at Gabela Prison as a consequence of being beaten or shot by HVO members. (Annex)

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<sup>293</sup> EXH No. P 06729, 0102-6832-0102-6837.

<sup>294</sup> EXH No. P 07214, 0102-6824-0102-6831.

<sup>295</sup> EXH No. P 06729, 0102-6832-0102-6837.

<sup>296</sup> EXH No. P 06729, 0102-6832-0102-6837.

200.1. The Gabela Prison warden, Boško Previšić, allegedly killed one of the detainees, Mustafa Obradović, in public as a means of setting an example to the other prisoners.<sup>297</sup> When interviewed about this murder, Previšić claimed that he had heard a shot and then went to the area where a group of prisoners scattered. He claimed that he had found the body and surmised that Obradović had been killed by other prisoners.<sup>298</sup> In fact, only a few days before giving this interview to HVO authorities, Previšić reported to a meeting of the Herceg-Bosna working group on disbanding the HVO camps that he had killed a prisoner who allegedly attacked him.<sup>299</sup>

201. The HVO denied international observers and humanitarian organisations access to Gabela Prison during its first months of existence. During October 1993, the HVO concealed Bosnian Muslim detainees held in the isolation cell at Gabela Prison from representatives of an international humanitarian organisation when those representatives came to inspect the prison and visit the detained persons.

202. Many Bosnian Muslims detained at Gabela Prison were deported by the Herceg-Bosna/HVO authorities to other countries, via the Republic of Croatia, which continued after the time that Gabela Prison was operated as a transit center.

202.1. A medical humanitarian organisation informed the UNPROFOR Spanish Battalion that the authorities in Gabela Prison were “ready to release all prisoners who present a letter of guarantee” by any country willing to allow such prisoners to enter its territory.<sup>300</sup>

202.2. A further statement of facts concerning Gabela Prison is contained in Confidential Brief Annex 11.

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<sup>297</sup> EXH No. P 06527, 0156-6914- 0156-6914.

<sup>298</sup> EXH No. P 07282, 0155-0481-0155-0481.

<sup>299</sup> EXH No. P 07214, 0102-6824-0102-6831.

<sup>300</sup> EXH No. P 04164, R016-5928-R016-5932.

203. By the foregoing acts, conduct, practices and omissions and as further described in Paragraphs 15-17, 17.1-17.6, 39 and 218-230, JADRANKO PRLIĆ, BRUNO STOJIĆ, SLOBODAN PRALJAK, MILIVOJ PETKOVIĆ, VALENTIN ĆORIĆ and BERISLAV PUŠIĆ are responsible for the following crimes: persecutions, as charged in Count 1; murder (Count 2); wilful killing (Count 3); deportation (Count 6); unlawful deportation of a civilian (Count 7); inhumane acts (forcible transfer) (Count 8); unlawful transfer of a civilian (Count 9); imprisonment (Count 10); unlawful confinement of a civilian (Count 11); inhumane acts (conditions of confinement) (Count 12); inhuman treatment (conditions of confinement) (Count 13); cruel treatment (conditions of confinement) (Count 14); inhumane acts (Count 15); inhuman treatment (Count 16); and cruel treatment (Count 17).

### **VAREŠ MUNICIPALITY**

204. Vareš Municipality is located in central Bosnia, north of Sarajevo, with a 1991 population of 22,203 persons. According to the 1991 census, 40.60% of the population (9,016 persons) declared themselves Croat, 30.23% (6,714 persons) as Muslim, 16.41% as Serb, and 12.73% as other. Stupni Do was a predominantly Muslim village of about 250 inhabitants and 60 houses, located approximately four kilometers southeast of Vareš town.

204.1. "Stupni Do is a village located in the hills about one kilometre south of the town of Vareš, at a height of 1074 metres, with one principal road leading to it through a tunnel. The village lies above the main supply route to Vareš (which itself lies at the head of a valley with mountains all round it.) Above the village is the Croat village of Mir. Before the war the inhabitants of Stupni Do were almost all Muslim (although there had been five or six Serb families who had left in 1992). The total population was about 224." *Kordić* TJ, para. 740.

205. The 18 November 1991 proclamation of Herceg-Bosna included Vareš Municipality as part of Herceg-Bosna. On 1 July 1992, the HVO took over the Vareš municipal government, and the Bosnian Muslim members of the previously elected municipal government established a separate "War Presidency." Even so, the Croats,

Muslims and others in Vareš Municipality continued to live in relatively peaceful co-existence until mid-1993.

205.1. At the inaugural session of the Croatian Defence Council of Vareš Municipality, held on 1 July 1992, the regulations of the Croatian Community of Herceg-Bosna and the Croatian Defence Council were made known to those present.<sup>301</sup> Two days later, the Herceg-Bosna leadership appointed the Vareš Municipal HVO.<sup>302</sup>

206. In June 1993, following an ABiH military action in neighbouring Kakanj Municipality, around 13,000 Bosnian Croats (including HVO soldiers) moved to Vareš town. Around the same time, the Vareš HVO government issued an ultimatum to the Muslims in Stupni Do to surrender their weapons or they would be attacked. The villagers in Stupni Do refused to give up their weapons and, on the expiration of the ultimatum and fearing an attack, fled to neighbouring villages. After several days when the HVO did not attack Stupni Do, the villagers returned home.

206.1. On 14 June 1993, Ivica Rajić reported to the HVO Main Staff in Mostar that the HVO Kotromanić Brigade had arrived in the Vareš area, having retreated from Kakanj. Rajić reported that the troops from this HVO brigade "have a distinct desire to destroy everything that is not Croatian in the area of Vareš, which caused panic in the town itself and in the villages around Vareš."<sup>303</sup>

207. On 18 October 1993, Herceg-Bosna/HVO forces arrested six local ABiH members at an HVO checkpoint in Pajtov Han. The detainees were interrogated and beaten by Herceg-Bosna/HVO forces, who were seeking information about armed Muslims in Stupni Do. (Annex)

<sup>301</sup> EXH No. P 00286, 0031-9934-0031-9934.

<sup>302</sup> EXH No. P 09595, 0031-9586-0031-9588. See also EXH No. P00294, 0029-9514-0029-9514; EXH No. P 00296, 0031-9558-0031-9558.

<sup>303</sup> EXH No. P 02765, 0102-7315-0102-7316.

208. On 21-22 October 1993, the ABiH attacked the village of Kopjari in Vareš Municipality, with the village's Bosnian Croat residents moving to the village of Pogar. At about this same time, on 21 October 1993, Herceg-Bosna/HVO commanders, including MILIVOJ PETKOVIĆ and Ivica Rajić, decided to send additional Herceg-Bosna/HVO forces to Vareš. On the same day, Herceg-Bosna/HVO forces, including the "Maturice" and "Apostoli" units, left Kiseljak for Vareš. The HVO forces passed through Bosnian Serb-controlled territory and reached Vareš town on 22 October 1993.

209. On 23 October 1993, SLOBODAN PRALJAK ordered Herceg-Bosna/HVO forces in the Vareš area to "show no mercy to anyone."<sup>304</sup> HVO forces arrested several Vareš HVO officials and more than 250 Bosnian Muslim men, regardless of their civilian or military status. While arresting the Muslim men, HVO soldiers entered their houses, physically and mentally abused the persons present and robbed them of their valuables. (Annex)

210. The Herceg-Bosna/HVO forces detained the arrested Bosnian Muslim men in two schools in Vareš, the "Ivan Goran Kovačić" high school and the "Vladimir Nazor" elementary school. The conditions at the schools were horrible, with insufficient food and no sanitary facilities. Detainees were forced to stand during the day with their hands behind their backs and looking at the floor. HVO soldiers entered the schools and physically abused the detainees. HVO soldiers forced detainees to beat each other, often forcing family members to beat other family members. Some of the detainees were transferred to the prison in Vareš Majdan, where HVO soldiers severely beat them. (Annex)

210.1. By 23 October 1993, Ivica Rajić reported that the town of Vareš had been "mopped up" and that all military-aged Muslims were "under surveillance." Consequently, he reported that "[a]s of today, Vareš is Croatian and we shall fight to keep it that way."<sup>305</sup>

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<sup>304</sup> EXH No. P 06028, 0153-5748-0153-5748.

<sup>305</sup> EXH No. P 06032, 0150-1791-0150-1791.

211. On the morning of 23 October 1993, Herceg-Bosna/HVO forces attacked Stupni Do. After gaining control of various parts of the village, HVO soldiers forced the civilians out of their homes and hiding places, robbed them of their valuables, sexually assaulted Muslim women and killed at least thirty-one Muslim men, women and children. (A list of the victims killed and the women sexually assaulted is part of the Annex.) During and following the attack, Herceg-Bosna/HVO forces wantonly destroyed almost the entire village. All together, the HVO attack on Stupni Do resulted in the deaths of at least thirty-seven Muslim men, women and children.<sup>306</sup>

<sup>306</sup> See EXH No. P 07838, Report of the UN Secretary-General on the Massacre of the Civilian Population in Stupni Do, Bosnia and Herzegovina (10 February 1994):

6. Between 0800 and 0810 hours on the morning of 23 October 1993, when the village defence force was changing shifts, a grenade explosion occurred, immediately followed by continuous small arms and anti-aircraft gunfire from all sides. The attack, which appeared to come from below the village, worked its way upwards, and many witnesses noted the apparent use of incendiary bullets by the attacking forces as shells landing in the village set houses on fire. Many residents took shelter in community basements, while others ran for the surrounding woods. The BiH Armija force in Stupni Do congregated in the main part of the village, guarding 50 to 60 civilians in the main village shelter. . . .

7. Initial indications of an attack on Stupni Do became evident to elements of UNPROFOR's second Nordic battalion (Nordbat 2) on the afternoon of 23 October 1993, when patrols in the area sighted smoke and heard firing from the direction of the village. However, attempts by Nordbat 2 to enter the village were consistently blocked by the HVO Bobovac brigade, which threatened UNPROFOR troops with rocket-propelled grenade anti-tank weapons, small arms and barriers of anti-tank mines. It was only on 25 October 1993, when reports of the massacre had become widespread, that the then UNPROFOR Senior Military Observer in the area was permitted to enter the village and inspect three houses. On the morning of 26 October 1993, a Nordbat 2 patrol finally entered the village and, on the afternoon of the same day, a military police unit was dispatched to carry out an initial investigation of the incident. In the absence of any supplementary resources to deal with such incidents and in view of the urgency of preserving the evidence and documenting what appeared to be a war crime, it was decided to charge UNPROFOR Military Police with the investigation.

8. Members of the first UNPROFOR unit to enter Stupni Do reported that the village was empty and that all 52 houses in the village showed signs of having being burnt. Some of the houses were described as having the appearance of crematoria. Fourteen bodies were discovered, of whom 4 men and 3 women were identified, but the rest were burnt beyond recognition. Two bodies were found to have crushed skulls and some appeared to have been burned on the top of destroyed houses. There were also several dead cattle lying about, many also burnt, and a strong odour of burnt flesh was in the air. \* \* \*

11. Several female survivors from Stupni Do stated that they had been raped by HVO soldiers during the attack. Others reported being robbed of their valuables and, in one case, of a 54-year-old grandfather being killed by automatic machine-gun fire because he possessed no money or valuables to hand over. Several survivors also reported that they had witnessed the killing of three disabled and unarmed men found in one of the community shelters and the machine-gunning to death of a 56-year-old woman who had complained of a sore leg. One survivor also recounted hiding in a family basement with three other women and of being discovered by some HVO soldiers who, on entering the basement and inquiring if anyone was present, shot the three women who were offering to surrender.

12. . . . Investigations to date have shown that crimes against innocent civilians in Stupni Do took place on 23 October 1993. Twenty-three victims so far have been clearly identified. A further 13 villagers of Stupni Do are unaccounted for and presumed dead, bringing the preliminary total number of

211.1. "Of the 38 dead as the result of the attack on Stupni Do, five or six were soldiers and the rest were civilians." *Kordić* TJ, para. 746.

211.2. "[T]he Trial Chamber finds that the attack on Stupni Do was a concerted attack by the HVO upon the village, with a view to removing the Muslim population. Whatever the immediate motive, it was part of the HVO offensive against the Muslim population of Central Bosnia and the result was a massacre." *Kordić* TJ, para. 750.

211.3. "Some defence was offered but there was no justification for the attack." *Kordić* TJ, para. 750.

211.4. "There can be no dispute, whatever may be contended about the circumstances, that Ivica Rajić and his Apostoli and Maturice troops from Kiseljak were responsible for the attack on Stupni Do." *Kordić* TJ, para. 752.

211.5. On the day of the HVO attack on Stupni Do -- 23 October 1993 -- MILIVOJ PETKOVIĆ was aware of allegations that "ethnic cleansing of the population" had occurred in the Vareš area.<sup>307</sup>

211.6. On 25 October 1993, MILIVOJ PETKOVIĆ ordered Ivica Rajić to report on the number of civilian casualties in Stupni Do and to allow UNPROFOR into Stupni Do on 26 October 1993, "whatever the consequences."<sup>308</sup>

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victims to 36. The main suspects for the commission of these crimes appear to be extremist elements of the Croatian Defence Council from Kiseljak, Travnik and Kakanj under the command of Ivica Rajić. The HVO Bobovac brigade, operating under its Deputy Commander, Kresimir Bozic, prevented UNPROFOR units from entering the village after the attack.

13. Investigations are continuing in order to gain as much evidence as possible with a view to identifying the perpetrators for eventual trial before the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991. The Security Council will be kept informed of the progress made in the investigation.

<sup>307</sup> EXH No. P 06022, 0032-6077-0032-6077.

<sup>308</sup> EXH No. P 06078, 0151-9943-0151-9943.

211.7. In response, Ivica Rajić reported that “no bodies were found because the area had been cleaned up” and that during the “mopping up” of the village, no civilians were found.<sup>309</sup>

212. In the days following the HVO attack on Stupni Do, the Herceg-Bosna/HVO authorities told Bosnian Croats living in Vareš that they had to leave Vareš because of the risk of being killed by ABiH forces responding to the HVO attack on Stupni Do. Thousands of Bosnian Croats left Vareš and went to Kiseljak.

213. From 23 October to 3 November 1993, before leaving Vareš town, Herceg-Bosna/HVO forces appropriated and looted Muslim and other property, robbed Muslims of their valuables and sexually assaulted Muslim women. (Annex) On about 3 November 1993, the HVO forces guarding the two schools and the Vareš Majdan prison left the area and, consequently, the Muslim detainees were free to leave.

214. As information began to reach international organisations in the area, UNPROFOR representatives attempted to enter Stupni Do and the two schools in Vareš town. HVO forces blocked and obstructed these international organisations. UNPROFOR finally entered Stupni Do in armoured vehicles on 26 October 1993.

