



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

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IN TRIAL CHAMBER III

Before: Judge Jean-Claude Antonetti, Presiding
Judge Árpád Prandler
Judge Stefan Trechsel
Reserve Judge Antoine Kesia-Mbe Mindua

Registrar: Mr John Hocking

Judgement of: 29 May 2013

THE PROSECUTOR

v.

**Jadranko PRLIĆ
Bruno STOJIĆ
Slobodan PRALJAK
Milivoj PETKOVIĆ
Valentin ĆORIĆ
Berislav PUŠIĆ**

PUBLIC

JUDGEMENT

Volume 4 of 6

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CHAPTER 7: THE CRIMINAL RESPONSIBILITY OF THE ACCUSED

1. The Chamber recalls that the Accused have been indicted under each mode of participation in Article 7 (1) of the Statute, including commission through participation in a JCE,¹ as well as for superior responsibility as contemplated in Article 7 (3) of the Statute.²

2. Taking into account the extent of the crimes with which the six Accused are charged and which the Chamber has observed, it considers that the analysis of their responsibility from the perspective of their participation in a JCE is the correct legal approach. Therefore, the other modes of participation alleged in the Indictment will be examined solely for those crimes not falling within the JCE.³

3. The Chamber thus first analysed the evidence to determine whether there was indeed a JCE as alleged by the Prosecution (Heading 1). Then, where necessary and where the evidence permitted, it reviewed the possible responsibility of the Accused under the other modes of participation alleged by the Prosecution (Heading 2).

Heading 1: The JCE

4. The Chamber underscores here that the following reasoning was adopted by a majority, with Judge Antonetti dissenting from all the Chamber's observations and findings in respect of the existence of a JCE as alleged by the Prosecution.

5. In order to determine whether a JCE as described by the Prosecution did in fact exist, the Chamber will focus on determining what might have been its purposes (Section 1) and the respective contributions by each Accused (Section 2), and will then focus on determining whether a plurality of persons did in fact pursue the common criminal purpose (Section 3).

¹ Indictment, paras 218-227.

² Indictment, para. 228.

³ See *The Prosecutor v. Mićo Stanišić and Stojan Župljanin*, Case no. IT-08-91-T, "Decision Denying Prosecution Motion Requesting Findings on all Modes of Liability Charged in the Indictment", 16 January 2013, citing the relevant jurisprudence on the subject: the Chamber stresses that the Appeals Chamber does not require that the Trial Chambers reach findings in respect of every one of the modes of responsibility alleged in an Indictment.

Section 1: The Purposes of the Alleged JCE

I. The Ultimate Purpose of the Alleged JCE: the Creation of a Croatian Entity Partly within the Borders of the Banovina of 1939

6. In paragraphs 15 and 16 of the Indictment, it is alleged in particular that several persons, including Franjo Tuđman, Mate Boban and the six Accused, set up a JCE, the ultimate purpose of which was to join those territories of BiH which were claimed to be part of the Croatian Community (and later Republic) of Herceg-Bosna in the short term or over time within a “Greater Croatia”. Additionally, this “Greater Croatia” was to have the borders of the Croatian Banovina, a territorial entity that existed from 1939 to 1941, either through joining it with Croatia, or in close association with it.⁴ In its Final Trial Brief, the Prosecution submits, moreover, that for Franjo Tuđman, Croatia’s widest possible borders were being established with the help of the HR H-B and the HVO.⁵

7. The Prlić, Stojić, Praljak and Čorić Defence teams contend that since the BiH government was unable to function outside of Sarajevo, the BiH Croats were left with no choice but to organise themselves, namely, through creating the HZ H-B.⁶ The Prlić Defence submits that the creation of the HZ H-B was not intended to reconstitute the borders of Croatian Banovina of 1939 and that the measures taken by the leaders of the HR H-B in view of “close collaboration” with Croatia were necessary and did not have the underlying political objective of establishing a “Greater Croatia”.⁷ The Prlić and Stojić Defence teams contend that it is unlikely that a meeting took place at Karadžorđevo on 25 March 1991 between the Presidents of Croatia and Serbia, Franjo Tuđman and Slobodan Milošević on how to divide BiH.⁸ The Stojić Defence also submits that the leaders of the HVO did not seek to establish a “Greater Croatia”⁹ and that the desire to re-establish the Banovina in anticipation of a political and territorial re-organisation was entirely conceivable due to the sudden breakdown of the former Yugoslavia and the dissolution of the state order it brought about.¹⁰ The Petković Defence submits, for its part, that Milivoj Petković never mentioned “Greater Croatia”, the Banovina, the purported intent to redraw the ethnic map of BiH or any other political

⁴ See also paragraph 23 of the Indictment, and Prosecution Final Trial Brief, para. 163.

⁵ Prosecution Final Trial Brief, para. 168.

⁶ Prlić Defence Final Trial Brief, paras 104 and 125; Stojić Defence Final Trial Brief, para. 9; Praljak Defence Final Trial Brief, para. 21(A)(f); Čorić Defence Final Trial Brief, para. 169.

⁷ Prlić Defence Final Trial Brief, para. 322.

⁸ Prlić Defence Final Trial Brief, paras 73-75; Stojić Defence Final Trial Brief, para. 187.

⁹ Stojić Defence Final Trial Brief, paras 182-185.

¹⁰ Stojić Defence Final Trial Brief, para. 179.

questions of this nature with Franjo Tuđman, Gojko Šušak, Janko Bobetko or any other person.¹¹ According to the Čorić Defence, the authorities of the HZ H-B expressly stated their desire to have an independent BiH see the light of day, not to proclaim their own independence.¹²

8. As an initial matter, the Chamber recalls that the following reasoning was adopted by a majority, with Judge Antonetti dissenting from all the observations and findings of the Chamber in relation to the ultimate purpose of the alleged JCE.

9. According to the statements by *Witness AR*, a representative of the international community,¹³ as well as those by *Peter Galbraith*, the former ambassador of the United States to Croatia,¹⁴ for Franjo Tuđman, BiH was not supposed to exist as a sovereign, independent State, and a substantial part of the territory of BiH was supposed to be annexed to the territory of Croatia.¹⁵ *Josip Manolić*, a senior Croatian political leader¹⁶ noted that Franjo Tuđman sought to annex Western Herzegovina,¹⁷ because this part of the territory of BiH was “ethnically pure” and territorially adjacent to Croatia.¹⁸ *Herbert Okun*, the Deputy Co-Chairman of the ICFY, stated that, for Franjo Tuđman, the plan to expand the borders of Croatia was supposed to occur either directly or by incorporating the HR H-B into Croatia in some way or other.¹⁹

10. The Chamber considers that it was in connection with this plan that Franjo Tuđman advocated dividing BiH between Croatia and Serbia, incorporating part of BiH into Croatia, or at least, the existence of an autonomous Croatian territory within BiH that would enjoy close ties with Croatia.

¹¹ Petković Defence Final Trial Brief, para. 41.

¹² Čorić Defence Final Trial Brief, para. 170.

¹³ Witness AR, P 10027 under seal, *Blaškić* Case, T(F), pp. 4710 and 4711.

¹⁴ Peter Galbraith, T(F), pp. 6454 and 6455; P 09499 under seal, para. 8.

¹⁵ Peter Galbraith, T(F), pp. 6429, 6436 and 6580; Witness AR, P 10027 under seal, *Blaškić* Case, T(F), pp. 4718, 4727, 4763, 4764 and 4784.

¹⁶ Josip Manolić, T(F), pp. 4266 and 4267. Josip Manolić was among the founders, in 1989, of the HDZ and was President of the Executive Board of the HDZ. In 1990 and 1992, he was a parliamentary deputy of the HDZ. From August 1990 to August 1991, he was the Prime Minister of Croatia. From November 1991 to March 1993, he was the head of intelligence services. From 1992 until March 1993, he was the head of the office of the President of Croatia. In 1993, he was a member of the Defence Council of the Presidency and of National Security. From March 1993 until April 1994, he was President of the Upper Chamber of Parliament and a member of the Security Council.

¹⁷ Josip Manolić, T(F), p. 4323; P 09673, p. 1 in the English translation ET 01117-1102.

¹⁸ Josip Manolić, T(E), p. 4325.

¹⁹ Herbert Okun, T(F), p. 16996.

11. Accordingly, from 1990 until at least 1992, Franjo Tuđman participated in several meetings, including the one at Karadorđevo on 25 March 1991²⁰ with Slobodan Milošević, President of Serbia, concerning the finalisation of “plans” – although the Chamber did not receive details of these plans – to divide BiH between Croatia and Serbia: the majority of the BiH Croats were to join Croatia and the majority of the BiH Serbs were to join Serbia, leaving only a small autonomous area around Sarajevo to the BiH Muslims.²¹

12. The Chamber notes that Franjo Tuđman spoke equivocally, advocating, on the one hand, respect for the existing borders of BiH, knowing that the international community was opposed to dividing BiH, and, on the other, the partition of BiH between the Croats and the Serbs.²²

13. The Chamber further notes that on 6 May 1992, the representatives of the Serbian community of BiH, consisting *inter alia* of Radovan Karadžić, Momčilo Krajišnik and Branko Simić, and those of the Croatian community of BiH, with Mate Boban, among others,²³ met at Graz in Austria²⁴ about partitioning BiH²⁵ along the demarcation of Croatian Banovina that resulted from the *Cvetković-Maček* Agreement of 1939.²⁶

14. It was likewise in connection with this plan to expand the Croatian borders that Franjo Tuđman supported the creation of the HZ H-B on 18 November 1991.²⁷ It was defined as being a Croatian entity that guaranteed the rights of the Croats,²⁸ and defended the “ethnically and

²⁰ Josip Manolić, T(F), pp. 4273-4277 and 4472; Witness AR, P 10027 under seal, *Blaškić* Case, T(F), pp. 4715, 4716, 4723, 4724, 4742, 4749 and 4751; P 09673, p. 1 of the English translation ET 01117-1102; 1D 02036, p. 6; Ciril Ribičić, T(F), p. 25550; P 08630, p. 214.

²¹ Witness AR, P 10027 under seal, *Blaškić* Case, T(F), pp. 4716, 4723, 4724, 4742, 4744, 4751 and 4778, and T(E), p. 4715; Peter Galbraith, T(F), pp. 6429, 6436 and 6580; Josip Manolić, T(F), pp. 4273-4277 and 4472; P 09673, p. 1 of the English translation ET 01117-1102; 1D 02036, p. 6; Ciril Ribičić, T(F), p. 25550. *See also* P 08630, p. 214; Herbert Okun, T(F), pp. 16711-16713 and P 00829, p. 5.

²² Josip Manolić, T(F), pp. 4490-4493; Witness AR, P 10027 under seal, *Blaškić* Case, T(F), pp. 4744 and 4778; P 00089, pp. 29 and 30; P 03517, p. 5.

²³ 1D 02935 under seal, *Naletilić and Martinović* Case, T(F), pp. 9044, 9047, 9050-9052, 9198 and 9199; Witness 1D-AA, T(F), p. 29026, closed session.

²⁴ Witness AC, P 02935 under seal, *Naletilić and Martinović* Case, T(F), pp. 9047, 9153, 9154 and 9215; 3D 03205 under seal, p. 2; P 09853.

²⁵ *See* “Start of Peace Negotiations and the Cutileiro Plan (February 1992 – August 1992)” in the Chamber’s factual findings with regard to the principal events following the creation of Herceg-Bosna. *See also* Herbert Okun, T(F), pp. 16663 and 16664 and T(E), p. 16695; P 00187; Witness 1D-AA, T(F), pp. 29145-29150, closed session; 1D 02935 under seal, T(F), p. 9205.