214.1. Two days earlier, on 24 October 1993, as an UNPROFOR Nordic Battalion deployed to monitor the Vareš situation, Ivica Rajić informed the HVO Main Staff that if UNPROFOR did not withdraw, that his forces would “intervene” and could not be held responsible for the consequences.<sup>310</sup> On the same day, the HVO Chief of Staff responded, stating that HVO anti-armour weapons would be deployed around the UNPROFOR vehicles and that UNPROFOR would be warned that the HVO forces would “destroy them in case they rendered inoperative [HVO] actions in fighting” the ABiH forces.<sup>311</sup>

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<sup>309</sup> EXH No. P 06102, 0150-2752-0150-2753.

<sup>310</sup> EXH No. P 06067, 0150-2746-0150-2747.

<sup>311</sup> EXH No. P 06066, 0101-7700-0101-7701.



215. On 26 October 1993, in response to media allegations of HVO atrocities in Vareš and Stupni Do, MILIVOJ PETKOVIĆ ordered an investigation. On 31 October 1993, JADRANKO PRLIĆ, when questioned about the events in Stupni Do, informed international representatives that any crimes committed there were unacceptable, that an investigation had been requested and that all of the commanders involved had been suspended. In fact, as of 30-31 October 1993, none of the HVO commanders involved had been suspended or disciplined in any way.

215.1. Shortly after the crimes were committed, Ivica Rajić and other senior HVO leaders, including MILIVOJ PETKOVIĆ, began covering up the crimes committed by the HVO in Stupni Do.<sup>312</sup>

215.2. In fact, on 1 November 1993, only eight days after the Stupni Do massacre, BRUNO STOJIĆ recommended that Ivica Rajić be promoted<sup>313</sup> and on the same day, Mate Boban promoted Ivica Rajić to the rank of Colonel in the HVO.<sup>314</sup>

215.3. On 27 December 1993, Ivica Rajić informed MILIVOJ PETKOVIĆ that he had changed his name to Viktor Andrić.<sup>315</sup>

215.4. Three days later, on 30 December 1993, the Commander of the HVO Vitez Military District officially “dismissed” Colonel Rajić from his duty as Commander of the Kiseljak Forward Command Post.<sup>316</sup>

215.5. On the same day, “Viktor Andrić” was appointed Commander of the Kiseljak Forward Command Post, by the same Commander of the HVO Vitez Military District.<sup>317</sup>

<sup>312</sup> See, for example, EXH No. P 06076, 0150-2750-0150-2751; EXH No. P 06102, 0150-2752-0150-2753; and EXH No. P 06519, 0152-6032-0152-6035 (Eng: L006-0007-L006-0016).

<sup>313</sup> EXH No. P 06328, 0151-8353-0151-8353.

<sup>314</sup> EXH No. P 06339, 0102-6107-0102-6107.

<sup>315</sup> EXH No. P 07352, 0099-5649-0099-5649; see also EXH No. P 07348, 0150-2812-0150-2812.

<sup>316</sup> EXH No. P 07394, 0154-3408-0154-3408; see also EXH No. P 07407, 0102-1049-0102-1049.

<sup>317</sup> EXH No. P 07401, 0102-1047-0102-1047; see also EXH No. P 07407, 0102-1049-0102-1049.

215.6. MILIVOJ PETKOVIĆ met in Kiseljak with Ivica Rajić ("Viktor Andrić") during the first week of January 1994 to discuss reorganisation of HVO units under the command and control of the Kiseljak Forward Command Post, commanded by Rajić.<sup>318</sup>

216. Following a meeting in Zagreb involving Franjo Tudjman and others, the international community was assured that Ivica Rajić, the HVO officer commanding the Herceg-Bosna/HVO forces in Vareš and Stupni Do, had been removed and that a judicial investigation had been initiated. In reality, and with the knowledge of senior military commanders and political leaders, Ivica Rajić simply changed his name and remained in essentially the same position. Neither Ivica Rajić nor any other person was ever disciplined or punished for what happened in Stupni Do.

216.1. A further statement of facts concerning Vareš Municipality is contained in Confidential Brief Annex 12.

217. By the foregoing acts, conduct, practices and omissions and as further described in Paragraphs 15-17, 17.1-17.6, 39 and 218-230, JADRANKO PRLIĆ, BRUNO STOJIĆ, SLOBODAN PRALJAK, MILIVOJ PETKOVIĆ, VALENTIN ĆORIĆ and BERISLAV PUŠIĆ are responsible for the following crimes: persecutions, as charged in Count 1; murder (Count 2); wilful killing (Count 3); rape (Count 4); inhuman treatment (sexual assault) (Count 5); imprisonment (Count 10); unlawful confinement of a civilian (Count 11); inhumane acts (conditions of confinement) (Count 12); inhuman treatment (conditions of confinement) (Count 13); cruel treatment (conditions of confinement) (Count 14); inhumane acts (Count 15); inhuman treatment (Count 16); cruel treatment (Count 17); extensive destruction of property (Count 19); wanton destruction (Count 20); appropriation of property (Count 22); and plunder (Count 23).

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<sup>318</sup> EXH No. P 07504, 0155-1427-0155-1427.

## CRIMINAL RESPONSIBILITY

### Article 7(1)

(Planned, Instigated, Ordered,  
Committed or Otherwise Aided and Abetted)

218. Each of the accused, JADRANKO PRLIĆ, BRUNO STOJIĆ, SLOBODAN PRALJAK, MILIVOJ PETKOVIĆ, VALENTIN ĆORIĆ and BERISLAV PUŠIĆ, planned, instigated, ordered and/or committed the crimes charged in this indictment, pursuant to Article 7(1). Each accused is responsible for his role and participation in the crimes charged, based on his own acts and, where he had a duty to act, on his omissions or failures to act. Each accused is also charged as a co-perpetrator and/or indirect perpetrator or indirect co-perpetrator. Each accused is responsible for the acts or omissions which he accomplished, effected or caused through or by means of other persons, such as subordinates or other persons (including persons he controlled or over whom he exercised substantial influence), whether such persons acted knowingly or as an innocent agent or actor. In addition or in the alternative, each accused is responsible for the crimes which he committed or caused to be committed, directly or indirectly through other persons, based on the joint control and co-ordination which he possessed and effected with other persons (including the other persons charged in this indictment) over the criminal conduct of Herceg-Bosna/HVO authorities and forces which were used as tools, by or through organised structures of power which they controlled and in which each of them played a key role. Each accused acted with the knowledge and state of mind required for the commission of the crime charged, was aware of the importance of his own role and the control that he exercised over other persons that were used to commit the crime, and acted with the mutual awareness of the substantial likelihood that crimes would occur as a direct consequence of the pursuit of the common goal.

219. Each accused acted with the knowledge and state of mind required for the commission of each crime charged in this indictment, intending to commit the crime. In addition or in the alternative, each accused was aware of the substantial likelihood that the execution of his plans and orders, and the carrying out of the acts and conduct which he promoted, instigated, encouraged or facilitated, would involve or result in the crimes charged in this indictment. To the extent required, other perpetrators or actors involved

in, and/or aiding or abetting, the commission of each crime charged in this indictment acted with the requisite state of mind.

220. In addition or in the alternative, each accused is charged with and criminally responsible for each crime which he substantially aided or abetted, in its planning, preparation or execution, pursuant to Article 7(1). Each accused acted with the knowledge that the acts performed or omitted would assist the commission of the crime or was aware of the substantial likelihood that his acts would assist the commission of the crime. In aiding and abetting such crimes, each accused acted with the requisite state of mind and intent, and other perpetrators, including those who physically committed the crime, also acted with or shared, to the extent necessary, the requisite state of mind.

**Article 7(1)**  
(Joint Criminal Enterprise - Form 1)

221. The crimes charged in this indictment were part of the joint criminal enterprise described in Paragraphs 2 to 17 (including 17.1 to 17.6) and 39 and were committed in the course of the enterprise, which existed at the time of the participatory acts or omissions of each of the accused. Pursuant to Article 7(1), each of the accused, JADRANKO PRLIĆ, BRUNO STOJIĆ, SLOBODAN PRALJAK, MILIVOJ PETKOVIĆ, VALENTIN ĆORIĆ and BERISLAV PUŠIĆ, is criminally responsible for the crimes which were committed as part of the joint criminal enterprise, in the sense that each of the accused committed these crimes as a member of or participant in such enterprise. (By using the word “committed” in this context, the Prosecutor does not mean to indicate that a particular accused, or any of them, necessarily committed, by his own physical person, the crime(s) charged. “Committed” in this context refers to the accused’s participation in a joint criminal enterprise.) Each accused is responsible for his role and participation in the crimes charged, based on his own acts and, where he had a duty to act, on his omissions or failures to act. Each accused is also responsible for the acts or omissions which he accomplished, effected or caused through or by means of other persons, such as subordinates or other persons (including persons he controlled or over whom he exercised substantial influence), whether such persons acted knowingly or as an innocent agent or actor.

222. Each accused, acting individually and in concert with or through other persons, knowingly participated in and contributed to the joint criminal enterprise, intending to further and accomplish the enterprise and its objectives. Each accused possessed the requisite state of mind and/or shared the requisite state of mind with other members and participants in the joint criminal enterprise, or, to the extent required, possessed, shared or knew the state of mind of those committing or aiding or abetting the crimes. To the extent required, other perpetrators or actors involved in, and/or aiding or abetting, the commission of each crime charged in this indictment acted with the requisite state of mind.

223. In addition or in the alternative, to the extent that an accused was not a member of the joint criminal enterprise, he is criminally responsible for substantially aiding and abetting one or more members or perpetrators of the joint criminal enterprise, in the planning, preparation or execution of the crime, pursuant to Article 7(1). Each accused acted with the knowledge that the acts performed or omitted would assist the commission of the crime or was aware of the substantial likelihood that his acts would assist the commission of the crime. In aiding and abetting such crimes, each accused acted with the requisite state of mind and intent, and, to the extent required, other perpetrators, including those who committed the crime, acted with or shared the requisite state of mind.

**Article 7(1)**  
(Joint Criminal Enterprise - Form 2)

224. Pursuant to Article 7(1), each accused is criminally responsible for his knowing participation in a system of ill-treatment involving a network of Herceg-Bosna/HVO prisons, concentration camps and other detention facilities which were systematically used in arresting, detaining and imprisoning thousands of Bosnian Muslims in unlawful and harsh conditions, where they were subjected or exposed to beatings, sexual assaults and other deprivations and abuse and as part of which many were taken for unlawful forced labour in dangerous conditions (as described in this indictment), which amounted to or involved the commission of crimes charged in this indictment. Each accused acted as part of a plurality of persons which included himself and the other persons charged in this

indictment, and knew of and intended to further the system. Each accused is criminally responsible for participating in this system, including as a co-perpetrator and/or indirect perpetrator.

**Article 7(1)**  
(Joint Criminal Enterprise - Form 2)

225. Pursuant to Article 7(1), each accused is criminally responsible for his knowing participation in a system of ill-treatment which deported Bosnian Muslims to other countries or transferred them to parts of Bosnia and Herzegovina not claimed or controlled by Herceg-Bosna or the HVO (as described in this indictment), which amounted to or involved the commission of crimes charged in this indictment. Each accused acted as part of a plurality of persons which included himself and the other persons charged in this indictment, and knew of and intended to further the system. Each accused is criminally responsible for participating in this system, including as a co-perpetrator and/or indirect perpetrator.

226. In addition or in the alternative, to the extent that an accused did not participate in one or both of the systems of ill-treatment described in Paragraphs 224-225, he is criminally responsible for substantially aiding and abetting those systems (or either of them) or persons who participated in them, pursuant to Article 7(1). Each accused acted with the knowledge that the acts performed or omitted would assist the commission of the crime or was aware of the substantial likelihood that his acts would assist the commission of the crime. In aiding and abetting such crimes, each accused acted with the requisite state of mind and intent, and, to the extent required, other perpetrators, including those who committed the crime, acted with or shared the requisite state of mind.

**Article 7(1)**  
(Joint Criminal Enterprise - Form 3)

227. In addition or in the alternative, as to any crime charged in this indictment which was not within the objective or an intended part of the joint criminal enterprise, such crime was the natural and foreseeable consequence of the joint criminal enterprise and of implementing or attempting to implement the enterprise and each accused was aware of

the risk of such crime or consequence and, despite this awareness, willingly took that risk, in joining and/or continuing in the enterprise, and is therefore responsible for the crime charged.

**Article 7(3)**  
(Superior Responsibility)

228. In addition or in the alternative, pursuant to Article 7(3), each of the accused is criminally responsible as a superior official or officer for the criminal acts or omissions of subordinates or other persons about or over whom he had effective *de jure* and/or *de facto* control, where he knew or had reason to know that such persons were about to commit or had committed such acts or omissions and failed to take necessary and reasonable measures to prevent such acts or omissions or punish such persons. Each of the accused acted as a superior over or through other persons or subordinates about whom he exercised, or could have exercised, effective control who were involved in the commission of crimes charged in this indictment, and knew or had reason to know that one or more such persons was about to commit or had committed such acts or omissions and failed to take necessary and reasonable measures to prevent such acts or punish, remove or discipline such persons.