²⁶ Herbert Okun, T(F), pp. 16663 and 16664; P 00187. Between August 1939 and 1941, the Banovina was a territorial entity whose borders covered a large part of BiH and almost all of the old Kingdom of Croatia, Slavonia and Dalmatia. *See* P 09536, pp. 8 and 9 as well as the testimony of Zdravko Sančević, T(F), p. 28745.

²⁷ P 00078, p. 1; P 00089, pp. 31-34 and 105-107; Herbert Okun, T(F), p. 16998.

²⁸ P 00302; P 00078; Robert Donia, T(F), pp. 1807, 1812 and 1813; Stjepan Kljuić, T(F), p. 3923; P 09536, pp. 31 and 32; P 08973, p. 7; Decision of 14 March 2006, Adjudicated Fact no. 58 (*Kordić* Judgement, para. 472 (e)); P 09276, p. 4; 3D 03720, pp. 71 and 78; 3D 03566, p. 13.

historically Croatian” territories in BiH,²⁹ inspired by the territorial outline of the old Croatian Banovina.³⁰ It consisted of 30 municipalities, with Mostar as the capital.³¹ The Chamber notes, moreover, that according to various exhibits, Franjo Tuđman, Slobodan Praljak and the founders of the HZ H-B, one of whom was Mate Boban, continually made reference to the Croatian Banovina of 1939, which constituted a historical point of reference in working for the territorial reunification of the Croatian people.³²

15. Although the HZ H-B was created against a backdrop of war in response to the “Serb aggression”³³ and, within this context, the various components of the BiH population may have believed it was their right to organise themselves in order to ensure their own survival,³⁴ the Chamber observes that Franjo Tuđman was advocating the existence and the legitimacy of the BiH Croatian people in order to protect the borders of Croatia.³⁵ The establishment of the HZ H-B was not merely a temporary defence initiative,³⁶ contrary to what Jadranko Prlić argued on several occasions to RBiH leaders or foreign dignitaries.³⁷ According to *Ciril Ribičić*, an expert witness on constitutional law,³⁸ the reference in the Decision on Establishing the Croatian Community of

²⁹ P 08973, p. 44; Ciril Ribičić, T(F), p. 25451; P 00531, p. 3; P 03394; Ray Lane, T(F), pp. 23715, 23716, 23748, 23757-23760, 23956 and 23957; P 10319; para. 47.

³⁰ Robert Donia, T(F), pp. 1805, 1806 and 1808; P 09536, pp. 9 and 10; P 09537; P 08973, p. 8; Ciril Ribičić, T(F), p. 25451; Decision of 14 March 2006, Adjudicated Fact no. 61 (*Kordić* Judgement, para. 479); P 00302/P 00078, Article 2.

³¹ Robert Donia, T(F), pp. 1812 and 1813; P 09276, p. 4; P 00302 and P 00078, Articles 2 and 3; P 09536, p. 31; P 08973, p. 7; 3D 03566, p. 13. See also Decision of 14 March 2006, Adjudicated Fact no. 58 (*Naletilić* Judgement, para. 472(e)): A list of the municipalities forming part of the HZ H-B: Jajce, Kreševo, Busovača, Vitez, Novi Travnik, Travnik, Kiseljak, Fojnica, Vareš, Kotor Varoš, Tomislavgrad, Livno, Kupres, Bugojno, Gornji Vakuf, Prozor, Konjić, Jablanica, Posušje, Mostar, Široki Brijeg, Grude, Ljubuški, Čitluk, Čapljina, Neum and Stolac.

³² Robert Donia, T(F), pp. 1805 and 1806; P 09536, pp. 9 and 10; P 09537; P 00498, pp. 4 and 65-67; P 00312, p. 9 of translation ET 0420-1239; Slobodan Praljak, T(F), pp. 41565, 43266 and 43267; P 00466, pp. 54 and 57; P 00498, p. 67; Ciril Ribičić, T(F), p. 25589; P 11376, p. 2; P 11380, p. 2; 1D 02039, p. 1; Ciril Ribičić, T(F), p. 25570; Miodir Žužul, T(F), pp. 27648 and 27649.

³³ P 00302; Herbert Okun, T(F), pp. 17040 and 17041; 1D 02036, p. 2; P 08973, p. 44; Ciril Ribičić, T(F), pp. 25451 and 25550; Slobodan Praljak, T(F), pp. 41728, 41729, 43304 and 43305; Peter Galbraith, T(F), pp. 6691, 6698 and 6699; Josip Manolić, T(F), p. 4314; Josip Jurčević, T(F), pp. 44774-44776 and 44778; Milivoj Petković, T(F), pp. 49378, 49380, 49381, 50349, 50352, 50353, 50456, 50458, 50459, 50486-50488 and 50495; P 01032, pp. 2 and 3; P 00289; P 00588; P 00307, pp. 2 and 3; Decision of 14 March 2006, Adjudicated Fact no. 61 (*Kordić* Judgement), para. 479.

³⁴ Herbert Okun, T(F), pp. 17039 and 17040; Peter Galbraith, T(F), p. 6691; P 00052; P 07437; Belinda Giles, T(F), p. 2048.

³⁵ Herbert Okun, T(F), p. 16988; Witness AR, P 10027 under seal, *Blaškić* Case, T(F), pp. 4713, 4721 and 4737; 1D 02910, p. 43; P 08630, p. 9; Josip Manolić, T(F), pp. 4313-4315, 4344 and 4345; P 00068, pp. 51-53; 1D 02339, pp. 1 and 2; P 00312, pp. 2 and 9 of translation ET 0420-1239; 3D 01278, p. 2; P 09499 under seal, p. 2; Peter Galbraith, T(F), p. 6454; P 00167, pp. 6 and 7; P 02719, p. 49; P 00336, pp. 42, 45, 49 and 129; P 00498, pp. 28, 74, 75 and 80; P 00866, pp. 8-11; 3D 01998, p. 9; P 02302, p. 49; P 02719, p. 49; P 06454, pp. 1 and 2; P 02452, pp. 1 and 2.

³⁶ P 08973, pp. 48 and 49; Ciril Ribičić, T(F), p. 25451; Herbert Okun, T(F), pp. 17040 and 17041; Witness BH, T(F), pp. 17535 and 17536, closed session; Marita Vihervuori, T(F), p. 21654; Decision of 14 March 2006, Adjudicated Fact no. 59 (*Kordić* Judgement, para. 491); P 09078, pp. 64-66; Slobodan Praljak, T(F), p. 43198.

³⁷ 1D 01972, p. 1; Mile Akmadžić, T(F), pp. 2952 and 29453; P 02046, p. 5; 1D 01655, p. 6; Marita Vihervuori, T(F), pp. 21610 and 21613; P 02094, p. 2.

³⁸ “Decision on the Prosecution Motion for Admission of Evidence Pursuant to Rule 92 *bis* of the Rules” public, 8 December 2006, para. 21.

Herceg-Bosna of 18 November 1991 and amended on 3 July 1992 to the “right of peoples to self-determination” proves that the establishment of the HZ H-B was not just an interim defensive measure to counter aggression but was instead sought to create a “mini-state” separate from the RBiH.³⁹ According to *Herbert Okun*, the creation of the HZ H-B was designed to facilitate the annexation of the Croat-majority BiH territories to Croatia and not merely to provide for their own self-defence.⁴⁰

16. It is clear from the evidence that the said autonomous territorial entity desired by the HZH-B was to exist either within BiH by forming an alliance with Croatia,⁴¹ or directly as a integral part of Croatia.⁴²

17. Although Franjo Tuđman publicly supported the independence and territorial integrity of BiH in 1992⁴³ by promoting the constitutional or confederative model of BiH wherein the Croatian nation would enjoy autonomy in those territories where it stood in the majority,⁴⁴ he continued with other representatives of the Croatian Government, nevertheless, to affirm the desire for reunification of the Croatian people.⁴⁵

18. The Chamber notes specifically that on 11 September 1992 at a presidential meeting where Slobodan Praljak, the Deputy to the Minister of Defence of Croatia, was present,⁴⁶ Franjo Tuđman recalled his territorial ambitions for a Croatian Banovina.⁴⁷ Gojko Šušak, the Minister of Defence of Croatia,⁴⁸ for his part declared that there would be no military action beyond the borders of the

³⁹ P 08973, pp. 48 and 49; Ciril Ribičić, T(F), p. 25451; P 00302 and P 00078, p. 1.

⁴⁰ Herbert Okun, T(F), pp. 17040 and 17041.

⁴¹ Witness Ole Brix-Andersen, P 10356, *Kordić and Cerkez* Case, T(E), pp. 10751 and 10752; P 08973, p. 52; Ciril Ribičić, T(F), p. 25451; 1D 02339, p. 7.

⁴² P 08973, p. 48; Ciril Ribičić, T(F), p. 25451; Herbert Okun, T(F), pp. 17040 and 17041; Marita Vihervuori, T(F), p. 21654; Decision of 14 March 2006, Adjudicated Fact no. 59 (*Kordić* Judgement, para. 491); P 10319, para. 45; Raymond Lane, T(F), pp. 23805, 23960 and 23961; Suad Ćupina, T(F), p. 4905; P 09078, pp. 64-66; Slobodan Praljak, T(F), p. 43198.

⁴³ P 00167, pp. 6 and 7; P 00336, p. 42; 3D 03566, pp. 15 and 18; 1D 02339, pp. 7 and 8; Zdravko Sančević, T(F), pp. 28627 and 28675; Slobodan Praljak, T(F), pp. 41708, 41134, 44645 and 44646; Peter Galbraith, T(F), pp. 6583 and 6584; Witness AR, P 10027 under seal, *Blaškić* Case, T(F), p. 4756; P 00312, pp. 2 and 9 of translation ET 0420-1239; 1D 02887, pp. 8 and 14; Zdravko Sančević, T(F), p. 28628; 1D 02806, p. 11. See also P 00336, p. 42.

⁴⁴ P 00312, pp. 2 and 9 of translation ET 0420-1239; 3D 03566, pp. 15 and 18; P 01544, p. 24; 3D 01998, p. 9; P 02302, p. 49; Peter Galbraith, T(F), pp. 6432 and 6434; 3D 02006, p. 1; P 00167, pp. 6 and 7; 1D 02339, pp. 7 and 8; Witness AR, P 10027 under seal, *Blaškić* Case, T(F), p. 4756; 1D 02887, p. 8; 1D 02806, p. 11; Adalbert Rebić, T(F), pp. 28376-28378.

⁴⁵ Josip Manolić, T(F), pp. 4276, 4277, 4282, 4327 and 4328; Witness AR, P 10027 under seal, *Blaškić* Case, T(F), p. 4727; P 09673, p. 4 of the English translation ET 01117-1102; P 00108, pp. 53 and 54; P 00465; P 00466, p. 3. See “The Wish to Create a Reunified Croatian People (December 1991-February 1992)” in the Chamber’s factual findings with regard to the principal events following the creation of Herceg-Bosna.

⁴⁶ P 00465; P 00466; p. 3.

⁴⁷ P 00466, pp. 54-57.

⁴⁸ Herbert Okun, T(F), pp. 16709 and 16710; P 00829, p. 5.

Banovina.⁴⁹ During a presidential meeting on 17 September 1992 in which Jadranko Prlić took part, Franjo Tuđman still envisioned incorporating the HR H-B into Croatia.⁵⁰ On 5 and 26 October 1992, Jadranko Prlić, Bruno Stojić, Slobodan Praljak and Milivoj Petković assembled as part of a “delegation of Croatia and the HZ H-B” met with Ratko Mladić, the VRS General,⁵¹ for the specific purpose of discussing the partition of BiH.⁵² During these meetings, Slobodan Praljak stated: “The goal is Banovina or nothing”⁵³ and that “it is in our interest that the Muslims get their own canton so they have somewhere to move to”.⁵⁴ On 28 November 1992, Franjo Tuđman called a meeting at Brioni, in Croatia, in particular in the presence of *Herbert Okun* and Gojko Šušak, during which Franjo Tuđman and Gojko Šušak repeatedly spoke of the partition of BiH between the Serbs and the Croats.⁵⁵

19. The Chamber likewise notes that *Ray Lane*, the ECCM representative in Herzegovina from September 1992 through 22 March 1993,⁵⁶ told of an interview with Jadranko Prlić in West Mostar – the Chamber does not know the date of this interview – during which Jadranko Prlić drew a circle representing BiH divided in two, with the Serbs on the one side and the Croats on the other, omitting any reference to the Muslims.⁵⁷

20. In January 1993, during the international peace negotiations, the constitutional principles of the Vance-Owen Plan provided that BiH would be structured in provinces, although these did not have a legal personality and could not enter into any agreements with international organisations or with third-party States.⁵⁸ The purpose of these principles was, according to *Herbert Okun*, to prevent the Serbs and Croats of BiH from constituting their own State inside of BiH and subsequently uniting with Serbia and Croatia, respectively, as they were hoping.⁵⁹ Although *Herbert Okun* said that the representatives of the “delegation of BiH Croats”, consisting of Franjo Tuđman, the President of Croatia, Mate Boban, the President of the HZ H-B, Mile Akmadžić, the Prime Minister of the RBiH,⁶⁰ and Milivoj Petković, the Chief of the HVO Main Staff,⁶¹ were not genuinely in agreement with these constitutional principles which prevented them from establishing

⁴⁹ P 00466, pp. 54-57.

⁵⁰ P 00498, pp. 80 and 81; Ciril Ribičić, T(F), p. 25589.

⁵¹ Herbert Okun, T(F), p. 16671.

⁵² P 11376, p. 1; P 11380, pp. 1 and 2.

⁵³ P 11376, p. 1.

⁵⁴ P 11380, p. 3.

⁵⁵ Herbert Okun, T(F), pp. 16711-16713; P 00829, p. 5.

⁵⁶ Ray Lane, T(F), pp. 23629, 23631, 23638 and 23639.

⁵⁷ Ray Lane, T(F), pp. 23715, 23716, 23748, 23757-23760, 23956 and 23957; P 10319, para. 47.

⁵⁸ Herbert Okun, T(F), p. 16731; P 01116, p. 3.

⁵⁹ Herbert Okun, T(F), pp. 16731 and 16732; P 01116, p. 3.

⁶⁰ Herbert Okun, T(F), pp. 16673 and 16674.

⁶¹ Herbert Okun, T(F), pp. 16673 and 16674.

their own state and incorporating it into Croatia,⁶² they decided to accept them nonetheless – fully aware that they would later be amended – in order to get the Serbs to sign.⁶³ The Chamber observes that although Franjo Tuđman was not officially the head of the Croatian delegation,⁶⁴ he was so in fact, because Mate Boban needed his approval before taking decisions.⁶⁵

21. In the months that followed the signing of the Vance-Owen Plan by the BiH Croats and until August 1993, the leaders of the HZ H-B gradually established a Croatian “mini-State” within BiH.⁶⁶ Their primary objective was the preservation of so-called Croatian territories claimed under the Vance-Owen Plan.⁶⁷ The HR H-B, proclaimed on 28 August 1993, then formalised the creation of this Croatian “mini-State” within BiH,⁶⁸ with territory matching that of the HZ H-B.⁶⁹ The preamble to the Decision on Establishing the HR H-B defined it as a “community-state” and added that the HR H-B was an integral and indivisible democratic State of the Croatian people in BiH.⁷⁰ On 8 February 1994, the Chamber of Deputies of the HR H-B adopted a statement in which the HR H-B proclaimed itself the sole legitimate “government” of the BiH Croats and that it needed to work to consolidate its statehood.⁷¹ The HR H-B, within the “Union of the Republics of Bosnia and Herzegovina”, was to ensure the right of the Croatian people to self-determination and to attain a State, with respect for the rights of the other two constituent nations.⁷² On 13 February 1994, Jadranko Prlić said to several leaders from Croatia, one of whom was Franjo Tuđman, that the HR H-B displayed every single attribute of a State.⁷³ He likewise argued that this state needed to attain to the widest possible borders, comprising all of Central Bosnia, which could be achieved by military means.⁷⁴

22. The Chamber observes that between January 1993 and March 1994, Franjo Tuđman continued to be pre-occupied with the borders of Croatia and by the Croatian Banovina.⁷⁵ On 20 May 1993, Franjo Tuđman thus asserted that the “Croats surely cannot agree to lose some areas

⁶² Herbert Okun, T(F), pp. 16735 and 16736.

⁶³ Herbert Okun, T(F), pp. 16735 and 16736.

⁶⁴ Herbert Okun, T(F), p. 16675.

⁶⁵ Herbert Okun, T(F), p. 16675.

⁶⁶ P 07437; Belinda Giles, T(F), pp. 2041, 2051 and 2052; Christopher Beese, T(F), pp. 3259 and 3260; P 02142, p. 2; P 02168.

⁶⁷ P 02486, p. 1; Milivoj Petković, T(F), pp. 49482; P 05391.

⁶⁸ P 04611; P 07825, p. 1; Ciril Ribičić, T(F), pp. 25451, 25516 and 25517; P 08973, pp. 61-63; 1D 02911, p. 47; 1D 01351.

⁶⁹ P 04611; P 09545, p. 103; P 08973, p. 63; Ciril Ribičić, T(F), p. 25451.

⁷⁰ P 08973, p. 63; Ciril Ribičić, T(F), p. 25451.

⁷¹ P 07825, p. 1; Ciril Ribičić, T(F), pp. 25516 and 25517.

⁷² P 07825, pp. 1 and 2; Ciril Ribičić, T(F), pp. 25516 and 25517.

⁷³ P 07856, pp. 46 and 47.

⁷⁴ P 07856, pp. 46 and 47.

that used to be a part of the Banovina”.⁷⁶ He further stated on 6 July 1993 that the BiH Croats would not conquer the territory of others, but rather, lands that had belonged to the Croats for centuries.⁷⁷ On 21 September 1993, he specifically stated that Stolac and the entire region of Jablanica-Konjic had formed part of the Banovina of 1939.⁷⁸ At a meeting of the presidency on 6 January 1994, Franjo Tuđman repeated his military support for the BiH Croats in order to ensure that certain BiH territories not fall into the hands of the Muslims, to preserve the territories considered as Croatian and thus to determine the future borders of the Croatian State, “perhaps for centuries”.⁷⁹

23. According to *Peter Galbraith*, it was only around 21 February 1994, subsequent to international pressure,⁸⁰ that Franjo Tuđman determined to take measures to end the war pitting the Muslims and Croats in BiH against one another and to accept the establishment of a federation within BiH.⁸¹ According to *Peter Galbraith*, it was at that time that Franjo Tuđman was forced to abandon his plan for a “Greater Croatia”.⁸²

24. In light of the foregoing, the Chamber finds that the ultimate purpose of the HZ(R) H-B leaders and of Franjo Tuđman at all times relevant under the Indictment was to set up a Croatian entity that reconstituted, at least in part, the borders of the Banovina of 1939, and facilitated the reunification of the Croatian people. This Croatian entity in BiH was either supposed to be joined to Croatia directly subsequent to a possible dissolution of BiH, or otherwise, to be an independent state within BiH with close ties to Croatia.

II. The Common Criminal Purpose

25. The Chamber will first set forth (A) the positions of the parties regarding whether there may have been one or more JCEs. Secondly, it will assess the evidence enabling it to determine that there was or was not (B) a common criminal design, the second factual element of this form of responsibility.

⁷⁵ Peter Galbraith, T(F), p. 6429 and T(E), p. 6428; P 05080, pp. 2-4; 3D 01120; P 03279, pp. 21 and 22; P 06454, pp. 1 and 2; P 02452, pp. 1 and 2; P 02466, p. 10; P 03324, p. 17; P 04740, p. 6; P 05155, pp. 47-49; P 08066, p. 55; P 07260, p. 18.

⁷⁶ P 02466, p. 10.

⁷⁷ P 09499 under seal, p. 2; Peter Galbraith, T(F), p. 6454.

⁷⁸ P 05237, p. 7.

⁷⁹ P 07485, pp. 7 and 8.

⁸⁰ P 07789; Peter Galbraith, T(F), pp. 6519, 6520, 6522 and 6523.

⁸¹ Peter Galbraith, T(F), pp. 6522 and 6523.

⁸² Peter Galbraith, T(F), p. 6528.

A. The Positions of the Parties on the Existence of One or More JCEs

1. The Prosecution's Position

26. The Prosecution alleges in paragraph 15 of the Indictment that between 18 November 1991 or before, and approximately April 1994, and thereafter, various persons set up a JCE. They took part in this with the aim of politically and militarily subjugating the BiH Muslims and other non-Croats who were living in those regions of the RBiH that were claimed as forming part of the HZ(R) H-B, to drive them out permanently, to cleanse these regions ethnically, and to reunite them, in the shorter or longer term, within a "Greater Croatia", either through joining them with Croatia or in close association with it. This purpose was to be achieved by force, by intimidation or by resorting to the threat of force, persecution, imprisonment, the destruction of property, and through other criminal activities punishable under Articles 2, 3 and 5 of the Statute, or through other means entailing the commission of such crimes. The purpose of the JCE was to create a Croatian territory within the borders of the Croatian Banovina, a territorial entity that existed from 1939 to 1941. It sought *inter alia* to redraw the political and ethnic map of these regions so that they would be Croat-dominated, in a political as well as a demographic sense.⁸³

27. The Prosecution submits that the JCE comprised not merely the six Accused, namely, Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Ćorić and Berislav Pušić,⁸⁴ but also Franjo Tuđman, Gojko Šušak, Janko Bobetko, Mate Boban, Dario Kordić, Tihomir Blaškić and Mladen Naletilić, as well as other persons, including certain members of the government institutions and authorities of the HZ(R) HB/HVO, at all levels.⁸⁵

28. Lastly, according to the Prosecution, the JCE as defined in the Indictment may be broken down into several JCEs: (1) a primary JCE of Form 1, referred to as the "HZ(R) H-B JCE"; (2) a Form 2 JCE, referred to as the "Prisoner JCE"; and (3) a JCE referred to as the "Deportation/Forcible Transfer JCE", which is likewise a JCE of Form 2.⁸⁶ Moreover, the Prosecution states in its Final Trial Brief that the scope and nature of the crimes included under the primary JCE evolved during the conflict pitting the HVO against the ABiH, and that the primary JCE was expanded to encompass additional crimes.⁸⁷ Lastly, it submits, in addition or in the

⁸³ See also Prosecution Final Trial Brief, paras 1 and 5.

⁸⁴ The Prosecution states that, pursuant to paragraph 230 of the Indictment, Berislav Pušić is not charged with the crimes committed in Prozor in October 1992 and in Gornji Vakuf in January 1993. The Prosecution holds the view that he became a member of the JCE from 17 and 19 April 1993 onward.

⁸⁵ Indictment, paras 16 and 25.

⁸⁶ Indictment, paras 221-226; Prosecution Final Trial Brief, paras 5-70.