**COUNTS 1 TO 26**

229. By the foregoing acts, conduct, practices and omissions, **JADRANKO PRLIĆ, BRUNO STOJIĆ, SLOBODAN PRALJAK, MILIVOJ PETKOVIĆ, VALENTIN ĆORIĆ** and **BERISLAV PUŠIĆ** are responsible for the following crimes:

**Count 1: persecutions on political, racial and religious grounds, a CRIME AGAINST HUMANITY**, punishable under Statute Articles 5(h), 7(1) and 7(3) (as alleged in Paragraphs 15-17.6, 21-41, 43-59, 61-71, 73-86, 88-117, 119-134, 136-142, 144-152, 154-170, 172-185, 187-193, 195-202 and 204-216);

**Count 2: murder, a CRIME AGAINST HUMANITY**, punishable under Statute Articles 5(a), 7(1) and 7(3) (as alleged in Paragraphs 15-17.6, 37, 39, 48, 51, 53, 56, 66,

77, 80, 95, 104, 106, 108, 114, 127, 128, 130, 138, 139, 161, 169, 176, 177, 190, 191, 192, 199, 200 and 211);

**Count 3: wilful killing**, a GRAVE BREACH OF THE GENEVA CONVENTIONS OF 1949, punishable under Statute Articles 2(a), 7(1) and 7(3) (as alleged in Paragraphs 15-17.6, 37, 39, 48, 51, 53, 56, 66, 77, 80, 95, 104, 106, 108, 114, 127, 128, 130, 138, 139, 161, 169, 176, 177, 190, 191, 192, 199, 200 and 211);

**Count 4: rape**, a CRIME AGAINST HUMANITY, punishable under Statute Articles 5(g), 7(1) and 7(3) (as alleged in Paragraphs 15-17.6, 38, 39, 57, 59, 99, 109, 141, 211 and 213);

**Count 5: inhuman treatment (sexual assault)**, a GRAVE BREACH OF THE GENEVA CONVENTIONS OF 1949, punishable under Statute Articles 2(b), 7(1) and 7(3) (as alleged in Paragraphs 15-17.6, 38, 39, 55, 57, 59, 99, 109, 141, 211 and 213);

**Count 6: deportation**, a CRIME AGAINST HUMANITY, punishable under Statute Articles 5(d), 7(1) and 7(3) (as alleged in Paragraphs 15-17.6, 26, 28-30, 33-41, 59, 93, 100, 105, 131-133, 150-51, 175, 182, 183, 185, 189, 197 and 202);

**Count 7: unlawful deportation of a civilian**, a GRAVE BREACH OF THE GENEVA CONVENTIONS OF 1949, punishable under Statute Articles 2(g), 7(1) and 7(3) (as alleged in Paragraphs 15-17.6, 26, 28-30, 33-41, 59, 93, 100, 105, 131-133, 150-51, 175, 182, 183, 185, 189, 197 and 202);

**Count 8: inhumane acts (forcible transfer)**, a CRIME AGAINST HUMANITY, punishable under Statute Articles 5(i), 7(1) and 7(3) (as alleged in Paragraphs 15-17.6, 26, 28, 29, 30, 33-41, 57-59, 67, 69, 71, 86, 93, 96, 99, 100-103, 105, 108-110, 132, 150, 151, 159-163, 166-168, 170, 175-185 and 197);

**Count 9: unlawful transfer of a civilian**, a GRAVE BREACH OF THE GENEVA CONVENTIONS OF 1949, punishable under Statute Articles 2(g), 7(1) and 7(3) (as



alleged in Paragraphs 15-17.6, 26, 28, 29, 30, 33-41, 57-59, 67, 69, 71, 86, 93, 96, 99, 100-103, 105, 108-110, 132, 150, 151, 159-163, 166-168, 170, 175-185 and 197);

**Count 10: imprisonment,** a CRIME AGAINST HUMANITY, punishable under Statute Articles 5(e), 7(1) and 7(3) (as alleged in Paragraphs 15-17.6, 28, 33-39, 41, 47-49, 54, 57, 67-71, 77-80, 86, 94, 96, 99, 103-105, 119-134, 136-142, 146-151, 157-159, 168, 169, 174, 175, 181, 183, 184, 187-193, 195-202, 207, 209 and 210);

**Count 11: unlawful confinement of a civilian,** a GRAVE BREACH OF THE GENEVA CONVENTIONS OF 1949, punishable under Statute Articles 2(g), 7(1) and 7(3) (as alleged in Paragraphs 15-17.6, 28, 33-39, 41, 47-49, 54, 57, 67-71, 77-80, 86, 94, 96, 99, 103-105, 119-134, 136-142, 146-151, 157-159, 168, 169, 174, 175, 181, 183, 184, 187-193, 195-202, 207, 209 and 210);

**Count 12: inhumane acts (conditions of confinement),** a CRIME AGAINST HUMANITY, punishable under Statute Articles 5(i), 7(1) and 7(3) (as alleged in Paragraphs 15-17.6, 39, 57, 67, 71, 79, 124-126, 133, 134, 137, 142, 147, 168, 183, 190, 193, 198, 201 and 210);

**Count 13: inhuman treatment (conditions of confinement),** a GRAVE BREACH OF THE GENEVA CONVENTIONS OF 1949, punishable under Statute Articles 2(b), 7(1) and 7(3) (as alleged in Paragraphs 15-17.6, 39, 57, 67, 71, 79, 124-126, 133, 134, 137, 142, 147, 168, 183, 190, 193, 198, 201 and 210);

**Count 14: cruel treatment (conditions of confinement),** a VIOLATION OF THE LAWS AND CUSTOMS OF WAR, as recognised by Article 3(1)(a) of the Geneva Conventions, punishable under Statute Articles 3, 7(1) and 7(3) (as alleged in Paragraphs 15-17.6, 39, 57, 67, 71, 79, 124-126, 133, 134, 137, 142, 147, 168, 183, 190, 193, 198, 201 and 210);

**Count 15: inhumane acts,** a CRIME AGAINST HUMANITY, punishable under Statute Articles 5(i), 7(1) and 7(3) (as alleged in Paragraphs 15-17.6, 33-40, 46-48, 51-59,

66-70, 77-81, 94, 95, 99, 104, 106, 108, 112-114, 125, 127-130, 133, 134, 138, 139, 141, 142, 148-150, 161, 167, 169, 176, 177, 184, 188, 190-193, 198-201, 207, 209, 210 and 211);

**Count 16: inhuman treatment,** a GRAVE BREACH OF THE GENEVA CONVENTIONS OF 1949, punishable under Statute Articles 2(b), 7(1) and 7(3) (as alleged in Paragraphs 15-17.6, 33-40, 46-48, 51-59, 66-70, 77-81, 94, 95, 99, 104, 106, 108, 112-114, 125, 127-130, 133, 134, 138, 139, 141, 142, 148-150, 161, 167, 169, 176, 177, 184, 188, 190-193, 198-201, 207, 209, 210 and 211);

**Count 17: cruel treatment,** a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, as recognised by Article 3(1)(a) of the Geneva Conventions, punishable under Statute Articles 3, 7(1) and 7(3) (as alleged in Paragraphs 15-17.6, 33-40, 46-48, 51-59, 66-70, 77-81, 94, 95, 99, 104, 106, 108, 112-114, 125, 127-130, 133, 134, 138, 139, 141, 142, 148-150, 161, 167, 169, 176, 177, 184, 188, 190-193, 198-201, 207, 209, 210 and 211);

**Count 18: unlawful labour,** a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, as recognised by Article 40, 51 and 95 of Geneva Convention IV and Articles 49, 50 and 52 of Geneva Convention III, punishable under Statute Articles 3, 7(1) and 7(3) (as alleged in Paragraphs 15-17.6, 39, 55, 81, 127, 128, 130, 139, 148 and 149);

**Count 19: extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly,** a GRAVE BREACH OF THE GENEVA CONVENTIONS OF 1949, punishable under Statute Articles 2(d), 7(1) and 7(3) (as alleged in Paragraphs 15-17.6, 39, 46, 48, 51, 53, 66-68, 82-84, 116, 162, 164-166, 177, 179, 180 and 211);

**Count 20: wanton destruction of cities, towns or villages, or devastation not justified by military necessity,** a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, punishable under Statute Articles 3(b), 7(1) and 7(3) (as alleged in Paragraphs 15-17.6, 39, 46, 48, 51, 53, 66-68, 82-84, 116, 162, 164-166, 177, 179, 180 and 211);

**Count 21: destruction or wilful damage done to institutions dedicated to religion or education,** a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, punishable under Statute Articles 3(d), 7(1) and 7(3) (as alleged in Paragraphs 15-17.6, 39, 53, 68, 83, 84, 97, 116, 152, 162, 163, 165, 166 and 179-181);

**Count 22: appropriation of property, not justified by military necessity and carried out unlawfully and wantonly,** a GRAVE BREACH OF THE GENEVA CONVENTIONS OF 1949, punishable under Statute Articles 2(d), 7(1) and 7(3) (as alleged in Paragraphs 15-17.6, 39, 46, 57, 67, 85, 99, 100, 107, 108, 159, 175, 182, 209, 211 and 213);

**Count 23: plunder of public or private property,** a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, punishable under Statute Articles 3(e), 7(1) and 7(3) (as alleged in Paragraphs 15-17.6, 39, 46, 57, 67, 85, 99, 100, 107, 108, 159, 175, 182, 209, 211 and 213);

**Count 24: unlawful attack on civilians (Mostar),** a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, as recognised under customary law and Article 51 of Additional Protocol I and Article 13 of Additional Protocol II to the Geneva Conventions of 1949, punishable under Statute Articles 3, 7(1) and 7(3) (as alleged in Paragraphs 15-17.6, 35-37, 39, 98 and 110-117);

**Count 25: unlawful infliction of terror on civilians (Mostar),** a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, as recognised under customary law and Article 51 of Additional Protocol I and Article 13 of Additional Protocol II to the Geneva Conventions of 1949, punishable under Statute Articles 3, 7(1) and 7(3) (as alleged in Paragraphs 15-17.6, 35-37, 39, 98 and 110-117); and

**Count 26: cruel treatment (Mostar siege),** a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, as recognised by Article 3(1)(a) of the Geneva Conventions, and

punishable under Statute Articles 3, 7(1) and 7(3) (as alleged in Paragraphs 15-17.6, 35-37, 39, 98 and 110-117).

230. Notwithstanding any language to the contrary, the accused BERISLAV PUŠIĆ is not charged in this indictment with any crimes in connection with the events in Prozor Municipality in October 1992 or in Gornji Vakuf Municipality in January 1993.

### ADDITIONAL ALLEGATIONS

231. Unless otherwise specifically stated, all acts and omissions alleged in this indictment occurred on the territory of the former Yugoslavia.

232. At all times relevant to this indictment, a state of armed conflict, international armed conflict and partial occupation existed in Bosnia and Herzegovina, which involved, in whole or part, the State of the Republic of Croatia and its government, armed forces and representatives in an armed conflict against the State of the Republic of Bosnia and Herzegovina and/or against the ABiH and/or Bosnian Muslims on the territory of the State of the Republic of Bosnia and Herzegovina. All acts and omissions charged in this indictment as Grave Breaches of the Geneva Conventions of 1949, and for which the Accused are responsible, occurred during and in nexus with such international armed conflict and partial occupation.

232.1. The Article 2 counts charging “grave breaches” of the Geneva Conventions of 1949 require proof of a nexus between the crimes charged (whether as acts or omissions) and an international armed conflict. Common Article 2 of the Geneva Conventions provides that the Conventions apply to “any . . . armed conflict which may arise between two or more High Contracting Parties [that is, States].”

232.2. There is no single litmus test for determining whether a conflict is “international” in character. “Internationality” may be established by either (a) the direct intervention or involvement of the military forces of one State on the territory of another, or (b) by the “overall control” exercised by a State on armed forces or organisations acting in another State, or (c) both.

232.3. In this case, the evidence plainly establishes, beyond a reasonable doubt, that the armed conflict involved in or related to this case was “international,” both as a result of (a) the Croatian Government's “overall control” of Herceg-Bosna, the HVO, the Herceg-Bosna/HVO leadership and the Bosnian Croat armed forces; and (b) the State of Croatia's direct involvement and participation in the armed conflict against the BiH State and Government on the sovereign territory of Bosnia and Herzegovina, and against the Bosnian Muslim population. Even if the Chamber were to find the evidence insufficient on either one of these bases, the internationality of the conflict would nonetheless be proved on the alternative basis.

232.4. The Appeals Chamber has established criteria for establishing when, in an armed conflict involving what might be viewed as some aspects of an internal conflict, armed forces may be regarded as acting on behalf of a foreign power, thereby rendering the conflict international (emphasis added):

137. . . . *control by a State over subordinate armed forces or militias or paramilitary units may be of an overall character* (and must comprise more than the mere provision of financial assistance or military equipment or training). This requirement, however, does not go so far as to include the issuing of specific orders by the State, or its direction of each individual operation. Under international law it is by no means necessary that the controlling authorities should plan all the operations of the units dependent on them, choose their targets, or give specific instructions concerning the conduct of military operations and any alleged violations of international humanitarian law. The control required by international law may be deemed to exist when a State (or, in the context of an armed conflict, the Party to the conflict) has a role in organising, coordinating or planning the military actions of the military group, in addition to financing, training and equipping or providing operational support to that group. Acts performed by the group or members thereof may be regarded as acts of de facto State organs regardless of any specific instruction by the controlling State concerning the commission of each of those acts.

138. . . . Where the controlling State in question is an adjacent State with territorial ambitions on the State where the conflict is taking place, and the controlling State is attempting to achieve its territorial enlargement through the armed forces which it controls, it may be easier to establish the threshold.<sup>319</sup>

232.5. Tribunal jurisprudence is clear that the particular conduct charged under Article 2 does not have to be have been international in character. The *Kordić* Trial Chamber

<sup>319</sup> *Prosecutor v. Tadić*, Judgement, Case No. IT-94-1-A, Appeals Chamber, 15 July 1999 (hereafter *Tadić* AJ), pp. 58-60, paras. 137-40.

stated, for example, that Tribunal law should not be viewed to mean “that evidence as to whether a conflict in a particular locality has been internationalised must necessarily come from activities confined to the specific geographical area where the crimes were committed . . .”<sup>320</sup> In terms of those parts of the analysis concerning the direct involvement of the Croatian Army, what is at issue is whether Croatian troops intervened in the overall armed conflict between the Bosnian Croats and Bosnian Muslims. While such intervention might be proved by direct evidence of their involvement in the areas in Herzegovina where the alleged crimes occurred, it may also be established by evidence of the presence of Croatian troops in other parts of BiH, if, for example, the other areas were of strategic significance.<sup>321</sup>

232.6. Once the existence of an international armed conflict in BiH is established, that conflict is regarded as occurring on the entire territory of BiH. It is irrelevant, for example, whether or not members of the Croatian Army were present at the times and specific locations where the particular grave breaches charged in the indictment occurred:

The provisions of the Conventions apply to the entire territory of the Parties to the conflict, not just the vicinity of actual hostilities . . . With respect to prisoners of war, the Convention applies to combatants in the power of the enemy; it makes no difference whether they are kept in the vicinity of hostilities. In the same vein, Geneva Convention IV protects civilians anywhere in the territory of the Parties. This construction is implicit in Article 6, paragraph 2, of the Convention.<sup>322</sup>

### **Greater Croatia and International Armed Conflict: The Political Dimension and Croatia’s Overall Control**

232.7. At the times relevant to the indictment, both the Republic of Croatia<sup>323</sup> and the Republic of Bosnia and Herzegovina<sup>324</sup> were independent States, recognised by the

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<sup>320</sup> *Kordić TJ*, para. 70.

<sup>321</sup> *Kordić TJ*, para. 71.

<sup>322</sup> *Prosecutor v. Tadić*, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, No. IT-94-1-AR72, Appeals Chamber, 2 October 1995 (hereafter *Tadić Appeals Jurisdiction*), para. 68.