⁸⁷ Prosecution Final Trial Brief, paras 22 and 25.

alternative, that other crimes not forming part of the common criminal purpose were the natural and foreseeable consequence of carrying out the primary JCE, and thus, constituted a Form 3 JCE.⁸⁸

a) The Primary JCE (the “HZ(R) H-B JCE”)

29. The Prosecution notes that the Accused, as well as other members of the primary JCE such as Mate Boban and Franjo Tuđman, knew that the Bosnian Muslim population would be persecuted, deported and forcibly transferred, and intended this in the interest of altering the demographics and carrying out their purposes.⁸⁹ In its Final Trial Brief, it thus sets forth the “core crimes” included in the primary JCE, that were designed to cause the removal of the Muslim population, namely: the crime of persecution (Count 1) commencing in April 1992 and thereafter,⁹⁰ and the crimes of deportation (Count 6), unlawful deportation of a civilian (Count 7), inhumane acts (forcible transfer) (Count 8), and unlawful transfer of a civilian (Count 9).⁹¹ The Chamber observes that the Prosecution does not specify as of what date the crimes listed under Counts 6 through 9 would form part of the primary JCE.

30. Moreover, other crimes committed in connection with victorious military campaigns in Prozor (October 1992 and April 1993), Gornji Vakuf (January 1993), and Sovići/Doljani (April 1993),⁹² that is, the crimes of destruction of property (Count 19) and wanton destruction of cities, towns or villages (Count 20), also fall within the purpose of the primary JCE, inasmuch as they signalled that the BiH Muslims were not to return to the region.⁹³ The Prosecution states that the Accused intended that these two crimes be committed in furtherance of the primary JCE.⁹⁴ It likewise proposes, in the alternative, another structure wherein these crimes were the result of a Form 3 JCE.⁹⁵

31. The Prosecution subsequently submits that, as the conflict with the Muslims and the ABiH continued to intensify, the Accused adopted ever more drastic measures in order to drive the Muslims out of HVO-controlled territory and defend the HZ(R) H-B territory already under their authority. It alleges that such measures served to confirm that the primary JCE had expanded (the

⁸⁸ Indictment, para. 227; Prosecution Final Trial Brief, para. 6.

⁸⁹ Prosecution Final Trial Brief, para. 8.

⁹⁰ Prosecution Final Trial Brief, para. 9.

⁹¹ Prosecution Final Trial Brief, paras 7-15.

⁹² Prosecution Final Trial Brief, para. 16.

⁹³ Prosecution Final Trial Brief, para. 16.

⁹⁴ Prosecution Final Trial Brief, para. 18.

⁹⁵ The Prosecution submits that if the Trial Chamber were to hold that the acts of destruction recounted in Counts 19 and 20 did not fall within the ambit of the core crimes of the JCE, it ought to find that they were the natural and foreseeable consequence of the primary JCE and would fall under a JCE of the third category (Form 3). *See* Prosecution Final Trial Brief, para. 18.

“Expanded JCE”) to include the additional crimes,⁹⁶ namely: the imprisonment (Count 10), and unlawful confinement of a civilian (Count 11) on or about 1 July 1993 and thereafter.⁹⁷ The Prosecution adds that every one of the Accused intended that these crimes be committed in furtherance of the purpose of the JCE.⁹⁸ The Chamber notes that in its Final Trial Brief, the Prosecution argues in the alternative for a different Form 3 JCE structure for Counts 10 and 11.⁹⁹

32. The Prosecution submits, moreover, that on or about 1 July 1993, other crimes related to the detention of Muslims were added to this. These were: inhuman 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).¹⁰⁰ The Chamber notes that, in its Final Trial Brief, the Prosecution argues in the alternative for a different Form 3 JCE structure for these counts.¹⁰¹

33. The Prosecution submits that unlawful labour (Count 18) likewise formed part of the Expanded JCE from 1 July 1993 onwards; that this crime was tied to the launch of waves of arrests and that the Accused intended to include this as an additional way to attain the objective of the primary JCE.¹⁰² The Chamber notes that in its Final Trial Brief, the Prosecution argues in the alternative for a different JCE Form 3 structure in respect of this count.¹⁰³

34. The Prosecution submits that from no later than 15 June 1993 the appropriation of property not justified by military necessity and carried out unlawfully and wantonly (Count 22) as well as the plunder of public and private property (Count 23) formed part of the Expanded JCE, and that the Accused intended to include this crime as an additional way to attain the objective of the primary

⁹⁶ Prosecution Final Trial Brief, para. 19.

⁹⁷ Prosecution Final Trial Brief, paras 22 and 25; footnote 48: “The crimes of unlawful imprisonment/confinement committed after expansion of the JCE on or about 1 July 1993 are alleged in the following paragraphs of the Indictment: Prozor (paras 54, 57 and 59); Mostar (paras 103 and 105); Heliostrom (paras 121-123 and 126); Ljubuški (paras 146 and 151); Stolac (paras 159 and 168); Čapljina (paras 175, 183 and 184); Dretelj (paras 188 and 189); Gabela (paras 196 and 197); Vareš (paras 209 and 210)”.

⁹⁸ Prosecution Final Trial Brief, paras 19-23.

⁹⁹ See Prosecution Final Trial Brief, para. 27. In the alternative, the Prosecution submits that if the Chamber were to hold that these crimes were not included in the expanded JCE, they should then be considered the natural and foreseeable consequence of carrying out the primary JCE and would constitute a Form 3 JCE attributable to the Accused. See Prosecution Final Trial Brief, para. 26. Furthermore, the Prosecution submits that the crimes of imprisonment and unlawful confinement of a civilian would form part of the Form 3 JCE in October 1992 at Prozor, in January 1993 in Gornji Vakuf, in April 1993 at Sovići and Doljani, in May 1993 at Mostar as well as at Čapljina – undated.

¹⁰⁰ Prosecution Final Trial Brief, paras 29-32.

¹⁰¹ Prosecution Final Trial Brief, para. 34: The Prosecution likewise submits that, if these crimes were committed prior to 1 July 1993, they would merely be the natural and foreseeable consequence of carrying out the primary JCE, and would fall under the Form 3 JCE and be attributable to the Accused. See Prosecutor Final Trial Brief, para. 33.

¹⁰² Prosecution Final Trial Brief, paras 38-45.

JCE.¹⁰⁴ The Chamber notes that the Prosecution argues in the alternative for a different Form 3 JCE structure for these counts in its Final Trial Brief.¹⁰⁵

35. The Prosecution submits that the primary JCE was also expanded from 1 June 1993 or around this date, with respect to the crimes pertaining to the campaign of terror and the siege of East Mostar (Counts 24 to 26), and that the Accused intended that these crimes be included as an additional way to attain the objective of the primary JCE.¹⁰⁶

36. Lastly, the Prosecution states that other crimes, namely, murder (Count 2), wilful killing (Count 3), rape (Count 4), inhuman treatment (sexual assault) (Count 5), and destruction or wilful damage done to institutions dedicated to religion or education (Count 21), fall into a Form 3 JCE, inasmuch as these crimes were the natural and foreseeable consequence of carrying out the primary JCE and that all of the Accused were aware of the possibility that these crimes might be committed.¹⁰⁷

b) The “Prisoners JCE” (Form 2)

37. Concerning what is known as the Form 2 “Prisoners JCE”, the Prosecution states in its Final Trial Brief that crimes covered by the Expanded JCE that were committed commencing on 1 July 1993 or around that date also form part of this second JCE pertaining to a system of mistreatment related to the camps.¹⁰⁸

c) The “Deportation/Forcible Transfer JCE” (Form 2)

38. Concerning the JCE known as the Deportation/Forcible Transfer JCE, the Prosecution states in its Final Trial Brief that the crimes included within the Expanded JCE that were committed commencing on 1 July 1993 likewise formed part of the second JCE pertaining to a system of

¹⁰³ Prosecution Final Trial Brief, para. 46: The Prosecution likewise submits that, if this crime was committed prior to 1 July 1993, it would merely be the natural and foreseeable consequence of carrying out the primary JCE and would fall under Form 3 JCE and be attributable to the Accused. *See also* Prosecution Final Trial Brief, para. 45.

¹⁰⁴ Prosecution Final Trial Brief, paras 48-51.

¹⁰⁵ Prosecution Final Trial Brief, para. 53: The Prosecution likewise submits that, if these crimes were committed prior to 15 June 1993, they would merely be the natural and foreseeable consequence of carrying out the primary JCE and would fall under Form 3 JCE and be attributable to the Accused. *See also* Prosecution Final Trial Brief, para. 52.

¹⁰⁶ Prosecution Final Trial Brief, paras 54-56.

¹⁰⁷ Prosecution Final Trial Brief, paras 57-62.

¹⁰⁸ *See* Prosecution Final Trial Brief, paras 63-65: these would be the crimes of 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). The Prosecution further alleges that each one of the Accused participated in this “system of mistreatment”.

mistreatment that resulted in the deportation and forcible transfer of BiH Muslims outside of HVO-controlled territory or even outside of BiH.¹⁰⁹

2. The Position of the Defence Teams Concerning the JCE Allegations

39. All six Defences teams dispute the existence of a JCE.¹¹⁰ The Prlić Defence submits *inter alia* that there never was a plan or any measures designed to ethnically cleanse the regions controlled by the HZ(R) H-B or the surrounding regions and that many Muslims fled for reasons of safety. It submits moreover that the accusations of reverse ethnic cleansing are groundless.¹¹¹ The Stojić Defence justifies the actions taken by the HVO, arguing that they were not designed to subjugate the Muslim population or to eliminate the ABiH from the HZ H-B.¹¹² It states that the fighting between the HVO and the ABiH was simply the consequence of disagreements at the municipal level that led to the isolated skirmishes at Prozor in October 1992 and at Gornji Vakuf in January 1993.¹¹³ As for the operations of April, May and June 1993, these were purely defensive actions by the HVO against the ABiH, particularly in Mostar and in the Neretva Valley. Any crimes allegedly committed over the course of these military operations cannot be considered to form part of a common plan, and cannot be attributed to the supposed members of the JCE.¹¹⁴ The Praljak Defence submits, in particular, that if a criminal agreement had been formed for the purpose of forcibly annexing or controlling certain portions of BiH, it would have made sense for the HVO (with or without the broader support of the HV and Croatia) to launch an offensive against the TO/ABiH in 1992 or in early 1993 when the HVO was by far the superior military power, and that the Prosecution's theory is flawed.¹¹⁵ The Petković Defence respectfully requests that the Chamber draw a distinction between those involved in a legitimate war and those who took part in criminal acts on the fringes of the conflict; it submits that Milivoj Petković belonged to the former.¹¹⁶ The Ćorić Defence specifically insists on the fact that none of the evidence makes mention of any criminal plan.¹¹⁷ The Pušić Defence submits, in particular, that the Indictment in no way specifies whether the common criminal design proceeded from an explicit agreement between the

¹⁰⁹ See Prosecution Final Trial Brief, paras 67-69: These would be the crimes of deportation (Count 6), of unlawful deportation of a civilian (Count 7), of inhumane acts (forcible transfer) (Count 8), and of unlawful transfer of a civilian (Count 9).

¹¹⁰ Prlić Defence Final Trial Brief, paras 322 and 323; Stojić Defence Final Trial Brief, paras 110, 175, and p. 119; Praljak Defence Final Trial Brief, *see* paras 28 and 30; Petković Defence Final Trial Brief, paras 525 and 526; Ćorić Defence Final Trial Brief, para. 153; Pušić Defence Final Trial Brief, paras 42-44 and 47.

¹¹¹ Prlić Defence Final Trial Brief, paras 322 to 323.

¹¹² Stojić Defence Final Trial Brief, paras 64-152.

¹¹³ Confirmed by the Prosecution, *see* Indictment, para. 32.

¹¹⁴ Stojić Defence Final Trial Brief, para. 110.

¹¹⁵ Praljak Defence Final Trial Brief, paras 28 and 30.

¹¹⁶ Petković Defence Final Trial Brief, para. 525.

¹¹⁷ Ćorić Defence Final Trial Brief, para. 152.

participants or whether it must be inferred from their actions. It believes that, absent proof of any explicit agreement, the Chamber is bound to infer the existence of such a plan from circumstantial evidence, and believes that the findings the Prosecution is asking for are too extensive and too broad to be proven beyond a reasonable doubt.¹¹⁸

40. The Chamber will now examine the evidence concerning the existence of a JCE and its purpose.

B. Existence of a Common Criminal Plan

41. The Prosecution alleges the existence of several JCEs set up at various times and under various forms. However, as will be set forth below, the Chamber considers that the evidence demonstrates that there was only one, single common criminal purpose – domination by the HR H-B Croats through ethnic cleansing of the Muslim population. To accomplish this purpose, the members of the group, which included the various Accused, made use of the political and military apparatus of the HZ(R) H-B.

42. As an initial matter, the Chamber recalls that the following reasoning was adopted by the majority, with Judge Antonetti dissenting on all the Chamber's observations and findings pertaining to the existence of a common criminal purpose.

43. It is clear from the evidence that as of December 1991, the leaders of the HZ(R) H-B, including Mate Boban, and leaders of Croatia, including Franjo Tuđman, believed that to achieve the political purpose in the long-term, namely, the establishment of a Croatian entity reconstituting in part the borders of the 1939 Banovina to facilitate the reunification of the Croatian people,¹¹⁹ it was necessary to change the ethnic make-up of the territories claimed to form part of the HR H-B.¹²⁰ The Chamber considers that, no later than October 1992, Jadranko Prlić, Bruno Stojić, Milivoj Petković and Slobodan Praljak knew that the implementation of this purpose ran counter to the peace negotiations being conducted in Geneva and would involve the Muslim population moving outside the territory of the HZ H-B.¹²¹

¹¹⁸ Pušić Defence Final Trial Brief, paras 42-44 and 47.

¹¹⁹ See the Chamber's factual findings pertaining to the ultimate purpose of the JCE.

¹²⁰ P 00089, pp. 34 and 35; P 00021; pp. 18-24.

¹²¹ See the Chamber's factual findings pertaining to the events that followed the creation of Herceg-Bosna, and the Chamber's factual findings pertaining to the ultimate purpose of the JCE, and, specifically P 11380, pp. 1 and 3. See also the Chamber's findings in respect of the responsibility of Jadranko Prlić, Bruno Stojić, Milivoj Petković and Slobodan Praljak under the JCE.

44. The evidence demonstrates that from mid-January 1993, the leaders of the HVO and certain Croatian leaders aimed to consolidate HVO control over Provinces 3, 8 and 10, which under the Vance-Owen Plan, were attributed to the BiH Croats, and, as the HVO leaders interpreted it, to eliminate all Muslim resistance within these provinces and to “ethnically cleanse” the Muslims so that the provinces would become majority or nearly exclusively Croatian.¹²² The Chamber holds that the evidence thus attests to the fact that a JCE was established to accomplish the political purpose at least as early as mid-January 1993, as will be set forth below. The evidence does not support a finding that there was an agreement concerning a common criminal design prior to that date.

45. As the Chamber set out in the factual findings of the Judgement regarding the various municipalities and detention centres, the JCE was carried out in stages. At the outset, starting in January 1993, as the HZ H-B leaders were participating in peace talks, the HVO conducted military campaigns in the provinces it considered Croatian in order to consolidate its presence there.¹²³ The attacks which the HVO launched on 18 January 1993 on the town of Gornji Vakuf and several surrounding villages are evidence of this. Thus, the HVO first shelled these sites, which were defended by a few members of the ABiH, and then subsequently took control of them by arresting both members of the ABiH as well as Muslims who did not belong to any armed force.¹²⁴

46. In the Municipality of Jablanica, tensions between the ABiH and the HVO mounted, particularly between the beginning of February and mid-April 1993. The two parties then strengthened their military presence in the municipality, particularly in Sovići and Doljani. On 15 April 1993, the HVO commenced shelling the town of Jablanica. There were talks between the representatives of the two forces in an attempt to calm the situation as both armies took up positions in the Sovići and Doljani sector. On 17 April 1993, the HVO launched an attack in the Jablanica Valley, shelling several localities in the region, among them Sovići and Doljani. The Chamber considered that, in view of the evidence pertaining to the attack on the entire Jablanica Valley, it could not find that the HVO attack on the villages of Sovići and Doljani on the morning of 17 April

¹²² Cedric Thornberry, T(F), pp. 26166-21168 and 26173-26176; P 10041, para. 42; P 01353 under seal, p. 1; Witness BH, T(F), pp. 17534 and 17535, closed session; Ole Brix-Andersen, P 10356, *Kordić and Cerkez* Case, T(E), pp. 10752, 10777-10779, and T(F), pp. 10871 and 10872; P 02327, p. 6; P 02787, p. 4: See also “Negotiations within the Framework of the Vance-Owen Plan (August 1992 – January 1993)” and “Subsequent History of the Vance-Owen Plan; Attempts to Implement the Principles of this Plan in the Field (January 1993 – August 1993)” in the Chamber’s factual findings with regard to the principal events following the creation of Herceg-Bosna.

¹²³ Herbert Okun, T(F), p. 16883; 1D 01314, pp. 3-6; Cedric Thornberry, T(F), pp. 26166-26168 and 26173-26176; P 10041, para. 42; P 01353 under seal, p. 1; Bo Pellnäs, T(F), pp. 19509 and 19512; P 02054 under seal, p. 10; P 02327, p. 6; Christopher Beese, T(F), p. 3170 and T(E), p. 3169.

¹²⁴ See the Chamber’s factual findings with regard to the Municipality of Gornji Vakuf.

1993 was purely a defensive reaction to the ABiH attack on that same day. The HVO took control of these two villages on 17 April 1993 after the ABiH forces surrendered.¹²⁵

47. At the same time between 17 and 19 April 1993, the HVO was conducting “offensive actions”, and taking possession of several villages in the Municipality of Prozor, committing acts of violence such as setting fire to Muslim houses, causing the Muslim population to flee, and thereby preventing any possibility of return.¹²⁶

48. These military campaigns were likewise accompanied by removals of the Muslim population. In the Municipality of Gornji Vakuf, the soldiers from the HVO thus arrested the inhabitants of the villages of Duša, Hrasnica, Uzričje and Ždrimci and, after having imprisoned them, moved some of them to territories under ABiH control. The HVO likewise set fire to Muslim houses during these campaigns of arrests, thereby preventing the population from returning.¹²⁷ In the Municipality of Jablanica, the HVO arrested and detained the Muslims from Sovići and Doljani, ABiH members and non-members alike, subjecting them to harsh conditions of confinement before moving members of the ABiH and several men who were not to Ljubuški Prison and moving the rest of the Muslim population outside the municipality.¹²⁸

49. The Chamber recalls that on 15 April 1993, the Mostar municipal HVO adopted a decision, amended on 29 April 1993, that dealt with the rights of refugees and displaced and deported persons in the Municipality of Mostar.¹²⁹ According to the members of the international organisations present on site in 1993, the consequence of this decision was that some 16,000 to 20,000 people, primarily Muslims,¹³⁰ who were occupying flats abandoned by the Serbs in 1992,¹³¹ were barred from obtaining the status of “displaced person”. Moreover, the decision denied all men between the ages of 18 and 60 and all women between the ages of 18 and 55 the status of

¹²⁵ See “HVO Attacks on the Villages of Sovići and Doljani and Arrests of Men, Women, Children and Elderly People from 17 to 23 April 1993” in the Chamber’s factual findings with regard to the Municipality of Jablanica (Sovići and Doljani) – and particularly Exhibit P 01915, p. 2, which is an interim report dated 16 April 1993, signed by Željko Šiljeg explaining that the HVO attack on the village of Sovići was to start as of 16 April 1993 at 9:00 AM.

¹²⁶ See “Attack on the Villages of Parcani, Lizoperci and Tošćanica from 17 to 19 April, Burning of Houses and Death of Three Residents at Tošćanica” in the Chamber’s factual findings with regard to the Municipality of Prozor.

¹²⁷ See “Attack on the Village of Hrasnica” and “Alleged Criminal Events Following the Attack and Takeover of the Village of Hrasnica” in the Chamber’s factual findings with regard to the Municipality of Gornji Vakuf. See also “Municipality of Gornji Vakuf” in the Chamber’s legal findings with regard to Count 8 (Inhumane Acts (Forcible Transfer) as a Crime against Humanity) and Count 9 (Unlawful Transfer of a Civilian as a Grave Breach of the Geneva Conventions).

¹²⁸ See “Arrests of Men, Women, Children and Elderly People in Sovići and Doljani from 17 to 23 April 1993” in the Chamber’s factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹²⁹ P 01894; P 02144; 1D 00757; 1D 00758.

¹³⁰ Witness BB, T(F), pp. 17142, 17144 and 25420, closed session.

¹³¹ Witness BA, T(F), p. 7173, closed session; P 09712 under seal, paras 23 and 26; Witness BB, T(F), p. 17142, closed session; P 09840 under seal, para. 5. See also P 02458, paras 32-34.

“refugees” or “displaced persons”.¹³² Certain members of international organisations complained repeatedly about this decision to the ODPB and to Mate Boban and Franjo Tuđman, but to no avail.¹³³ As a result, the Muslims had no access to humanitarian aid.¹³⁴ They were left with little choice: either they would remain in the flats and not receive any food aid or leave the flats where they were staying and then be forced to leave Mostar.¹³⁵

50. Until about 5 May 1993, there were between 16,000 and 20,000 Muslims and approximately 1,200 Croats who had fled the fighting in other regions of BiH, especially in Central Bosnia.¹³⁶ This new influx of population brought about another change in the demographic distribution of the city, this time favouring the Muslims.¹³⁷

51. *Witness BA* stated that at least as early as 5 May 1993, Jadranko Prlić and Mate Boban shared an identical vision concerning the policies of the HVO¹³⁸ which entailed drastically reducing the Muslim population of the HZ H-B, especially in Mostar, while increasing the Croatian population there through the removal of Muslims beyond territories designated as “Croatian” and the removal of Croats from those regions so that they would fall under Croatian control.¹³⁹ This was supposed to facilitate the construction of a State inside of BiH inhabited mostly by BiH Croats.¹⁴⁰

52. On 24 April 1993, at a meeting with Franjo Tuđman in which Mate Boban and Milivoj Petković likewise took part, President Izetbegović said this:

If we want the Vance-Owen Plan, then there is no confederation, Mr. President. I’m telling you, confederation is not possible. It would be possible if there were compact Croatian, Muslim and Serbian territories, compact to a certain degree. This would be a normal State, but in the situation in which Bosnia and Herzegovina is today [...] this is not possible without one people becoming a minority [...] Of course, compactness can be achieved in another manner, namely, through ethnic cleansing [...] I hope that you will not do this. This is the only way for you to get confederalisation. You would have to expel the Muslim population from Mostar where, according to the latest census, there are more than 52 % Muslims. You’d have to do likewise in Jablanica,

¹³² Witness BB, T(F), pp. 17140-17142, closed session; Martin Raguž, T(F), pp. 31494 and 31495; P 02458, para. 32.

¹³³ P 09712 under seal; para. 27; Witness BB, T(F), pp. 17147 and 17148, closed session; P 09708 under seal, p. 2.