<sup>323</sup> The Republic of Croatia declared its independence on 25 June 1991, which was suspended until 8 October 1991. Croatia was recognized by the European Community on 15 January 1992 and admitted as a UN member State on 22 May 1992.

international community. On 7 April 1992, President Tudjman issued a Decision on behalf of Croatia recognising the sovereignty of the newly-declared Republic of Bosnia and Herzegovina.<sup>325</sup>

232.8. The Tudjman Government's overall control of the the Herceg-Bosna/HVO structures and forces, and over the Greater Croatia/Herceg-Bosna project generally, has been outlined above, primarily in paragraphs 15 - 42. The evidence plainly shows that an international armed conflict involving Croatia on the territory of BiH existed, in all respects and at all times relevant to the indictment.

### **Greater Croatia and International Armed Conflict: The Military Dimension and Croatia's Direct Participation**

232.9. The evidence outlined below, while providing yet further or continuing proof of Croatia's overall control, also establishes a second and fully sufficient basis for the international armed conflict alleged in this case, involving Croatia's direct participation on sovereign BiH territory against BiH Government forces and the Muslim population.

Croatia not only controlled the Herceg-Bosna/HVO's political and military program, but directly intervened and participated in the armed conflict against the BIH Government forces and Muslims in Bosnia and Herzegovina, by deploying regular HV Army units, officers and soldiers to fight in BiH. This was accomplished, *inter alia*, through Croatia's Ministry of Defence and the HV's own command and logistic structure, and by the appointment or other placement of both senior and junior HV officers throughout the HVO.

232.10. The *Blaskić* Trial Chamber held that "based on Croatia's direct intervention in BiH," there was "ample proof to characterise the conflict as international." *Blaskić* TJ, para. 94. Similarly in *Kordić*, the Trial Chamber found "... that the conflict between the

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<sup>324</sup> The Republic of Bosnia and Herzegovina declared its independence on 3 March 1992. It was recognized by the European Community on 6 April 1992 and by Croatia on 7 April 1992. It was admitted as a UN member State on 22 May 1992.

<sup>325</sup> EXH No. P 00149, 0092-3152-0092-3152 (Eng) / 0092-3150-0092-3150 (BCS).

Bosnian Croats and the Bosnian Muslims in Bosnia and Herzegovina was internationalised by the intervention of Croatia in that conflict through its troops.” *Kordić* TJ, para. 109.

232.11. The participation of Croatian Army personnel in the conflict in Bosnia and Herzegovina dates from at least early 1992. On 8 April 1992, BiH President Izetbegović abolished the former SFRY Territorial Defence and established a new Territorial Defence (“TO”) for the Republic of Bosnia and Herzegovina.<sup>326</sup> On the same day, Boban established the HVO military as the “supreme defence body of the Croatian people” in Herceg-Bosna’s claimed territory.<sup>327</sup>

232.12. It cannot have been coincidence that two important events both happened two days later, on 10 April 1992: First, President Franjo Tudjman appointed Croatian Army (HV) General Bobetko as Commander of the “Southern Front,” and second, Mate Boban issued an order outlawing the TO on Herceg-Bosna’s claimed territory.<sup>328</sup> Bobetko immediately exercised command over both HV and HVO units in both Croatia and BiH. While on BiH territory, Bobetko issued orders on both HV and HVO letterhead. By 16 April 1992, he had established a forward command post at Grude, on sovereign BiH territory.

232.13. The military structure and *modus operandi* established by HV General Bobetko for all HV and HVO forces in BiH in 1992 served as the model by which the HVO functioned during the Croat-Muslim war in 1993-94. Once deployed inside BiH in 1992, the senior HV officers and personnel took measures to swiftly implement Croatian policy and to undermine the authority and effectiveness of the BiH Government forces. The HV and HVO acted as a single, unified military organisation.<sup>329</sup>

<sup>326</sup> EXH No. P 00150, 0060-7066-0060-7066.

<sup>327</sup> EXH No. P 00151, 0062-8296-0062-8296.

<sup>328</sup> EXH No. P 00154, 0047-8367-0047-8367 (Eng) / 0037-6922-0037-6922 (BCS).

<sup>329</sup> See EXH No. P00156, 0069-0231-0069-0231 (Eng) / 0069-0281-0069-0281 (BCS) (Bobetko appointed commander of “southern front”); EXH No. P 00158, 0069-0232-0069-0232 (Eng) / 0069-0282-0069-0282 (BCS) (order sending HV units to Čitluk-Ljubuški area); EXH No. P00161, 0069-0234-0069-0235 (Eng) / 0069-0284-0069-0285 (BCS) (Bobetko order that HVO Main Staff in Grude occupy right bank of Neretva); EXH No. P 00164, 0060-7691-0060-7692 (Eng) / 0060-7618-0060-7619 (BCS) (Bobetko order establishing forward command post at Grude); EXH No. P 00170, 0060-7696-0060-7696 (Eng) / 0060-7623-



232.14. Several of Bobetko's subordinates in BiH during the Serb campaign in 1992 were themselves high-level HV commanders who went on to command the HVO in 1993. HV Generals SLOBODAN PRALJAK and Anto Roso, and HV Colonel MILIVOJ PETKOVIĆ all served under Bobetko in BiH during 1992. For example, on 21 April 1992, Bobetko made HV Major-General Ante Roso responsible for the Livno region in BiH. MILIVOJ PETKOVIĆ was placed in charge of the Grude Forward Command Post in Bobetko's absence.<sup>330</sup>

232.15. On 8 May 1992, HV Major-General Ante Roso, sitting on BiH territory in Grude, issued an order similar to Boban's 10 April Order, outlawing the BiH TO.<sup>331</sup> Roso's order provided that HVO units were the only legal military units on Herceg-Bosna territory.<sup>332</sup> Roso's Order outlawing the TO immediately moved down the HV-HVO chain of command. In the Kiseljak municipality, HVO commander Tihomir Blaškić issued an order on 11 May 1992 that the HVO was the only legal military unit and that the TO was illegal. Dario Kordić and the local HVO commander in Busovača issued a similar order on 10 May 1992, also demanding that the TO surrender its arms.<sup>333</sup>

232.16. The rapid implementation of Roso's 8 May Order to outlaw and disarm the TO throughout Herceg-Bosna proves that Croatian military personnel at the highest level were participating directly in the conflict in BiH and were exercising command and control over HVO units in the field as early as May 1992. By May 1992, the direct

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0060-7623 (BCS); EXH No. P 00212, 0060-7677-0060-7677 (Eng) / 0060-7602-0060-7602 (BCS); EXH No. P 00266, 0060-7687-0060-7688 (Eng) / 0060-7614-0060-7615 (BCS) (Bobetko order to move SE Herzegovina command from Medjugorje to Mostar).

<sup>330</sup> EXH No. P 00170, 0060-7696-0060-7696 (Eng) / 0060-7623-0060-7623 (BCS); EXH No. P00164, 0060-7691-0060-7692 (Eng) / 0060-7618-0060-7619 (BCS); EXH No. P 00266, 0060-7687-0060-7688 (Eng) / 0060-7614-0060-7615 (BCS).

<sup>331</sup> Roso did not terminate his active service in the HV until October 1993, shortly before he was appointed to replace Slobodan Praljak as commander of the HVO Main Staff. EXH P 09596, 0081-0598-0081-0598 (Eng) / 0081-0597-0081-0597 (BCS); EXH P 06521, 0154-8456-0154-8456.

<sup>332</sup> EXH No. P 00195, 0069-6579-0069-6579 (Eng) / 0068-9057-0068-9057 (BCS).

<sup>333</sup> EXH No. P 00200, 0033-7310-0033-7310 (Eng) / 0032-9780-0032-9780 (BCS); EXH No. P 00197, 0032-4292-0032-4292 (Eng) / 0030-9862-0030-9862 (BCS).

participation of high-ranking HV personnel in the conflict and the overall control exercised by Croatia and the HV over the HVO established an international armed conflict on BiH territory. As shown below, Croatia's direct participation and overall control remained in effect throughout the Croat-Muslim war in 1993-94.

232.17. Once the HVO was established and senior HV officers placed in charge, Tudjman, in addition to all of the other levers of political and governmental power, controlled the two powerful forces in Herceg-Bosna -- the Croatian Army (HV) and the HVO. Having to pretend that HV units, officers and soldiers were sent to Herceg-Bosna "under the cover of sending volunteers" (discussed further below) was an inconvenience rather than a fundamental limit on Tudjman's power. Tudjman could command the forces in BiH directly through the likes of PETKOVIĆ, PRALJAK and Roso, or through senior HV commanders such as General Bobetko.<sup>334</sup>

232.18. Tudjman divided military responsibilities in Herceg-Bosna between HV and HVO generals,<sup>335</sup> and even made plans for the HVO without anyone from the HVO being present.<sup>336</sup> He could quickly send a whole brigade to Mostar.<sup>337</sup> The full range of Tudjman's power over both the HV and the HVO is illustrated by the record of a meeting on 22 October 1993 in the Presidential Offices in Zagreb.<sup>338</sup> In little over an hour and a half, Croatia's President Tudjman made both strategic and tactical military decisions, regarding the use of aircraft in Herceg-Bosna, the disposition of both HV and HVO troops, and the awarding of pay and ranks for officers who had served in both armies. While telling his own Generals to make sure that they kept control of key areas in Central Bosnia in late 1993, and after reviewing their performance, he added: "In this respect gentlemen,

<sup>334</sup> EXH No. P 06485, L007-5943-L007-5980 (Eng) / 0132-3004-0132-3040 (BCS), pp. 9-16; also p. 22 (Tudjman giving orders to Roso).

<sup>335</sup> EXH No. P 06485, L007-5943-L007-5980 (Eng) / 0132-3004-0132-3040 (BCS), p. 18.

<sup>336</sup> EXH No. P 06839, R018-0607-R018-0634 (Eng) / R015-7073-R015-7099 (BCS) (Tudjman meeting with Šušak and Bobetko).

<sup>337</sup> EXH No. P 06485, L007-5943-L007-5980 (Eng) / 0132-3004-0132-3040 (BCS), p. 4.

<sup>338</sup> EXH No. P 06012, R018-0830-R018-0886 (Eng) / R015-6805-R015-6863 (BCS).

we did not act well enough, and that is what I as the president and supreme commander have to say.”<sup>339</sup>

232.19. Tudjman’s orders to both the HV and HVO could be direct and explicit, actually directing events on the ground. In July 1993, he told Bobetko and Roso to send Croatian troops to BiH, and in doing so, to reward the units and officers with higher-level designations and ranks, “for the psychological and for that, that you give them ranks. Politically this is needed, as well as capable military commanders and political people.”<sup>340</sup> (Bobetko responded: “The first battalion that went had 780 men with all the artillery. That was the most elite unit that we sent.”) (emphasis added).

232.20. On 5 November 1993, Tudjman ordered the military to “Transfer what remains of the troops from Vareš to Kiseljak and push through to Busovača.”<sup>341</sup> On 6 November, while apparently looking at a situation map, he ordered the generals to “free that road not to Kiseljak, but to Travnik and Vitez . . . At any rate, first of all Gornji Vakuf, for this area from Prozor towards Vitez and Travnik to be linked up.”<sup>342</sup> Tudjman remembered his orders and would remind his subordinates: “You know that I sent a new commander and ordered that new volunteers be sent to defend the Vitez line . . .”<sup>343</sup>

<sup>339</sup> EXH No. P 06012, R018-0830-R018-0886 (Eng) / R015-6805-R015-6863 (BCS), p. 38 (emphasis added).

<sup>340</sup> EXH No. P 06485, L007-5943-L007-5980 (Eng) / 0132-3004-0132-3040 13 (BCS), p. 29.

<sup>341</sup> EXH No. P 06459, R018-1093-R018-1099 (Eng) / R015-6920-R015-6927 (BCS), p. 4.

<sup>342</sup> EXH No. P 06485, L007-5943-L007-5980 (Eng) / 0132-3004-0132-3040 (BCS), pp. 6-7; also R018-0601-R018-0601 (Tudjman: “. . . and then at the next moment Bugojno . . . Bobetko: This is that spot that has to be taken. It settles everything”).

<sup>343</sup> EXH No. P 06575, R018-3334-R018-3361 (Eng) / R015-7014-R015-7044 (BCS), pp. 15-16. Other examples of the close communications between Zagreb and BiH are EXH No. P 00140, 0033-7305-0033-7305 (Eng) / 0032-9774-0032-9774 (BCS) (HVO commander Ljubičić communication to Šušak on behalf of the Central Bosnia Command requesting a meeting “to inform you about the current situation in Central Bosnia . . . and to receive your instructions for further actions”); EXH No. P 01741, 0047-8404-0047-8404 (Eng) / 0040-5548-0040-5548 (BCS) and EXH No. P 01742, 0047-8403-0047-8403 (Eng) / 0040-5547-0040-5547 (BCS) (PETKOVIĆ “approvals” to the HVO Office in Zagreb that units “come to the territory of the Croatian Community of Herceg-Bosna”); EXH No. P 01853, 0033-6763-0033-6765 (Eng) / 0032-9857-0032-9859 (BCS) (12 April 1993 letter to Tudjman states: “It would be very helpful if you would once again instruct your assistants to send to this area senior officers of the Croatian army headed by General Praljak to consolidate our units in the Lašva Valley”).

**Presence and Participation of Croatian Military Personnel and Armed Forces (HV) in the Croat-Muslim Conflict**

232.21. The active presence and participation of Croatia's armed forces in the Croat-Muslim war is plainly demonstrated by looking at the senior officers who commanded the HVO. From 1992 to 1994, the top HVO commander (Chief of the HVO Main Staff) was an HV general -- from Ante Roso to MILIVOJ PETKOVIĆ and SLOBODAN PRALJAK, and back to Roso again. Indeed, there was a revolving door between the HV and HVO senior officers.

SLOBODAN PRALJAK

232.22. On 14 March 1992, the Croatian Minister of Defence, Gojko Šušak, appointed SLOBODAN PRALJAK as an Assistant Minister of Defence, with the rank of Brigadier.<sup>344</sup> On 10 September 1992, President Tudjman appointed PRALJAK to the National Defence Council for the Republic of Croatia, a presidential advisory body. This appointment indicates that PRALJAK held the rank of HV Major General.<sup>345</sup>

232.23. At the time that he held these positions, PRALJAK commanded HVO units on BiH territory. On 10 April 1992, PRALJAK was appointed to command the Southeast Herzegovina Operative Zone in BiH. It was during this period that PRALJAK claimed to have led the liberation of Mostar from the Serbs. Prior to his formal appointment as Commander of the HVO Main Staff in July 1993, PRALJAK exercised command and control over HV and/or HVO units fighting against the ABiH on BiH territory, including at Prozor in October 1992 and at Gornji Vakuf in January 1993.

232.24. PRALJAK served as the Chief of the HVO Main Staff from approximately 24 July 1993 until November 1993. He was replaced as Commander of the HVO Main Staff by Ante Roso on about 9 November 1993.<sup>346</sup> On 20 October 1993, PRALJAK asked

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<sup>344</sup> EXH No. P 00136, 0088-3655-0088-3657.

<sup>345</sup> EXH No. P 00465, 0216-6508-0216-6509.

<sup>346</sup> EXH No. P 03683, 0151-8770-0151-8770 (BCS).

to be re-instated to the HV.<sup>347</sup> Again, it could have been no coincidence that on the very same day, PRALJAK's successor, Ante Roso, purported to terminate his active service in the HV.<sup>348</sup>

### MILIVOJ PETKOVIĆ

232.25. MILIVOJ PETKOVIĆ came to Bosnia and Herzegovina in 1992 and served there under the command of HV General Janko Bobetko. He purported to terminate his active service in the HV at that time.<sup>349</sup> PETKOVIĆ then served as Chief of the HVO Main Staff from at least January 1993 to 24 July 1993.<sup>350</sup> After PRALJAK was named Chief of the HVO Main Staff in July 1993, PETKOVIĆ remained in BiH as the No. 2 HVO commander.<sup>351</sup> PETKOVIĆ asked to be re-admitted to the HV on 30 September 1994.<sup>352</sup>

### Ante Roso

232.26. Ante Roso was one of General Bobetko's subordinate officers on BiH territory in 1992.<sup>353</sup> It was in this capacity that he signed the 8 May 1992 Order implementing Boban's Decision outlawing the BiH Government armed forces on Herceg-Bosna's claimed territory.<sup>354</sup> Roso remained an active member of the Croatian Army throughout 1992 and most of 1993, until he "resigned" from the HV with the rank of Major General on 20 October 1993.<sup>355</sup> On the decision of Croatian President Franjo

<sup>347</sup> EXH No. P 05970, 0062-2707-0062-2707 (Eng) / 0062-2708-0062-2708 (BCS).

<sup>348</sup> EXH No. P 09596, 0081-0598-0081-0598 (Eng) / 0081-0597-0081-0597 (BCS); EXH No. P 06468, 0305-5029-0305-5030 Eng; 0103-1775-0103-1776 BCS).

<sup>349</sup> EXH No. P 00146, 0069-3032-0069-3032 (BCS) (dated 6 April 1992).

<sup>350</sup> EXH No. P 03683, 0151-8770-0151-8770 (BCS).

<sup>351</sup> EXH No. P 05796, L003-9741-L003-9743 (Eng) / 0154-6811-0154-6811 (BCS) (Main Staff Deputy Commander).

<sup>352</sup> EXH No. P 08467, 0062-2705-0062-2705 (Eng) / 0062-2706-0062-2706 (BCS).

<sup>353</sup> EXH No. P 06468, 0305-5029-0305-5029 (Eng) / 0103-1775-0103-1776 (BCS).

<sup>354</sup> EXH No. P 00195, 0069-6579-0069-6579 (Eng) / 0068-9057-0068-9057 (BCS).

<sup>355</sup> EXH No. P 09596, 0081-0598-0081-0598 (Eng) / 0081-0597-0081-0597 (BCS); EXH No. P06468, 0305-5029-0305-5030 Eng; 0103-1775-0103-1776 BCS).

Tudjman, Roso was officially appointed Commander of the HVO Main Staff, on about 6 November 1993, with the same rank (Major General) that he held in the HV.<sup>356</sup>

### **Other High-Ranking Croatian (HV) Officers in HVO Command**

232.27. Other HV officers commanded HVO units throughout the war against the BiH Government. The extent to which HV officers took command of HVO units establishes that the HV and HVO were essentially one military force. Military personnel moved back and forth, from one to the other, as if they were moving among different units in the same army.<sup>357</sup>

232.28. Some examples: On 4 August 1993, a Request on behalf of HVO Chief of the Main Staff PRALJAK was sent to the Croatian Ministry of Defence and personally to Defence Minister Gojko Šušak for the placement of senior HV officers Žarko Tole and Ivan Kapular to the HVO Main Staff.<sup>358</sup> The authority of the HV to "place" its officers in the HVO Main Staff undermines PRALJAK's assertion that the HV and Croatian government played a passive role in permitting HV "volunteers" to join the HV. One month later, Tole issued orders in respect of the HVO operation that took place on 17 September 1993, issuing direct orders to the "Tuta ATG forces."<sup>359</sup>

232.29. In his Report dated 28 August 1993, regarding the "problems of the HVO 3rd Brigade," HVO commander Pavlović appointed HV officer Zoran Kovač as commander of the HVO 3rd Battalion.<sup>360</sup> In another document dated 2 October 1993, a commander proposed that Stanko Sopta, an HV Colonel and deputy commander of the Convicts' Battalion ATG, be appointed to command the HVO 3rd Brigade.<sup>361</sup>

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<sup>356</sup> EXH No. P 06468, 0305-5029-0305-5029 (Eng) / 0103-1775-0103-1776 (BCS).

<sup>357</sup> EXH No. P 06839, R018-0607-R018-0634 (Eng) / R015-7073-R015-7099 (BCS), pp. 3, 6, 18.

<sup>358</sup> EXH No. P 03957, L004-5160-L004-5160 (Eng) / 0101-4201-0101-4201 (BCS).

<sup>359</sup> EXH No. P 09597, 0190-4072-0190-4074 (Eng) / 0151-8974-0151-8975 (BCS); EXH No. P04084,

<sup>360</sup> EXH No. P 09598, 0300-0734-0300-0738 (Eng) / 0151-5238-0151-5242 (BCS); EXH No. P04594, 0151-8690-0151-8694.

<sup>361</sup> EXH No. P 05576, 0301-6083-0301-6083 (Eng) / 0151-9981-0151-9981 (BCS).

232.30. In an order dated 15 October 1993, six Croatian Army officers in BiH insisted that an HVO soldier be released from detention, stating: "If this demand is not met by 1200 hours today, six of us HV officers will leave the HZ H-B because we did not come here to fight against Croats . . ." <sup>362</sup>

### **HV Presence and Participation in the Croat-Muslim Conflict**

232.31. There was a substantial HV presence in BiH in the spring of 1992, when the UN Security Council adopted its Resolution 752 on 15 May 1992, demanding that "that all forms of interference from outside [BiH], including by units of the Yugoslav People's Army as well as elements of the Croatian Army, cease immediately" and "that those units of the [JNA] and elements of the Croatian Army now in [BiH] must either be withdrawn, or be subject to the authority of the [BiH Government], or be disbanded and disarmed . . ." <sup>363</sup>

232.32. Two weeks later, the Secretary-General reported that the Republic of Croatia forces were not withdrawing from Bosnia and Herzegovina as requested:

As regards the withdrawal of elements of the Croatian Army now in Bosnia and Herzegovina, information currently available in New York suggests that no such withdrawal has occurred. UNPROFOR has received reliable reports of Croatian Army personnel, in uniform, operating within, and as part of, military formations in [BiH]. The Croatian authorities have consistently taken the position that the Croatian soldiers in [BiH] have left the Croatian Army and are not subject to its authority. International observers do not, however, doubt that portions of [BiH] are under the control of Croatian military units, whether belonging to the local Territorial Defence, to paramilitary groups or to the Croatian Army. <sup>364</sup>

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<sup>362</sup> EXH No. P 05891, 0301-5711-0301-5712 (Eng) / 0151-8946-0151-8947 (BCS).

<sup>363</sup> EXH No. P 00205, 0035-9895-0035-9897, paras. 3-4; EXH No. P 00750, page 3 para. 5.

<sup>364</sup> Report of the Secretary-General pursuant to paragraph 4 of Security Council Resolution 752 (30 May 1992), EXH No. P 00233, para. 10.

232.33. UNPROFOR viewed the HVO and the HV as two sides of the same coin, with both waging war against the BiH Government. UNPROFOR often referred to the two entities collectively as the "HVO / HV."<sup>365</sup>

232.34. Based on the frequency with which HV forces were observed by the international observers in BiH, the United Nations concluded in a series of official documents that Croatia had in fact intervened with its armed forces to support the HVO. On 16 November 1992, the Security Council issued Resolution 787, calling upon all elements of the Croatian army to withdraw from Bosnia-Herzegovina.<sup>366</sup> The presence of HV forces in BiH was also recognised in the Secretary General's Report to the General Assembly dated 18 January 1993,<sup>367</sup> and in the Secretary General's letters to the President of the Security Council, dated 1 February 1994 and 17 February 1994.<sup>368</sup>

232.35. A substantial amount of documentary evidence establishes the Croatian Army's presence and direct participation in the HVO-ABiH armed conflict. One example is a 24 July 1993 Request from SLOBODAN PRALJAK, "Commander of the HVO Main Staff," to: "President of the Republic of Croatia, dr. Franjo Tudjman, Minister of Defence of the Republic of Croatia, Gojko Šušak, Head of the HV [Croatian Army] Main Staff Janko Bobetko, requesting:

1. That the HVO zone of responsibility [as described] which the HVO is defending with 750 soldiers in one shift be taken over by HV units. . . . A better equipped HV unit is a guarantee that a possible Muslim breakthrough . . . will be prevented . . . With this replacement, the HVO would be able to redeploy its forces on other battlefields.

2. For the activities between G. Vakuf - Bugonjo, we URGENTLY need a well equipped battalion with a part of its support (tanks, artillery) in order to assist the Bugojno forces.

<sup>365</sup> See EXH No. P 03072, R002-3010-R002-3017, p. 3 ("fighting between HVO/HV and BiH forces"); EXH No. P 03714, R009-2823-R009-2832, p. 2 ("The week started with the HVO/HV counter-attacking the BiH in the S of Mostar"); EXH No. P 04036, R002-0712-R002-0722, p. 6 ("In Mostar full mobilization of Croats is in progress and there are HVO/HV troop concentrations in and to the W of city").

<sup>366</sup> EXH No. P 00750, 0000-1124-0000-1128.

<sup>367</sup> EXH No. P 01182, 0040-1004-0040-1008, para. 32.

<sup>368</sup> EXH No. P 07764, 0070-5068-0070-5059) ("The Croatian Army has directly supported the HVO in terms of manpower, equipment and weapons for some time"); EXH No. P 07890, 0070-9228-0070-9229.



3. In order to cut off Muslim forces . . . , we also need a professional battalion. . . .

4. If possible, we would them to be forces from the 4th and 5th HV Guards brigade.<sup>369</sup>

232.36. HV units used Muslim prisoners who were detained at the Heliodrom, taking them out for forced labour. This is recorded in several HVO/Heliodrom logbooks.<sup>370</sup> HV use of Heliodrom prisoners in October 1993 is also confirmed in a record showing that a Croatian Army unit used forty-five Muslim detainees.<sup>371</sup>

232.37. Finally, in addition to manpower or personnel, Croatia provided extensive logistics and material support to the HVO during the Croat-Muslim war.<sup>372</sup>

### **Attempted Concealment of Croatia's Participation in BiH**

232.38. The very steps taken by the Tudjman Regime to deny and conceal its overall control and intervention in Bosnia and Herzegovina is some of the strongest evidence that both -- overall control and the HV's direct involvement -- were true.

232.39. Security Council Resolutions 752 (15 May 1992) and 787 (16 November 1992) called upon Croatia to remove its armed forces from BiH.<sup>373</sup>

<sup>369</sup> EXH No. P 03682, 0420-0777 - 0420-0777. For other examples, see EXH No. P 03632, R002-0221-R002-0222 (22 July 1993: "The presence of these additional troops from the HV will likely shift the balance of power for the HVO"); EXH No. P 04924, R002-7658-R002-7660 (10 September 1993: HV is "busy at the battlefield in BiH south to help HVO in the fighting against the BiH Armija"); EXH No. P 06749, R002-5334-R002-5338 (19 November 1993, reporting "considerable" presence of HV troops in Southern Bosnia"); EXH No. P 06913, R002-5339-R002-5342 (26 November 1993: large numbers of HV in Prozor contributing to tensions there). The UN Special Rapporteur Mazowiecki also recorded his observations, that his field staff "received information from eye-witnesses and international observers in the area which strongly suggests that regular army units of the Republic of Croatia have helped HVO forces in conducting the war in western Herzegovina." Fourth Mazowiecki Report (UN Special Rapporteur; E/CN.4/1994/8; 6 September 1993), EXH No. P 04822 (0003-5730-0003-5736), para. 24.

<sup>370</sup> EXH No. P 05457, L006-2512-L006-2640 (Eng) / 0153-4530-0153-4715 (BCS), p. 0153-4545, 4574, 4588; EXH No. P 04367, L004-9411-L004-9525 (Eng) / 0153-5042-0153-5219 (BCS), p. 0153-5048; EXH No. P 05872, 0153-5436-0153-5622 (BCS), p. 0153-5452, 5505, 5513-5514, 5563, 5590.

<sup>371</sup> EXH No. P 05804, L007-0850-L007-0850 (Eng) / 0153-7564-0153-7564 (BCS).

<sup>372</sup> See, e.g., EXH No. P 03258, 0048-8524-0048-8524 (BCS) (order from the Croatian Ministry of Defence dated 7 July 1993 regarding fuel for HVO vehicles).

232.40. The Security Council resolutions and Croatia's own constitution, as well as the demands of international politics and public opinion, thus required Croatia's political and military leaders to conceal the true extent of Croatia's military intervention in the HVO-ABiH conflict. This attempted concealment was carried out at all levels of both the Croatian Government and the HVO/Herceg-Bosna Government, in a manner that reveals the seamless relationship between these two "partners" in the armed conflict against the Muslims and BiH Government.

232.41. On the political level, the concealment of the HV's direct military participation in the Croat-Muslim war was carried out through the issuance of carefully worded public statements by Croatian Government officials denying any significant HV presence in BiH.<sup>374</sup>

232.42. The continuous Croatian Government "party line," repeatedly put forward and discussed by President Tudjman himself, was that any HV soldiers on BiH territory were only there as individual "volunteers." The evidence is to the contrary, and the party line was false and a fraud. Time and again, Tudjman, Šušak, Bobetko and others controlled, decided and intervened in the fight for Greater Croatia and Herceg-Bosna, against the BiH Government and the Bosnian Muslims. Time and again, the deliberate attempts to conceal and cover-up this truth were discussed and apparent.<sup>375</sup>

232.43. Nowhere is this clearer than in a presidential meeting in Zagreb on 23 November 1993. While hoping to engage in the fiction that Roso had been named Chief

<sup>373</sup> EXH No. P 00750 (0463-9100-0463-9103), page 3, para. 5; EXH No. P 00752 (0000-1124-0000-1128), page 3, para. 5.