¹³⁴ Witness BB, T(F), pp. 17153 and 17154, closed session; Decision of 7 September 2006, Adjudicated Fact no. 79 (*Naletilić* Judgement, para. 43).

¹³⁵ P 09840 under seal, para. 6; Witness BB, T(F), p. 17145, closed session.

¹³⁶ Witness BA, T(F), pp. 7379-7383, 7471 and 7472, closed session; P 09712 under seal, para. 6; Decision of 14 March 2006, Adjudicated Fact no. 226 (*Naletilić* Judgement, para. 37); Witness BB, T(F), p. 17144, closed session; 1D 00936, pp. 2 and 3. See also “Geographic and Demographic Description of the Municipality” among the Chamber’s factual findings with regard to the Municipality of Mostar.

¹³⁷ Decision of 14 March 2006, Adjudicated Fact no. 226 (*Naletilić* Judgement, para. 37). Witness BA, T(F), p. 7172, closed session; P 09712 under seal, paras 24 and 25; Witness BB, T(F), pp. 17148 and 17149, closed session; P 09593 under seal, para. 3.

¹³⁸ See Witness BA, T(F), p. 7164, closed session; P 09712 under seal, para. 11.

¹³⁹ P 09712 under seal, paras 11, 20 and 37. See also Bo Pellnäs, T(F), pp. 19511 and 19512; P 02054 under seal, p. 10; P 09677 under seal, para. 12; P 02327, p. 6; Witness BB, T(F), pp. 17185 and 17188, closed session.

¹⁴⁰ Witness BH, T(F), pp. 17535 and 17536, closed session; P 02142, p. 2; Witness DZ, T(F), pp. 26552-26554, closed session; P 10367 under seal, para. 63.

Konjic, Gornji Vakuf, Bugojno, etc. So, you'd have to carry out ethnic cleansing. I hope that you, as civilized people, would not do that.¹⁴¹

53. The Chamber notes that various exhibits originating with the HVO, specifically certain transcripts of HVO meetings, show that in April, June and July 1993, Croats from Central Bosnia and the northern part of BiH were under threat from the ABiH and that, according to the HVO authorities, it would be appropriate to make arrangements for them to move within BiH.¹⁴²

54. On 5 May 1993 during a meeting in Mostar *inter alia* between Mate Boban, Jadranko Prlić and Darinko Tadić, the official in charge of the ODP, as well as representatives from a humanitarian organisation, the HVO, based on its own interpretation of the Vance-Owen Plan, requested the assistance of a humanitarian organisation for a population movement by assembling the greatest number of Croats possible in those areas considered to be Croatian.¹⁴³ According to the HVO, the way to do this was to exchange the Muslim and Croatian populations and their belongings by evacuating 50,000 Croats from Central Bosnia to the Mostar region, including 20,000 to 25,000 Croats originally from the town or municipality of Zenica, who were considered by the HVO as being harassed by the Muslim authorities, and to move the Mostar Muslims to the region of Zenica in BiH.¹⁴⁴ The international organisation dispatched a letter to Mate Boban on 12 May 1993, with a copy to Franjo Tuđman, announcing its refusal to become involved in the attempt by HZ H-B leaders to create "ethnically homogenous zones". According to the organisation, this ran counter to the constitutional principles of the Vance-Owen Plan.¹⁴⁵ Despite the negative response from the international organisation, on 10 June 1993, Mate Boban, Jadranko Prlić and Bruno Stojić again sought the assistance of representatives of the international community to move Croatian populations from the areas of Central Bosnia where they were under threat, such as Sarajevo and Tuzla.¹⁴⁶ They stated that 50,000 Croats from Central Bosnia wished to leave their homes, whereas members of international organisations such as UNPROFOR had told them the opposite.¹⁴⁷ Despite the refusal of assistance from the representatives of the international community, in the days that followed, the HVO transferred the Croatian population, under the guidance of the ODP, justifying this transfer as the best way to come to the aid of these people, given the intensity of the clashes in the regions where they were located. It suited the HVO to remove them in the direction of less dangerous areas.¹⁴⁸ Despite this, the ECCM's opinion was that

¹⁴¹ P 02059, p. 19.

¹⁴² P 02142, pp. 2 and 3; 1D 01610, p. 1; P 02760; 3D 00837; ID 01264; P 03413, para. 1.

¹⁴³ Witness BA, T(F), pp. 7177 and 7178, closed session; P 09712 under seal, paras 37, 58 and 59.

¹⁴⁴ Witness BA, T(F), pp. 7178, 7179, 7386 and 7387, closed session; P 09712 under seal, paras 37, 38, 58 and 59.

¹⁴⁵ P 09708 under seal, p. 2.

¹⁴⁶ Witness BA, T(F), pp. 7196 and 7197, closed session; P 09712 under seal, paras 62 and 63; P 02714, para. 2.

¹⁴⁷ Witness BA T(F), p. 7197; closed session, P 09712 under seal, para. 63; P 02714, p. 2.

¹⁴⁸ Martin Raguž, T(F), pp. 31373 and 31375; 1D 01355; Martin Raguž, T(F), pp. 31319-31321; 1D 01672; 1D 02168.

the Croatian population had left Central Bosnia, including the Municipality of Travnik, not merely at its own initiative – fearing the arrival of the Mujahidin – but also, in many cases, because they had received orders to leave from the HVO.¹⁴⁹ In the ECCM’s view, the leaders of the HZ H-B and the HVO were attempting to move Croatian population by any means possible, including force and propaganda, in order to concentrate them in certain municipalities so that these municipalities would be transformed into Croat-majority municipalities and thus, subject to the control of the HVO.¹⁵⁰ Other evidence, however, recounts that one part of the Croatian population of Central Bosnia was actually fleeing the fighting, whereas the other part simply followed along in order to avoid remaining in the minority, or was receiving orders to this effect from the HVO, or was even manipulated by the HVO, stirring up fears of being exterminated by the Mujahidin, yet without any concrete physical danger.¹⁵¹

55. It is clear from all the evidence that the HVO arranged these removals to Provinces 8 and 10, not merely to come to the rescue of one part of the Croatian population located in combat zones, but also to remove the other part of the population that did not fear any real danger, doing so either by force or voluntarily.¹⁵² By doing this, the HVO could alter the balance of power in these provinces so that it favoured the Croats.¹⁵³

56. At the same time as these Croatian population movements, and subsequent to the assault on the city of Mostar launched on 9 May 1993, the HVO pushed the Muslims of West Mostar out of their homes, either by (1) forcing them to go to East Mostar, or (2) detaining them at the Heliobrom for several days prior to releasing them, under pressure from the international community and from Croatia, and allowing them to return to their houses, or, also by (3) keeping them in confinement in Mostar.

57. The criminal events in Mostar in May 1993 happened again in June 1993, and more specifically in mid-June 1993, when the HVO continued to drive the Muslims out from West Mostar, forcing them to cross the front line to East Mostar. The Chamber recalls that, on that date, Muslims were driven out of their West Mostar apartments by members of the HVO, who told them

¹⁴⁹ P 02849, p. 4; Christopher Beese, T(F), pp. 3252 and 3253.

¹⁵⁰ P 02737, p. 2; P 02849.

¹⁵¹ Witness BD, T(F), pp. 20775-20782, closed session; P 09905 under seal, p. 1; Witness BC, T(F), pp. 18334, 18444 and 18445, closed session.

¹⁵² Christopher Beese, T(F), p. 3258; Witness BD, T(F), pp. 20775-20782, closed session; P 09905 under seal, p. 1; P 01788, pp. 1-3.

¹⁵³ Christopher Beese, T(F), p. 3252; Witness BD, T(F), pp. 20775-20782, closed session; P 09905 under seal, p. 1; P 01788, pp. 1-3.

that they needed to make way for Croats coming from Travnik, specifically.¹⁵⁴ Subsequent to the ABiH attack on the HVO *Tihomir Mišić* Barracks on 30 June 1993,¹⁵⁵ the implementation of the JCE became more efficient. The HVO arrested and detained many Muslims from the municipalities of Mostar, Stolac, Čapljina, Ljubuški and Prozor.¹⁵⁶ It then sent them to territories under ABiH control or to third countries via Croatia, or even put them in HVO detention centres, including Ljubuški, Gabela and Dretelj Prisons and the Heliodrom.¹⁵⁷ Thus, the Chamber observes that from September to October 1993, the Muslim population of the municipalities of Ljubuški went from 2,381¹⁵⁸ to 826, of Čapljina from 14,085¹⁵⁹ to 3,852 and of Stolac from 8,093 to zero.¹⁶⁰

58. In the opinion of the international organisations present, the process of “ethnic cleansing” which began in Mostar and the surrounding areas, appeared irreversible.¹⁶¹ On 4 June 1993, at a meeting in Divulje in Croatia, at which Mate Boban, Jadranko Prlić, Mile Akmadžić and Milivoj Petković were present, *Witness DZ* spoke of “ethnic cleansing” in Mostar and the surrounding areas.¹⁶² Every one of the participants, and Mate Boban in particular, denied that there was ethnic cleansing of any kind.¹⁶³ Mate Boban, however, stated that the BiH Muslims had to be chased out of Mostar and BiH entirely.¹⁶⁴

59. From June 1993, the common criminal purpose was expanded with the siege of East Mostar and encompassed new crimes. From June 1993 to April 1994, the HVO besieged East Mostar, increasing its Muslim population, and subjecting it to sustained military attack, including intense, continuous weapons fire and shelling, including rounds of sniper fire over a small, densely inhabited residential area, with the consequence that many East Mostar inhabitants were injured or killed.¹⁶⁵ During this period, the population could not leave the eastern part of Mostar of its own

¹⁵⁴ See “Crimes Allegedly Committed in June 1993” in the Chamber’s factual findings with regard to the Municipality of Mostar.

¹⁵⁵ See “Attack on the *Tihomir Mišić* Barracks on 30 June 1993” in the Chamber’s factual findings with regard to the Municipality of Mostar.

¹⁵⁶ P 09712 under seal, paras 44 and 45; Witness BA, T(F), pp. 7221 and 7222, closed session; P 09680 under seal; P 09681 under seal. See also the Chamber’s factual findings with regard to the Municipality of Mostar, the Municipality of Stolac, the Municipality of Čapljina, the Municipality of Prozor and Ljubuški Prison.

¹⁵⁷ See “Ljubuški Prison” in the Chamber’s factual findings with regard to the municipality and detention centres at Ljubuški. See also the Chamber’s factual findings with regard to the Heliodrom and Gabela Prison.

¹⁵⁸ P 09851 under seal; IC 000833 and IC 000834, that is, 1,631 local Muslim residents and 750 “displaced” Muslims.

¹⁵⁹ P 09851 under seal; IC 000833 and IC 000834, that is, 10,760 local Muslim residents and 3,325 “displaced” Muslims.

¹⁶⁰ P 09851 under seal; IC 000833 and IC 000834.

¹⁶¹ Witness BB, T(F), pp. 17185 and 17188, closed session; P 09677 under seal, para. 12.

¹⁶² P 02652, pp. 1 and 2; P 10367 under seal, paras 59 and 60; Witness DZ, closed session, T(F), p. 26469.

¹⁶³ Witness DZ, T(F), p. 26550, closed session; P 10367 under seal, para. 60; P 02652, p. 2; Witness DZ, T(F), p. 26554, closed session.

¹⁶⁴ Witness DZ, T(F), pp. 26552-26554, closed session; P 10367 under seal, para. 63.