<sup>374</sup> EXH No. P 00724, R007-5144-R007-5145, 9 November 1992 letter from Croatian Defence Minister Šušak denying that HV is involved in Mostar conflict); EXH No. P 09599, R041-9440-R041-9442, 4 June 1993 letter from President Tudjman, who refers to "unfounded" allegations that Croatia is involved in BiH internal conflicts; EXH No. P 03493, 0465-9608-0465-9611, 16 July 1993 letter from Tudjman stating there are no regular units of the HV in BiH except in borderland areas.

<sup>375</sup> See, e.g., EXH No. P 06485, L007-5943-L007-5980 (Eng) / 0132-3004-0132-3040 (BCS), p. 4 ("under cover of volunteers"); EXH No. P 06745, R018-3334-R018-3361 (Eng) / R015-7014-R015-7044 (BCS), p. 15 ("you know that I sent a new commander and ordered the new volunteers to be sent"); EXH No. P 06839, R018-0607-R018-0634 (Eng) / R015-7073-R015-7099 (BCS), p. 8 ("I constantly emphasise that . . . these are volunteers").

of the HVO Main Staff by Boban, the documents make it clear that Roso was put in this position by Tudjman, Šušak and Bobetko (along with all other members of the HVO senior staff).<sup>376</sup> The minutes portray a plainly angry Tudjman, distressed that Bobetko or his staff had put the appointments on paper, because it revealed in black and white that Croatia's top leaders hand-picked the HVO main staff. Tudjman stated: "[H]ow . . . could you have issued such an order confirming that Croatia is waging war, that it is directly involved, and I constantly emphasise that you should have built all this up as something voluntary . . . To send to Roso . . . providing proof that we are giving the orders there."<sup>377</sup>

232.44. Throughout 1992, 1993 and early 1994, HV and HVO personnel in the field attempted to ascertain the identities of all HV personnel in their units and to conceal their presence in BiH. The evidence overwhelmingly supports the conclusion that there was an official HV-HVO policy to conceal the presence of HV personnel in BiH by having them remove HV insignia and replace it with HVO insignia. Numerous orders were issued that all HV insignia and symbols be removed from clothing, vehicles and equipment, so that the HV's presence in BiH would either be concealed entirely or at least minimised.<sup>378</sup>

232.45. Despite Croatia's repeated denials and attempted subterfuge, neither the United Nations nor the international community was fooled, and by February 1994, the Security Council was adamant in demanding Croatia's withdrawal once and for all:

<sup>376</sup> EXH No. P 06468, 0305-5029-0305-5029 (Eng) / 0103-1775-0103-1776 (BCS) and EXH No. P06839, R018-0607-R018-0634 (Eng) / R015-7073-R015-7099 (BCS).

<sup>377</sup> EXH No. P 06839, R018-0607-R018-0634 (Eng) / R015-7073-R015-7099 (BCS), pp. 8-15.

<sup>378</sup> EXH No. P 00158, 0069-0232-0069-0232 (Eng) / 0069-0282-0069-0282 (BCS) (12 April 1992 order that HV personnel remove HV insignia during activities inside BiH); EXH No. P 00544, 0056-2891-0056-2891 (Eng) / 0049-3046-0049-3046 (BCS) (15 October 1992 HVO orders to identify all HV officers in HVO units); EXH No. P 00807, 0093-0376-0093-0376 (Eng) / 0040-2371-0040-2371 (BCS) (26 November 1992 HVO order: "HV members present . . . and wearing HV insignia must be warned to take them off as this causes trouble for" Croatia); EXH No. P 00882, 0047-8417-0047-8418 (Eng) / 0040-5563-0040-5564 (BCS) (9 December 1992 order: "Ask HV members (with explanation) to wear HVO insignia during their deployment in our area"); EXH No. P 01845, 0039-8828-0039-8828 (Eng) / 0039-8827-0039-8827 (BCS) and EXH No. P 01850, 0056-2878-0056-2879 (Eng) / 0049-3066-0049-3066 (BCS) (12 April 1993 HVO orders to identify HV officers in HVO units); EXH No. P 07889, 0171-1382-0171-1382 (17 February 1994 letter from Secretary General to Security Council regarding presence of HV in BiH and removal of HV insignia).

The Security Council is deeply concerned that the Republic of Croatia has deployed elements of the Croatian Army (HV) along with heavy military equipment in the central and southern parts of the Republic of Bosnia and Herzegovina, as described in the Secretary-General's letter of 1 February 1994 (S/1994/109).

The Security Council strongly condemns the Republic of Croatia for this serious hostile act against a Member State of the United Nations, which constitutes a violation of international law, the Charter of the United Nations and relevant Security Council resolutions, in particular resolution 752 (1992), in which the Council demanded an immediate end to all forms of interference and full respect for the territorial integrity of the Republic of Bosnia and Herzegovina.

The Security Council demands that the Republic of Croatia withdraw forthwith all elements of the Croatian Army (HV) along with military equipment and fully respect the territorial integrity of the Republic of Bosnia and Herzegovina.

The Security Council once again reaffirms the sovereignty, territorial integrity and independence of the Republic of Bosnia and Herzegovina and the unacceptability of the acquisition of territory by force or 'ethnic cleansing', and condemns such acquisition as well as the practice of 'ethnic cleansing' by whomsoever committed.

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The Security Council will consider other serious measures if the Republic of Croatia fails to put an immediate end to all forms of interference in the Republic of Bosnia and Herzegovina.<sup>379</sup>

232.46. All of the above is compelling evidence that the crimes charged against the Accused all occurred in the context of, and with a nexus to, an international armed conflict involving Croatia and Bosnia and Herzegovina.

232.47. Just as concerning other aspects of this case, ICTY Trial and Appeals Chambers have repeatedly confirmed Croatia's direct military participation in BiH, as a basis for concluding the existence of an international armed conflict, as follows:

232.48. "To allow for the implementation of [their] common goal (incorporating the Croatian provinces of the BH into a single entity), the Croatian leadership issued orders for HVO or HV troop movements and military strategies in Bosnia and

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<sup>379</sup> EXH No. P 07789, UN Security Council Presidential Statement, Bosnia Herzegovina (3 February 1994).

Herzegovina. It further ensured control over the HVO by appointing HV officers at the most senior positions in the HVO command structure.” *Naletilić* TJ, para. 201.

232.49. “The conflict between the HVO and the ABiH in Bosnia and Herzegovina was internationalised by the intervention of the troops of the Republic of Croatia in the conflict.” *Naletilić* TJ, para. 196.

232.50. “[T]he conflict between the Bosnian Croats and the Bosnian Muslims in Bosnia and Herzegovina was internationalised by the intervention of Croatia in that conflict through its troops.” *Kordić* TJ, para. 109.

232.51. “Based on Croatia’s direct intervention in Bosnia-Herzegovina, the [Trial Chamber] finds ample proof to characterise the conflict as international.” *Blaškić* TJ, para. 94)

232.52. “The presence of HV soldiers or units in Bosnia-Herzegovina has been amply demonstrated.” *Blaškić* TJ, para. 84.

232.53. “Although the HV soldiers were primarily in the Mostar, Prozor and Gornji Vakuf regions and in a region to the east of Čapljina, there is also proof of HV presence in the Lašva Valley.” *Blaškić* TJ, para. 94 (emphasis added).

232.54. “Moreover, in cases where the Croatian troops in the areas mentioned above (Prozor, Gornji Vakuf) were not deployed in the struggle against the Bosnian Muslims, but to fight the Serbs, that support had a strategic impact on the conflict between the Bosnian Croats and the Bosnian Muslims, by enabling the Bosnian Croats to deploy additional forces in their struggle against the Bosnian Muslims. . . . the Chamber concludes that Croatia’s support of the Bosnian Croats constitutes Croatian intervention in the struggle between Bosnian Croats and the Bosnian Muslims.” *Kordić* TJ, para. 108 # 2.

232.55. “[T]he presence of the HV in the areas outside the [Central Bosnia Operative Zone] inevitably also had an impact on the conduct of the conflict in that zone.

By engaging the ABiH in fighting outside the [Central Bosnia Operative Zone], the HV weakened the ability of the ABiH to fight the HVO in central Bosnia." *Blaškić* Judgement, para 94.

232.56. "[In reference to September 1993] . . . it is clear from the evidence that HV troops were directly involved in the conflict in and around Mostar . . ." *Naletilić* TJ, para. 194.

232.57. "Many eyewitnesses saw HV troops in several relevant locations. Those HV soldiers belonged to different units and were based in different locations and at times took part in the crimes committed against the Muslim population." *Naletilić* TJ, para. 193.

232.58. "HV troops in Bosnia and Herzegovina maintained their rights as members of the HV, including the right to a monthly salary." *Naletilić* TJ, para. 195.

232.59. "In spite of the denial of political officials from the Republic of Croatia and HZ-HB, personnel from the ECMM and UNPROFOR witnessed the presence and direct intervention of HV troops in Bosnia and Herzegovina in general, and in the area of Mostar in particular, throughout 1993." *Naletilić* TJ, para. 192

232.60. "Croatia thus always denied that its troops were in the territory of Bosnia-Herzegovina which the Security Council had nonetheless noted and deplored." *Blaškić* TJ, para. 140.

232.61. "[E]ven if it is acknowledged that some of the Croatians involved in the conflict were volunteers and their presence is discounted, this would not affect the general finding by the Trial Chamber that there were Croatian troops involved in the conflict." *Kordić* TJ, para. 108 #3.

232.62. "While volunteer defenders may have accounted for some of the HV troops present in Bosnia and Herzegovina, it is the Republic of Croatia that did in fact organise

the sending of the vast majority of them, while attempting to conceal their presence by asking them, for example to replace their uniforms and insignia for those of the HVO.” *Naletilić* TJ, para. 195.

232.63. “In the [Central Bosnia Operative Zone], several orders were given to the members of the HV serving in the HVO to remove their insignia so that observers would not detect their presence in Bosnia-Herzegovina.” *Blaškić* TJ, para. 93.

232.64. “Numerous United Nations documents condemned the presence of HV troops in the region.” *Naletilić* TJ, para. 192.

232.65. “In early 1994, while declaring that it 'had no moral right to prevent the Croatian volunteers from helping the imperilled BH Croat community,' the Government of the Republic of Croatia admitted the presence of regular HV units, albeit limited to the border areas, and stated that it would organise their withdrawal.” *Naletilić* TJ, para. 195.

232.66. “The personnel was managed both by the HVO and the HV command structure.” *Naletilić* TJ, para. 199.

232.67. “General Bobetko was placed in command of all units of the Croatian army on the southern front of Croatia, which borders Bosnia and Herzegovina, by order of President Tudman on 10 April 1992.” *Kordić* TJ, para. 125.

232.68. “On 10 April 1992, President Tudjman appointed General Bobetko of the HV as commander of the 'Southern Front'.” *Blaškić* TJ, para. 112.

232.69. “His (General Bobetko’s) duties, (as commander of the Southern Front), included commanding HV and HVO units in Croatia and Bosnia-Herzegovina.” *Blaškić* TJ, para. 112.

232.70. “By 19 May (1992), General Bobetko had already established a forward command post in Gornji Vakuf in Bosnia-Herzegovina.” *Blaškić* TJ, para. 112.

232.71. “General Bobetko . . . also established forward command posts, first in Grude in Bosnia and Herzegovina, located on the border with Croatia, with General Petković as commander, . . .” *Kordić* TJ, para. 125.

232.72. “General Bobetko .... also established forward command posts in Gornji Vakuf . . . He appointed Žarko Tole as commander in Gornji Vakuf with “all the authorities of co-ordinating and commanding forces in the Central Bosnia region.” *Kordić* TJ, para. 125.

232.73. “On 14 June 1992, General Bobetko ordered offensive activities to commence, HVO forces to manoeuvre in a certain direction and specific operations to be launched as part of a military campaign.” *Blaškić* TJ, para. 112.

232.74. “[T]he Chamber is satisfied that General Bobetko’s influence and leadership continued throughout the conflict. It would be artificial to draw a line of demarcation on temporal grounds for the purpose of determining the issues by this question.” *Kordić* TJ, para. 126.

232.75. “Before becoming HVO Chief-of-Staff, General Milivoj Petković was a senior officer in the army of the Republic of Croatia.” *Blaškić* TJ, para. 115.

232.76. “General Petković was replaced in his post as Chief-of-Staff by General Praljak, the former Croatian national deputy Minister of Defence in Zagreb.” *Blaškić* TJ, para. 112.

232.77. “In October 1993, General Praljak was replaced by General Roso.” *Blaškić* TJ, para. 112.

232.78. “It was only on 15 October 1993 that General Roso resigned from the HV to “leave for Bosnia-Herzegovina” and become the HVO Chief-of-Staff. On 23 February 1995, he requested to be taken back into the HV, a request which was granted.” *Blaškić* TJ, para. 115.



232.79. “Apart from providing manpower, Croatia also lent substantial material assistance to the HVO in the form of financial and logistical support.” *Blaškić* TJ, para. 120.

232.80. “The Republic of Croatia financed and provided military equipment to the HVO in the course of its conflict with the ABiH . . . [T]he provision of assistance in terms of military equipment was considerable . . . [T]he presence of large numbers of HV vehicles and weaponry was reported on many occasions.” *Naletilić* TJ, para. 199.

232.81. Referring to *Blaškić* Trial Judgement, para. 94, “The Appeals Chamber notes that the Trial Chamber found that Croatia was a Party to the conflict in question.” *Prosecutor v. Blaškić*, Judgement, Case No. IT-95-14-A, Appeals Chamber, 29 July 2004 (hereinafter: *Blaškić* AJ), para. 175 (emphasis added).

232.82. “Croatia was a Party to the conflict in question. The Bosnian Muslims were held captive by the HVO and they owed no allegiance to Croatia. Given that the HVO was operating *de facto* as Croatia’s armed forces, the Bosnian Muslim victims found themselves in the hands of a Party to the conflict of which they were not nationals. The nationalities of the individuals comprising Croatia’s *de facto* armed forces are not relevant to the inquiry.” *Blaskić* AJ, para. 175 (emphasis added).

232.83. “The acts ascribed to Tihomir Blaškić occurred as part of an international armed conflict because the Republic of Croatia exercised total control over the Croatian Community of Herceg-Bosna and the HVO and exercised general control over the Croatian political and military authorities in central Bosnia.” *Blaškić* TJ, para. 744 (emphasis added).

232.84. “Croatia was thus directly involved in the control of the HVO forces which were created on 8 April by the HZHB presidency.” *Blaškić* TJ, para. 112.

232.85. "The Republic of Croatia took part in the organisation, planning or co-ordination of military operations conducted in the context of the conflict between the HVO and the ABiH." *Naletilić* TJ, para. 200.

232.86. "Croatia supplied the HVO with large quantities of arms and material in 1992, 1993 and 1994." *Blaškić* TJ, para. 120.<sup>380</sup>

232.87. "A series of orders issued by the Ministry of Defence of the Republic of Croatia, between 21 October 1992 and 16 December 1992, call for the provision of military supplies to the HVO for the defence of Bugojno." *Kordić* TJ, para. 120.

232.88. "HVO commanders would address requests for ammunition to [Croatian Minister of Defence] Gojko Šušak directly." *Naletilić* TJ, para. 199.

232.89. "Members of the HVO were paid directly by the government of the Republic of Croatia." *Naletilić* TJ, para. 199.

232.90. "HVO troops were trained in Croatia." *Blaškić* TJ, para. 120.

233. Acts, omissions or conduct charged as persecution were committed, omitted or carried out with discriminatory intent, with the intention to discriminate on political, racial, ethnic or religious grounds.

234. All acts, omissions, conduct and events charged as a crime against humanity occurred as part of a widespread or systematic attack directed by the Herceg-Bosna/HVO authorities and forces against the Bosnian Muslim civilian population.

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<sup>380</sup> 9 September 1992 Order by Željko Šiljeg instructing that an expected weapons convoy be "check[ed] whether they have permission for transportation of weapons issued by the [Croatian] Minister of Defence, Gojko Šušak or General Praljak . . ." EXH No. P 00460, 0040-4855 - 0040-4855.

## WIDESPREAD AND SYSTEMATIC

### **The Article 5 Charges Occurred in the Context and as Part of a Widespread and Systematic “Attack” or Campaign Directed against the Civilian Muslim Population**

234.1. The Prosecution evidence will show that the Article 5 charges alleged in the indictment took place as, and were part of, a “widespread and systematic” “attack” on the Muslim population in large parts of Bosnia and Herzegovina. The action against a civilian population required by Article 5 is broader than the concept of a military “attack.” The words “campaign” or “action” may be substituted for “attack” when describing most crimes against humanity, as well as the word “scheme.” An “attack” may also be non-violent in nature, such as imposing a system of apartheid, or exerting pressure on a population to act in a particular manner, if orchestrated on a massive scale or in a systematic manner.<sup>381</sup>

234.2. A policy need not be formalised and a plan need not be explicitly formulated. The existence of a policy or plan may be inferred from the manner and context in which various conduct or acts occurred.<sup>382</sup> The “attack” must have been either “widespread” or “systematic,” but it need not have been both.<sup>383</sup> The term “widespread” refers to the number of victims, whereas “systematic” signifies the existence of a pattern or methodical plan.<sup>384</sup>

234.3. The Trial Chambers of both the Yugoslavia and Rwanda Tribunals have adopted a broad interpretation of “civilian population” for purposes of Article 5.<sup>385</sup> In addition to

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<sup>381</sup> *Prosecutor v. Akayesu*, Judgement, No. ICTR-96-4-T, ICTR Trial Chamber I, 2 September 1998 (hereafter *Akayesu* TJ), para 581.

<sup>382</sup> *Prosecutor v. Tadić*, Judgment, Case No. IT-94-1-T, Trial Chamber II, 7 May 1997 (hereafter *Tadić* TJ), para 653 (proof that the acts occur on a widespread or systematic basis demonstrates the existence of policy); *Blaškić* TJ, para. 204.

<sup>383</sup> *Blaškić* TJ, para. 207; *Tadić* TJ para. 646; *Akayesu* TJ para. 579; *Prosecutor v. Kayishema and Ruzindana*, Judgement, Case No. ICTR-95-1-T, ICTR Trial Chamber II, 21 May 1999 (hereafter *Kayishema* TJ), para 123; *Prosecutor v. Jelisić*, Judgement, Case No. IT-95-10-T, Trial Chamber I, 14 December 1999 (hereafter *Jelisić* TJ), para. 53.

<sup>384</sup> *Tadić* TJ, para. 648.

<sup>385</sup> *Kupreškić* TJ, para. 547 (a “wide definition of ‘civilian’ and ‘population’ is intended”); *Akayesu* TJ para. 582; *Blaškić* TJ, paras. 208, 210.

“civilians” in the most traditional or straightforward sense (i.e., persons who are not members of any armed forces or who are not otherwise taking part in hostilities), the term “any civilian population” includes *former* combatants who were not involved in military activities at the time that the offence occurred, and other persons placed *hors de combat* when the crime was perpetrated. Moreover, the presence within the civilian population of individuals who do not fall within the definition of “civilians” does not deprive the general population of its civilian character.<sup>386</sup>

234.4. Knowledge of the broader context in which the acts are committed is a component of the *mens rea* applicable to crimes against humanity. Knowledge of the broader context can be actual or constructive, in that such knowledge may be inferred from the facts and proven through circumstantial evidence.<sup>387</sup>

234.5. The Article 5 crimes with which the Accused are charged occurred as part of an overall plan, scheme and joint criminal enterprise set out primarily in paragraphs 15 - 42. This context, as well as the sheer scale, complexity, organised manner, and number and pattern of similar incidents, clearly demonstrate that the Article 5 charges occurred as a widespread and systematic attack on the Muslim population in territories in Herzegovina and central Bosna claimed to be part of the Croatian Community (or Republic) of Hercegovina. As the Kordić Appeals Chamber stated, in connection with many of the same events which took place in central Bosnia (which in turn were part of the same overall scheme and enterprise): “[T]here was objectively . . . an organised effort to promote a cause or to secure some definite result with a group of persons in Central Bosnia, aimed at the Bosnian Muslims.” *Kordić* AJ, para. 679.

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<sup>386</sup> See *Akayesu* TJ, para. 582. See also *Jelisić* TJ, para. 54; *Kayishema* TJ, para. 128 (presence of certain non-civilians does not change the character of that population); *Prosecutor v. Rutaganda*, Judgement and Sentence, *Case No.* ICTR-96-3-T, ICTR Trial Chamber I, 6 December 1999, paras. 99-101; *Kupreškić* TJ, paras. 548-549.

<sup>387</sup> *Tadić* TJ, paras. 656-657, 659; See also *Tadić* AJ, para. 272 (Appeals Chamber reversed Trial Chamber’s requirement that the acts must not have been committed for purely personal motives of the perpetrator).

234.6. The widespread and systematic nature of the conduct charged in this case is well-illustrated or summarized in an extensive report by the ECMM's Deputy Head of Mission dated 16 June 1993, titled "The Way Ahead in Bosnia-Herzegovina."<sup>388</sup> The report made the following observations and recommendations:

2. For the first nine months of the war the Bosnian Serbs were seen as the aggressors against the Bosnian Croats and Muslims. This situation has changed as the Bosnian Croats have undertaken increasingly overt action, following in the Serb footsteps, to secure their own ethnically pure territory . . .

\* \* \*

10. The eruption of inter-ethnic violence between Croats and Muslims in Central Bosnia-Herzegovina on 16 April 1993, capped by the atrocity committed at Ahmići, was staged by the Bosnian Croats. They want to start by establishing a secure border between Croat provinces 8 and 10 and the Muslim Province 9. At the same time they will eliminate all Muslim resistance to their plans within provinces 8 and 10. Once this is achieved, one can expect that ethnic cleansing within Croat controlled areas will be pursued on a far larger scale than is currently possible. This process will probably lead to the securing of independence for the Croatian community within Bosnia-Herzegovina, and eventually some sort of formalised relationship with Croatia.

11. Mostar was selected by the Bosnian Croats as their capital in the self proclaimed entity of Herceg-Bosna despite its enormous symbolic character for the Muslim community due to its historic centre and significant Muslim population. On 9 May 1993, the Croats attacked the Muslims on the West bank of the Neretva, imprisoning and evicting almost 2,000 Muslims. Two Spanish UNPROFOR officers were shot dead by HVO while they delivered medicines.

12. The HVO siege of the Muslim areas in Mostar since early May is designed to force a total surrender, followed by ethnic cleansing. In Croat parts of the city, life has returned to normal and the Croats display a self confident and brash attitude. The Muslim part of Mostar, representing over 20,000 people, is totally besieged by HVO. . . . There is very little food, no water and no electricity. It is not known how many refugees are in the city.

\* \* \*

27. While the long term objectives of the international community are pursued, the new emergency objective in this context should be to prevent the annihilation of the Muslims in Bosnia-Herzegovina. . . .

\* \* \*

d. A battalion sized peacekeeping force . . . should be deployed as soon as possible into Mostar to stabilise the situation and prevent further ethnic cleansing.

<sup>388</sup>

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f. An immediate political statement, followed if required by clear restrictive measures (sanctions) on the actors in power (Bosnian Croats as well as Croatians) is required in order to support these actions.

\* \* \*

29. . . . Given the collusion between the Croats and Serbs against the Muslims, it would be fair to shift the emphasis of UNPROFOR from the Krajina to the protection of Muslims in Bosnia-Herzegovina.

30. If this cannot be achieved in the short term, a withdrawal out of the area should be considered. There is no satisfactory option in between.

234.7. The specific conduct charged in this case, in Counts 1 to 26 of the Amended Indictment, is of such a nature and on such a scale that the proof of such crimes alone, without more, would plainly satisfy the “widespread and systematic” requirement of Article 5. In addition to this evidence, however (or more accurately, as part of this evidence, or of the same larger, overall action, scheme or campaign), the Trial Chamber may (and respectfully, should) consider the facts and evidence in the context of the following judgements, findings and conclusions reached in various related cases:

**In connection with the attack and actions against the Bosnian Muslim civilian population in Central Bosnia in January-February 1993:**

234.8. “Starting in mid-1992, tensions and animosity between Croats and Muslims rapidly escalated.” *Kupreškić* TJ, para. 125.

234.9. “During 1992 discriminatory acts were regularly carried out against the Muslim authorities of Vitez, Busovača and Kiseljak, and against the Muslim population of those municipalities. Those acts sought to exclude those Muslim authorities from civil, political and military functions for the benefit of HVO representatives.” *Blaškić* TJ, para. 366.

234.10. “Croat nationalism and discrimination against Muslims was on the increase in central Bosnia in 1992-1993, due to a variety of factors.” *Kupreškić* TJ, para. 54.

234.11. “The persecution in Busovača, Novi Travnik, Kiseljak, Vitez . . . followed a pattern in each municipality and demonstrates that the HVO had launched a campaign against the Bosnian Muslims in these municipalities.” *Kordić* TJ, para. 520; *Kordić* AJ, para. 660 emphasis added).

234.12. “In the face of the Muslim forces’ refusal to obey the ultimatum, Croatian forces embarked on a series of actions intended to implement the “Croatisation” of the territories by force. The Muslim community was subjected to an increasing number of acts of aggression: ill treatment, plunder, confiscation, intrusion into private homes, beating, thefts, arrests, torching of homes and murder of prominent Muslims.” *Blaškić* TJ, para. 372.

234.13. “As part of the HVO attack on Busovača . . . wilful and large scale destruction of Muslim shops and houses not justified by military necessity occurred in its course.” *Kordić* AJ, para. 426.

234.14. “As part of the HVO attack on Busovača HVO forces, including soldiers and Military Police officers, were involved in widespread or systematised acts of dispossession of property of sufficient monetary value to result in grave consequences for the victims.” *Kordić* AJ, para. 426.

**In connection with the attack and actions against the Bosnian Muslim civilian population in Central Bosnia, during the period April to June 1993:**

234.15. “There was by this time [April 1993] a common design or plan conceived and executed by the Bosnian Croat leadership to ethnically cleanse the Lašva Valley of Muslims.” Dario Kordić, as the local political leader, was part of this design or plan, his principal role being that of planner and instigator of it.” *Kordić* TJ, para. 642 (emphasis added).

234.16. “They (the Croatian political authorities) sought to gain control of all the territories considered historically Croatian, in particular the Lašva valley.” *Blaškić* TJ, para. 747.

### **Widespread and Systematic: Persecution of Muslims**

234.17. “Throughout the period from January to April 1993, the Muslim population would continue to be subjected to increasing persecutions from the Croatian political and military authorities. Many civilians left the area to go to Kacuni or Zenica.” *Blaškić* TJ, para. 380.

### **Widespread and Systematic: Attacks, Killing and Destruction**

234.18. There were attacks carried out by Croats against the Bosnian Muslim civilian population in Central Bosnia from January to June 1993. They have to be characterised as widespread, systematic and directed against a civilian population. *Kordić* AJ, para. 669.

234.19. “By 15 April many signs already indicated that a military operation was in the offing, and that many Croats were aware of this.” *Kupreškić* TJ, para. 333. (Found as adjudicated fact by the *Ljubičić* Trial Chamber.)

234.20. “On Friday 16 April 1993 at 05:30 hours, Croatian forces simultaneously attacked Vitez, Stari Vitez, Ahmići, Nadioci, Šantići Pirići, Novaci, Putiš and Donja Večeriska.” *Blaškić* TJ, para. 385.

234.21. “The Croatian inhabitants of Ahmići, or at least those of them who belonged to the HVO or were in contact with Croatian armed forces, knew that in [t]he early morning of the 16 April 1993, Croatian forces would initiate a massive military attack.” *Kupreškić* TJ, para. 333. (Found as adjudicated fact by the *Ljubičić* Trial Chamber.)

234.22. “The attack on Ahmići on 16 April 1993 was planned by HVO forces and the special unit of the Croatian Military police called the Jokers.” *Kupreškić* TJ, para. 333. (Found as adjudicated fact by the *Hadžihasanović* and *Ljubičić* Trial Chambers.)



234.23. “The attack was carried out by military units of the HVO and members of the Jokers.” *Kupreškić* TJ, para. 334. (Found as adjudicated fact by the *Ljubičić* Trial Chamber.)

234.24. “The Jokers were a specialist, anti-terrorist unit of the Croatian Military Police based locally in the Bungalow in Nadioci.” *Kupreškić* TJ, para. 132. (Found as adjudicated fact by the *Ljubičić* Trial Chamber.)

234.25. “The attackers targeted Muslim civilians and their houses [in Ahmići].” *Kupreškić* TJ, para. 335. (Found as adjudicated fact by the *Ljubičić* Trial Chamber.)

234.26. “Given the patent disparity in number and in military equipment between the combatants, the Muslim response was clearly directed only toward the protection of a few houses where some survivors of the initial attack had taken shelter.” *Kupreškić* TJ, para. 335.

234.27. “The burning of the Muslim houses [in Ahmići] and the killing of the livestock were clearly intended to deprive the people living there of their most precious assets.” *Kupreškić* TJ, para. 336. (Found as adjudicated fact by the *Ljubičić* Trial Chamber.)

234.28. “The purpose of the attack [on Ahmići] was to destroy as many Muslim houses as possible, to kill all the men of military age, and thereby prompt all the others to leave the village and move elsewhere.” *Kupreškić* TJ, para. 336. (Found as adjudicated fact by the *Ljubičić* Trial Chamber.)