¹⁶⁵ See “Chamber’s Findings on the Existence of a Siege in East Mostar” in the Chamber’s factual findings with regard to the Municipality of Mostar.

accord, particularly due to the HVO checkpoints, and was forced to live in very harsh conditions, deprived of food, water, electricity and appropriate care. The HVO impeded and sometimes even completely blocked the passage of humanitarian aid and deliberately targeted the members of the international organisations, killing and wounding some of them.¹⁶⁶ Moreover, by destroying the Old Bridge, a structure with tremendous symbolic value that was used for military purposes by the ABiH, the HVO caused harm to the Muslim population of East Mostar out of proportion to the legitimate military objective sought. Finally, through its shelling, the HVO also destroyed or severely damaged ten mosques in East Mostar.¹⁶⁷

60. Contemporaneously with these events, 22,000 to 24,000 Croats from Travnik, Novi Travnik, Vareš, Kiseljak and Bugojno arrived in the territory of the HZ(R) H-B between early June 1993 and late that year “in an organised manner”, specifically in Prozor, Stolac, Čapljina and Ljubuški.¹⁶⁸

61. In October 1993, subsequent to the attack conducted by the ABiH on the village of Kopjari in the Municipality of Vareš, the HVO proceeded to arrest and then detain Muslim men from the town of Vareš at various locations. The men were released in early November 1993 when the HVO departed. Lastly, the HVO destroyed every one of the houses and buildings adjacent to the Muslim-majority village of Stupni Do during the attack on this village on 23 October 1993, killing part of its Muslim population.¹⁶⁹ After 23 October 1993 and the events at Stupni Do, the political authorities of the HVO warned the Croatian population of an imminent risk of reprisal by the ABiH and, urgently requested that they leave the Municipality of Vareš.¹⁷⁰ The ABiH actually did attack, managing to take control of the town of Vareš on 5 November 1993. During this period, part of the Croatian population was forced by the HVO to leave the municipality¹⁷¹ whereas the other part left it of its own accord, motivated by fear of the Muslims. The Chamber recalls that the HVO leaders did not order the attack on Stupni Do and that Ivica Rajić did not inform Milivoj Petković of his decision to launch the attack until the very day of 23 October 1993.¹⁷² However, despite not taking part in the decision to attack the village, Milivoj Petković and Slobodan Praljak, aware of the

¹⁶⁶ See “Targeting Members of International Organisations” in the Chamber’s factual findings with regard to the Municipality of Mostar.

¹⁶⁷ See “Alleged Destruction of Religious Institutions in East Mostar” and “Alleged Destruction of the Old Bridge” in the Chamber’s factual findings with regard to the Municipality of Mostar.

¹⁶⁸ 1D 01829; 1D 02299; para. 2; 1D 2; 1D 01868, p. 1.

¹⁶⁹ See “Attack on Stupni Do and Crimes Alleged” in the Chamber’s factual findings with regard to the Municipality of Vareš.

¹⁷⁰ See “Attack on Stupni Do and Crimes Alleged” in the Chamber’s factual findings with regard to the Municipality of Vareš.

¹⁷¹ See “Attack on Stupni Do and Crimes Alleged” in the Chamber’s factual findings with regard to the Municipality of Vareš. The Chamber recalls that HVO pressure on the Croatian population was not the sole reason for the departure of the Croatian population from the Municipality of Vareš, inasmuch as the threat and the attacks by the ABiH were enough to bring about this departure.

murders of villagers who did not belong to the ABiH and of the destruction of their property, attempted to conceal these crimes.

62. The Chamber considers that the leaders of the HVO attempted to conceal the HVO's responsibility for the crimes committed at Stupni Do, inasmuch as these events helped encourage the Croatian population of the Vareš region to move in the direction of BiH, which suited their plan.

63. At the same time as the incidents at Stupni Do, Croats from the Municipality of Vareš reached western Herzegovina on or about 18 October 1993 and 4 November 1993.¹⁷³ According to the ODP, as of 25 October 1993, there were nearly 76,000 "displaced" Croats in the territory of the HR H-B, particularly at Čapljina, Stolac, Ljubuški, Mostar and Prozor.¹⁷⁴

64. As the HVO authorities were removing the Muslim population from the municipalities covered by the Indictment, the implementation of the JCE became more efficient as the HZ(R) H-B authorities introduced, at least as of 30 June 1993,¹⁷⁵ a system of deportation utilising the release of Muslim detainees from the HVO detention centres contingent upon their departure from Croatia – often with their families – where they were supposed to stay only temporarily prior to being transferred to a third country.¹⁷⁶ In the opinion of the Chamber, the evidence demonstrates that the HVO severely beat Muslims at the detention centres of Ljubuški, Dretelj, Gabela and the Heliodrom, often subjecting them to very harsh conditions of confinement which could lead to detainee deaths. Due to the conditions of confinement and the severe beatings they experienced, several Muslim detainees agreed to leave for ABiH-controlled territories or for another country rather than remain in confinement. Although many of them were released during the second half of 1993 on condition that they leave, the last detainees were not released until April 1994 with the closing of the last detention centre.¹⁷⁷

¹⁷² See "Attack on the Village of Stupni Do" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁷³ 1D 01829. See also other documents concerning all of the Croatian displaced persons during this period: 1D 02299, para. 2; Martin Raguž, T(F), p. 31377; 1D 01868, p. 1; Martin Raguž, T(F), p. 31380.

¹⁷⁴ P 09851 under seal, para. 3.2, pp. 8-10; Martin Raguž, T(F), p. 31463.

¹⁷⁵ See "Events of 30 June 1993 and Crimes Allegedly Committed in July and August 1993" in the Chamber's factual findings with regard to the Municipality of Mostar; "Departure of Detainees from Dretelj Prison to the Croatian Islands" in the Chamber's factual findings with regard to Dretelj Prison; "Organisation of the Departure of the Muslims from Ljubuški Municipality" in the Chamber's factual findings with regard to the Municipality of and detention centres at Ljubuški; "Removal of Women, Children and Elderly People to ABiH-Controlled Territories or Third Countries" in the Chamber's factual findings with regard to the Municipality of Čapljina; "Detainees Released from Gabela Prison on Condition of Leaving for Third Countries" in the Chamber's factual findings with regard to Gabela Prison.

¹⁷⁶ P 07437; Belinda Giles, T(F), p. 2054. See also "Ljubuški Prison" and "The Vitina-Otok Camp" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški" and in the Chamber's factual findings with regard to the Heliodrom, Gabela Prison and Dretelj Prison.

¹⁷⁷ See "Departures of Detainees from Dretelj Prison" in the Chamber's factual findings with regard to Dretelj Prison; "Transfer and Release of Detainees from Gabela Prison" in the Chamber's factual findings with regard to Gabela Prison; "Organisation of Departure of Detainees from the Heliodrom to Third Countries or ABiH-controlled Territory"

65. The Chamber considers that the many crimes committed by HVO forces from January 1993 to April 1994 tended to follow a clear pattern of conduct. In the vast majority of cases, these crimes against the Muslim population were not committed by chance or randomly. They were, on the contrary, the result of a plan established by the leaders of the HZ(R) H-B seeking to modify the ethnic composition of the so-called Croatian provinces in light of their interpretation of the Vance-Owen Plan in order to extend their political and military control over them, and to do so by political, administrative military action and also by the commission of crimes sanctioned under the Statute. In the opinion of the Chamber, this observation necessarily follows from the only conclusion that may reasonably be drawn from the evidence.

66. The Chamber is satisfied beyond a reasonable doubt that the members of the JCE – the political and military leaders of the HZ(R) H-B, including the Accused and certain leaders from Croatia – lent support and coordination to field operations for the purpose of carrying out most of the crimes described above. They thus implemented an entire system for deporting the Muslim population of the HR H-B consisting of the removal and placement in detention of civilians, of murders and the destruction of property during attacks, of mistreatment and devastation caused during eviction operations, of mistreatment and poor conditions of confinement as well as the widespread, nearly systematic use of detainees on the front lines for labour or even to serve as human shields, as well as murders and mistreatment related to this labour and these shields, and, lastly, the removal of detainees and their families outside of the territory of the HZ(R) H-B once they were released.

67. Every one of the Accused, as members of the JCE, knew that most of these crimes had been committed and intended that these crimes be committed in order to further the common plan, as will be set out later in the Judgement in the part pertaining to the participation by the Accused in the JCE.¹⁷⁸

68. These are crimes that fall within the framework of the common plan of the Form 1 JCE, to which the following counts are directed:

Count 1 (Persecutions as a Crime Against Humanity); Count 2 (Murder as a Crime Against Humanity); Count 3 (Wilful Killing as a Grave Breach of the Geneva Conventions); Count 6 (Deportation as a Crime Against Humanity); Count 7 (Unlawful Deportation of Civilians as

in the Chamber's factual findings with regard to the Heliodrom; "Organisation of Departure of the Muslims from Ljubuški Municipality" in the Chamber's factual findings with regard to the Municipality and Detention Centres of Ljubuški.

a Grave Breach of the Geneva Conventions); Count 8 (Inhumane Acts (Forcible Transfer) as a Crime Against Humanity); Count 9 (Unlawful Transfer of a Civilian as a Grave Breach of the Geneva Conventions); Count 10 (Imprisonment as a Crime Against Humanity); Count 11 (Unlawful Confinement of a Civilian as a Grave Breach of the Geneva Conventions); Count 12 (Inhumane Acts (Conditions of Confinement) as a Crime Against Humanity); Count 13 (Inhuman Treatment (Conditions of Confinement) as a Grave Breach of the Geneva Conventions); Count 14 (Cruel Treatment (Conditions of Confinement) as a Violation of the Laws or Customs of War); Count 15 (Inhumane Acts as a Crime Against Humanity); Count 16 (Inhuman Treatment as a Grave Breach of the Geneva Conventions); Count 17 (Cruel Treatment as a Violation of the Laws or Customs of War); Count 18 (Unlawful Labour as a Violation of the Laws or Customs of War); Count 19 (Extensive Destruction of Property Not Justified by Military Necessity and Carried Out Unlawfully and Wantonly as a Grave Breach of the Geneva Conventions); Count 20 (Wanton Destruction of Cities, Towns or Villages or Devastation Not Justified by Military Necessity as a Violation of the Laws or Customs of War); Count 21 (Destruction or Wilful Damage Done to Institutions Dedicated to Religion or Education as a Violation of the Laws or Customs of War); Count 24 (Unlawful Attack on Civilians at Mostar as a Violation of the Laws or Customs of War); Count 25 (Unlawful Infliction of Terror on Civilians in Mostar as a Violation of the Laws or Customs of War).

69. The Chamber considers that the evidence does not support a finding that the crimes committed in Prozor in October 1992 formed part of the common criminal purpose described above, inasmuch as it was not in a position to establish that, at that time, the members of the JCE were acting in concert.¹⁷⁸ The Chamber will analyse the possible responsibility of Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković and Valentin Ćorić for the commission of these crimes under the other forms of responsibility contemplated in the Statute for those cases where it has evidence pertinent to each accused in connection with these events in 1992.

70. The Chamber notes, moreover, that during the HVO campaigns to expel the Muslims or while they were in detention, certain members of the HVO likewise committed other crimes not included in the common criminal purpose. Thus, the Chamber held that the lack of a systematic or widespread nature for certain crimes, or even the lack of common intent for all the Accused

¹⁷⁸ Indictment, para. 230. The Chamber recalls that the Prosecution is not prosecuting Berislav Pušić for the crimes committed in the municipalities of Prozor in October 1992 and Gornji Vakuf in January 1993.