234.29. “The attacks carried out on the Muslim inhabitants of Ahmići constituted a form of “personalized violence,” that is, violence directed at specific persons because of their ethnic identity.” *Kupreškić* TJ, para. 337. (Found as adjudicated fact by the *Ljubičić* Trial Chamber.)

234.30. “Overwhelming evidence points to a well-organised and planned HVO attack upon Ahmići with the aim of killing or driving out the Muslim population, resulting in a massacre.” *Kordić* TJ, para. 642.

234.31. “The Croatian attack of 16 April 1993 in Ahmići was aimed at civilians for the purpose of ‘ethnic cleansing.’” *Kupreškić* TJ, para. 338. (Found as adjudicated fact by the *Ljubičić* Trial Chamber.)

234.32. “Around mid-April 1993, at nearly the same time as they were launching offensives against villages in the municipality of Vitez and Kiseljak, HVO and Military Police troops took the villages of Lončari and Očenići (municipality of Busovača) by assault.” *Blaškić* TJ, para. 564.

234.33. “The crime of unlawful attack on civilians [in Šantići] was established.” *Kordić* AJ, para. 477.

234.34. “Damage to only Muslim houses [in Šantići, in April 1993] was of such nature that it could not have been caused by the fighting and was thus not justified by military necessity and the fact that soldiers were carrying around petrol canisters shows that it was deliberate. Wanton destruction, Count 38 (*Kordić*) was established.” *Kordić* AJ, para. 485.

234.35. “The crime of unlawful attack against civilians [in Nadioci, in April 1993], Count 3 (*Kordić*) was established.” *Kordić* AJ, para. 488.

234.36. “The crime of unlawful attack against civilians [in Pirići, in April 1993], Count 3 (*Kordić*) was established.” *Kordić* AJ, para. 496.

234.37. “Muslim houses and the Mekteb were burnt down [in Gaćici] on 20 April 1993 by HVO soldiers during the attack. . . . [W]anton destruction not justified by military necessity, Count 38 (*Kordić*), was established.” *Kordić* AJ, para. 504.

234.38. “The crime of unlawful attack on civilian objects [in Veceriska/Donja Veceriska, in April 1993] (Counts 4 (Kordić) and 6 (Čerkez) were committed.” *Kordić* AJ, para. 521.

234.39. “Wilful destruction of all Muslim houses in Očehnići [in April 1993] was of a large scale and was not justified by military necessity since the villagers were unarmed and did not put up any resistance.” *Kordić* AJ, para. 534.

234.40. “On 18 April the villages with a high Muslim population in the north of the region [Behrići, Gomionica, Gromiljak, Hercezi, Polje Višnjica, Višnjica, Rotilj and Svinjarevo, in Kiseljak municipality], were systematically taken by assault by HVO troops.” *Blaškić* TJ, para. 594.

234.41. “The attacks [on Gomionica, Svinjarevo Behrići, Rotilj, Gromiljak, and Polje Višnjica, in April 1993] occurred two days after the attacks on the Muslim villages of the Lašva Valley and were part of the pattern of attacks on the Muslims of Central Bosnia.” *Kordić* TJ, para. 669.

234.42. “The Muslim population of these villages [Gomionica, Svinjarevo Behrići, Rotilj, Gromiljak, and Polje Višnjica, in April 1993] was either killed or expelled, houses and mosques were set on fire.” *Kordić* TJ, para. 665.

234.43. “Destruction of property occurred on a large scale throughout the Kiseljak municipality in connection with the attacks.” *Kordić* AJ, para. 573.

234.44. “In Svinjarevo and Gomionica [in April 1993], houses were plundered.” *Kordić* TJ, para. 665.

234.45. “The crime of unlawful attack on civilians, Count 3 (Kordić) was established in Rotilj from 18 April 1993 until the end of April 1993.” *Kordić* AJ, para. 539.

234.46. “Inhumane acts and inhuman treatment, Counts 10 and 12 (Kordić) were established during the offensive on Rotilj, on 18-19 April 1993.” *Kordić* AJ, para. 546.

234.47. “Plunder had been committed in the village of Rotilj [in April 1993].” *Kordić* AJ, para. 549.

234.48. “Destruction of property occurred on a large scale and was targeted against Muslims’ houses, while houses of Croats were not destroyed; wanton destruction not justified by military necessity was established in Gominonica [in April 1993], Count 38 (Kordić).” *Kordić* AJ, para. 558.

234.49. “Plunder was established in Gomionica, Count 39 (Kordić).” *Kordić* AJ, para. 560.

234.50. “Destruction of property occurred on a large scale and was targeted against Muslims’ houses; wanton destruction not justified by military necessity was thus established in Visnjica [in April 1993], Count 38 (Kordić).” *Kordić* AJ, para. 562.

234.51. “On 18 April Polje Višnjica was attacked and “some houses were burnt down,” noting that among the destroyed houses, Croat houses remained intact.” *Kordić* AJ, para. 563.

234.52. “Wanton destruction not justified by military necessity had been committed in the village of Polje Višnjica Šin April 1993], Count 38 (Kordić).” *Kordić* AJ, para. 564.

234.53. “Almost all houses in Behrići were destroyed [in April 1993].” *Kordić* TJ, para. 565.

234.54. “Wanton destruction not justified by military necessity was established in Behrići, Count 38 (Kordić).” *Kordić* AJ, para. 564.

234.55. “[The] HVO attacked Gromiljak [in April 1993], ejecting the inhabitants and setting fire to the houses.” *Kordić* TJ, para. 665.

234.56. “Wanton destruction not justified by military necessity, Count 38 (Kordić), was established in Gromiljak.” *Kordić* AJ, para. 568.

234.57. “On 12 June [1993], it was the turn of the Muslim villages to the south of the municipality, Grahovici, Han Ploča and Tulica and their inhabitants to suffer the offensives of the Bosnian Croat army. *Blaškić* TJ, para. 594.

234.58. “On 12 June 1993, Tulica was attacked by the HVO, resulting in the deaths of at least 12 villagers and the destruction of the village.” *Kordić* TJ, para. 721.

234.59. “The killings in Tulica in June 1993 constituted murder, Count 7 (Kordić) and wilful killings, Count 8 (Kordić). *Kordić* AJ, para. 571.

234.60. “Inhumane acts, Count 10 (Kordić) and inhuman treatment, Count 12 (Kordić) had been committed in the village of Tulica.” *Kordić* AJ, para. 573.

234.61. “Wanton destruction not justified by military necessity, Count 38 (Kordić) was established for Tulica in June 1993.” *Kordić* AJ, para. 575.

234.62. “The crime of plunder was established in Tulica in June 1993, Count 39 (Kordić).” *Kordić* AJ, para. 577.

234.63. “The HVO issued an ultimatum to the Muslims to surrender their weapons. After the ultimatum expired, the village [Han Ploča-Grahovici, in June 1993] was shelled by the HVO and the BSA, and houses were set on fire. An HVO infantry attack followed. Having come into the village, HVO soldiers lined up three Muslim men against a wall and shot them. They also killed some other men and set fire to a garage with people in it. The women and children were then taken to the Kiseljak barracks.” *Kordić* TJ, para. 722.

234.64. “Even though the exact number of missing persons is unknown (varying from 60 to 100), as is the way in which the persons were killed or disappeared, the high number of missing persons supports a conclusion that many of them were killed [in June 1993] after they were in the custody of the HVO soldiers in Han Ploča.” *Kordić* AJ, para. 580.

234.65. “Wanton destruction [in Han Ploča-Grahovici, June 1993] not justified by military necessity, Count 38 (*Kordić*), was established.” *Kordić* AJ, para. 586.

234.66. “Plunder had been committed in the villages of Han Ploča-Grahovci, Count 39 (*Kordić*).” *Kordić* AJ, para. 588.

234.67. “[In June 1993, the] (Han Ploča) mosque was destroyed deliberately by HVO soldiers and the crime of destruction or wilful damage to institutions dedicated to religion or education occurred. Count 43 (*Kordić*) was established.” *Kordić* AJ, para. 590.

234.68. “[T]he attacks on the towns and villages followed a pattern, beginning with the initial assault and culminating in the detention of the surviving Muslims. This happened with such regularity that it could have been the result of nothing except a common plan.” *Kordić* TJ, para. 802.

#### **Widespread and Systematic: Detention-Related Crimes**

234.69. “The illegal confinement and detention of male Muslim civilians was a recurring feature of the attacks conducted by the HVO in the municipalities of Busovača, Kiseljak and Vitez. Hence, these persons were detained in a manifestly organized way.” *Blaškić* TJ, para. 720.

234.70. “The unlawful confinement and detention of the Bosnian Muslims was part of the common design to subjugate them.” *Kordić* TJ, para. 802.

234.71. “In the middle of April (1993) another rounding up of Bosnian Muslim men by the Bosnian Croat forces took place, which resulted in the detention of at least one hundred men at Kaonik compound for about a month.” *Aleksovski* TJ, para. 23. (Found as adjudicated fact by the *Hadžihasanović* Trial Chamber.)

234.72. “Detainees were arrested and transferred to Kaonik by the military police or HVO soldiers.” *Aleksovski* TJ, para. 98. (Found as adjudicated fact by the *Ljubičić* Trial Chamber.)

234.73. “The prison’s personnel belonged to the [HVO] military police.” *Aleksovski* TJ, para. 99. (Found as adjudicated fact by the *Ljubičić* Trial Chamber.)

234.74. “The deputy warden of Kaonik prison, the secretary of Aleksovski, the head of the guards themselves, were military policemen.” *Aleksovski* TJ, para. 99. (Found as adjudicated fact by the *Ljubičić* Trial Chamber.)

234.75. “All the detainees were Muslims and most were civilians.” *Aleksovski* TJ, para. 153. (Found as adjudicated fact by the *Ljubičić* Trial Chamber.)

234.76. “The detention of Muslims of Central Bosnia . . . was also decided on by the HVO.” *Aleksovski* TJ, para. 98.

234.77. “The illegal confinement and detention of male Muslim civilians was a recurring feature of the attacks conducted by the HVO in the municipalities of Busovača, Kiseljak and Vitez.” *Blaškić* TJ, para. 720.

234.78. “The Bosnian Muslims were systematically subjected to arbitrary imprisonment for which there was no justification.” *Kordić* TJ, para. 800.

234.79. “While so detained the Muslims were subjected to conditions which varied from camp to camp, but which were generally inhuman . . . While detained the Muslims were, without any justification, used as hostages and human shields, and forced to dig

trenches and that, as a result of the latter activity, a number were killed or wounded. The detained Bosnian Muslims were unlawfully confined and subjected to inhuman treatment.” *Kordić* TJ, para. 800.

234.80. “Unlawful confinement of civilians and imprisonment (Counts 21 and 22 for *Kordić*) occurred in the Dubravica Elementary School.” *Kordić* AJ, para. 594.

234.81. “Imprisonment, Count 21 (*Kordić*), Count 29 (Čerkez) and unlawful confinement, Count 22 (*Kordić*), Count 30 (Čerkez) were established in the SDK building.” *Kordić* AJ, para. 610.

234.82. “The crimes of imprisonment, Count 21 (*Kordić*), Count 29 (Čerkez) and unlawful confinement of civilians, Count 22 (*Kordić*), and Count 30 (Čerkez) were established in Vitez Cinema. *Kordić* AJ, para. 623.

234.83. “The men (70 in all), some as young as 14-16 years, were loaded onto buses and taken to Kaonik camp.” *Kordić* TJ, para. 569.

234.84. “Hundreds of Muslims were arrested and many were imprisoned in Kaonik in the former JNA warehouses. Many were beaten. Most of them were forced to dig trenches, often in inhumane conditions, exposed to enemy fire, beaten or even killed, and sometimes serving as a human shield.” *Blaškić* TJ, para. 372.

234.85. “There were civilians held at Kaonik . . . the crimes of imprisonment, Count 21 (*Kordić*) and unlawful confinement of civilians were established, Count 22 (*Kordić*).” *Kordić* AJ, para. 625.

234.86. “There was imprisonment, Count 21 (*Kordić*), and unlawful confinement of civilians, Count 22 (*Kordić*), in the Kiseljak barracks from 30 April to 21 June 1993.” *Kordić* AJ, para. 634.



234.87. “The detention of Witness TW16’s mother in June 1993 (in the municipal building in Kiseljak) was an imprisonment and unlawful confinement, Counts 21 and 22 (Kordić).” *Kordić* AJ, para. 637.

234.88. “Cordoning off Rotilj, preventing civilians from leaving the village, when the civilians were not detained in the village for their own safety, constitute imprisonment and unlawful confinement of civilians, Counts 21 and 22 (Kordić).” *Kordić* AJ, para. 640.

235. At all times relevant to this indictment, JADRANKO PRLIĆ, BRUNO STOJIĆ, SLOBODAN PRALJAK, MILIVOJ PETKOVIĆ, VALENTIN ĆORIĆ and BERISLAV PUŠIĆ were required to abide by the laws and customs governing the conduct of armed conflict, including the Geneva Conventions of 1949 and the additional protocols thereto.

236. All acts and omissions charged as crimes against persons were committed against or involved persons protected under the Geneva Conventions of 1949 (and the additional protocols thereto) and the laws and customs of war.

237. All acts and omissions charged as crimes against property were committed against or involved property protected under the Geneva Conventions of 1949 (and the additional protocols thereto) and the laws and customs of war.

238. None of the acts or omissions charged as crimes were justified by military necessity. Acts, omissions or conduct charged in connection with the destruction of property were committed, omitted or carried out unlawfully and wantonly.

### **OTHER MATTERS**

239. Annex 13 to this Brief sets forth the *actus reus* and *mens rea* requirements (or “elements”) concerning the crimes charged in the indictment.

## CONCLUSION

240. This International Tribunal was established to investigate, prosecute and hold to account the most responsible senior persons concerning the horrific crimes committed in the former Yugoslavia since 1991, and in this particular case, concerning the Croat-Muslim part of that conflict, from 1992 to early 1994. Each of the accused charged in the indictment plainly fits this standard. Each of them was a senior political and/or military actor in the Croatian Community, and then Republic of Herceg-Bosna and the HVO. Each of them played a key and essential role (or roles) in or concerning the commission of the crimes for which they charged. Each of them is responsible for the unimaginable harm to countless victims. While the victims may be countless, and even sometimes no longer known, they cannot be forgotten and the wrongs done to them cannot go unpunished.

241. The Prosecution will establish its case beyond a reasonable doubt, as to each charge against each of the accused. At the end of this case, after all of the evidence is received, the Prosecution will ask the Tribunal to find each of the accused guilty on each crimes for which he is charged.

Respectfully submitted,

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