¹⁷⁹ The Chamber recalls that the Accused Pušić is not being prosecuted for the crimes committed in Prozor in October 1992.

concerning certain crimes mandated that they not be included in the common criminal purpose. These were murders committed in the municipalities of Čapljina, Mostar, Stolac and Prozor, as well as sexual abuse committed in the municipalities of Mostar, Prozor and Vareš.¹⁸⁰ For example, on 13 July 1993, while driving out the inhabitants of the village of Pješivac Greda in the Municipality of Stolac, the HVO shot and killed Sanida Kaplan, thereby committing the crimes of murder and wilful killing against her. In like manner, numerous detainees died while in confinement, either from the poor conditions of confinement or as victims of the violence meted out by members of the HVO. Additionally, certain members of the HVO raped several women being held in the houses in several villages in the Municipality of Prozor in August 1993 to December 1993, and committed sexual abuse of men detained at Prozor. Finally, throughout January 1993 to April 1994, thefts were committed during the operations to evict the Muslims. Nor does the evidence establish that all of the Accused, as members of the JCE, intended that thefts, characterised by the Chamber under the counts of appropriation of property not justified by military necessity and carried out unlawfully and wantonly and of plunder of public and private property, be committed.

71. The Chamber recalls, moreover, that it considered the count of destruction or wilful damage done to institutions dedicated to religion confirmed for the destruction of the mosques at Sovići and Doljani in April 1993. Despite this, the evidence did not establish that every one of the Accused, as members of the JCE, intended to commit this crime on that date.

72. The Chamber recalls that in order to carry out the evictions, the armed members of the HVO engaged in acts of extreme violence, threatening and mistreating the displaced Muslims. Although the thefts, murders and sexual abuse committed during the eviction operations,¹⁸¹ or closely linked thereto,¹⁸² as well as during the detention of Muslims did not form part of the common criminal purpose, they were the natural and foreseeable consequence of their being carried out. In fact, in many cases, the Accused, as members of the JCE, knew that the thefts, murders, rapes, and sexual assaults of Muslim civilians and combatants might be committed by the members of the HVO, due to the atmosphere of violence to which they contributed, or for some, due to knowing the violent nature thereof, and took this risk knowingly. This will be set out later in connection with the analysis of the participation by the Accused in the Form 3 JCE.

¹⁸⁰ See the factual and legal findings pertaining to these municipalities.

¹⁸¹ For the murders, see the Chamber's factual and legal findings with respect to the Municipality of Čapljina.

¹⁸² See "Death of Two Young Women in the Village of Domanovići" in the Chamber's factual findings with regard to the Municipality of Čapljina, as well as "Death of Six Muslims in the Region of Prajine and Tolovac" concerning the crimes committed on Mount Tolovac on 19 April 1993 in the Chamber's factual findings with regard to the Municipality of Prozor.

73. Concerning the destruction of the mosques at Sovići and Doljani in April 1993, the Chamber considers that inasmuch as it occurred during HVO military operations against Muslim-majority localities in which these troops destroyed many non-military structures, the Accused, as members of the JCE, knew that during these military operations the mosques might also be destroyed and took this risk knowingly, as the Chamber will later set out in its analysis of the participation of the Accused in the Form 3 JCE.

Section 2: Contribution of the Accused to the JCE

I. Jadranko Prlić

74. The Prosecution alleges that Jadranko Prlić participated in and furthered the JCE by using or failing to use the *de jure* and *de facto* power he had first as President and then Prime Minister of Herceg-Bosna/HVO; that he was responsible for the actions and activities of the HVO government as a whole (including its departments/ministries, commissions and services, as well as fiscal, judicial and municipal organs); held high-level meetings with the HZ(R) H-B leadership and leaders of Croatia, more specifically, Franjo Tuđman, Gojko Šušak and others, pursuing the goals and objectives of the JCE; initiated, participated in, agreed with and signed decisions and decrees that comprised official Herceg-Bosna/HVO policy and practice; had the power to appoint and remove persons in positions of significant authority in the civilian, military and judicial organs of the HZ(R) H-B such as Berislav Pušić; organised, supported and/or supervised the take-over of various municipalities; encouraged, facilitated and supported efforts to "Croatise" the Bosnian Muslim and other non-Croatian populations; established, organised and/or regulated the structures and activities of the military, the police and the intelligence services through which the objectives of the JCE were pursued and implemented; organised, controlled, regulated, facilitated and/or supported HZ(R) H-B forces in acquiring military equipment, weapons and ammunition; facilitated, supported, encouraged, planned, approved and prepared military operations and issued two ultimatums which caused and contributed to the commission of crimes by HZ(R) H-B forces in and around Gornji Vakuf in January 1993 as well as in and around Prozor, Sovići and Doljani in the spring of 1993; arranged, facilitated and maintained political, logistical, financial and military cooperation with Croatia; established, controlled, facilitated and/or supported a system of mistreatment involving a network of Herceg-Bosna/HVO prisons, concentration camps and other detention facilities where crimes such as the use of detainees for forced labour, were committed, and which was used to expel, deport or forcibly transfer large numbers of Bosnian Muslims; gave false information about the reasons for the detention of Muslims and the conditions of their

detention as well as about the commission of crimes; limited access by observers to detained Muslims; organised, advocated and participated in the movement of large numbers of Bosnian Croats into the territory claimed to be part of Herceg-Bosna in furtherance of the JCE; engendered fear, hatred and mistrust of Bosnian Muslims among Bosnian Croats; supported and facilitated the destruction and confiscation of Muslim property; controlled, regulated and/or facilitated the delivery of and access to humanitarian aid in order to deprive Bosnian Muslims of fundamental human needs, and condoned and failed to punish crimes against the Bosnian Muslims by HVO members.¹⁸³

75. The Prlić Defence disputes all the Prosecution allegations and repudiates the claim that Jadranko Prlić participated in any such JCE.¹⁸⁴ It states that Jadranko Prlić was not involved in any activities, directly or indirectly, to subjugate Bosnian Muslims and other non-Croats to the HVO HZ(R) H-B, to remove them permanently or to carry out ethnic cleansing in furtherance of the plan for a "Greater Croatia". It submits that Jadranko Prlić had nothing to do with the crimes committed¹⁸⁵ and that his actions were always consistent with respecting the sovereignty of BiH.¹⁸⁶

76. As a preliminary matter, the Chamber notes that it will address only the events for which it has evidence that might be relevant to its analysis of Jadranko Prlić's responsibility.

77. To determine whether Jadranko Prlić significantly participated in the JCE, the Chamber will first examine Jadranko Prlić's (A) functions and (B) powers. It will then examine his acts and omissions likely to reveal any possible responsibility under (C) JCE 1 and (D) JCE 3.

A. Jadranko Prlić's Functions

78. Jadranko Prlić, son of Mile, was born on 10 June 1959 in Đakovo, in the Socialist Republic of Croatia.¹⁸⁷

79. The Prosecution alleges that on 15 May 1992, Mate Boban appointed Jadranko Prlić as head of the HVO Department of Finance and on 14 August 1992, as President of Herceg-Bosna's supreme executive, administrative and defence body - the HVO.¹⁸⁸ After the HZ H-B became the

¹⁸³ Indictment, para. 17.1.

¹⁸⁴ Prlić Defence Final Trial Brief, paras 327 (a) *et seq.*

¹⁸⁵ Prlić Defence Final Trial Brief, paras 2, 323, 325, 326, 339 and 349.

¹⁸⁶ Prlić Defence Final Trial Brief, paras 316 and 332.

¹⁸⁷ *Prosecutor v. Jadranko Prlić*, Case No. IT-04-74-I, "Warrant of Arrest and Order for Surrender" under seal, 4 March 2004, p. 2; T(F), p. 2.

¹⁸⁸ Indictment, para. 2; Prosecution Final Trial Brief, para. 375.

HR H-B in late August 1993, Jadranko Prlić's title or position changed from President to Prime Minister (with his functions remaining largely the same).¹⁸⁹

80. The Prlić Defence argues that in April 1992, Jadranko Prlić joined the military branch of the Mostar HVO and was appointed to the Special Purpose Council in the Mostar municipal HVO, which organised the supply of resources in the town and helped mount the municipal defence.¹⁹⁰ It asserts that his appointment as Head of the Finance Department was entirely cosmetic and that Jadranko Prlić never actually performed that function.¹⁹¹ It also contends that from 14 August 1992 to 20 November 1993, Jadranko Prlić was President of the HVO HZ H-B, the temporary executive authority of the HZ H-B. From 20 November 1993 to 16 June 1996, he was President of the Government of the HR H-B.¹⁹² It asserts that Jadranko Prlić was never the "President of Herceg-Bosna's supreme executive, administrative and defence body - the HVO", as claimed by the Prosecution, because the title as such did not exist.¹⁹³

81. The evidence makes it possible to establish that Jadranko Prlić was a member of the Government of BiH in Sarajevo in 1990 and 1991,¹⁹⁴ and the director-general of the *Pro* enterprise in Mostar in 1991 and 1992.¹⁹⁵ On 7 May 1992, Jadran Topić, President of the Mostar municipal HVO,¹⁹⁶ appointed Jadranko Prlić as co-coordinator of the Special Purpose Council for the Mostar municipal HVO and Jadranko Prlić exercised that function until at least June 1992.¹⁹⁷ On 15 May 1992, Mate Boban appointed Jadranko Prlić as head of the Finance Department of the HVO HZ H-B.¹⁹⁸ In the absence of additional evidence, the Chamber does not know if Jadranko Prlić in fact exercised that function.

82. On 14 August 1992, the Presidency of the HZ H-B appointed Jadranko Prlić as President of the HVO HZ H-B and he held that post until the end of August 1993.¹⁹⁹ After the establishment of

¹⁸⁹ Indictment, para. 2; Prosecution Final Trial Brief, para. 387.

¹⁹⁰ Prlić Defence Final Trial Brief, para. 22.

¹⁹¹ Prlić Defence Final Trial Brief, para. 24.

¹⁹² Prlić Defence Final Trial Brief, para. 319.

¹⁹³ Prlić Defence Final Trial Brief, para. 319.

¹⁹⁴ Milivoj Gagro, T(F), pp. 2738-2740.

¹⁹⁵ 1D 02390; Milivoj Gagro, T(F), pp. 2740 and 2741.

¹⁹⁶ P 00199. The existence of a decision of 10 May 1992 signed by Mate Boban as HVO President is not inconsistent with the fact that he was officially elected HVO President by the Presidency of the HZ(H)-B on 15 May.

¹⁹⁷ P 00190; 1D 02389; 1D 03051, p. 1; Ilija Kožulj, T(F), p. 32625.

¹⁹⁸ P 00208; P 09545, p. 15; Neven Tomić, T(F), pp. 33720, 33724 and 33730; Milivoj Gagro, T(F), p. 2743.

¹⁹⁹ See "Specific Role of the President of the HVO and the President of the Government of the HR H-B" in the Chamber's findings with regard to the political and administrative structure of the HZ(R) H-B. See also P 00498, p. 2; 1D 02076; Slobodan Božić, T(F), p. 36252; P 01950, p. 1; Witness BF, T(F), p. 25784, closed session; Marita Vihervuori, T(F), pp. 21598, 21599 and 21680; P 09063; P 09712 under seal, para. 8; Witness BH, T(F), p. 17536, closed session; Witness BD, T(F), p. 20700, closed session; Zoran Buntić, T(F), pp. 30254-30256; P 02881, p. 1. See also decisions and decrees signed by Jadranko Prlić as the HVO President, for example, P 00735; 1D 02131; P 03092; P 09531.

the HR H-B on 28 August 1993,²⁰⁰ Jadranko Prlić performed the duties of President of the Government ("*Predsjednik Vlade*") of the HR H-B,²⁰¹ although it was not until 10 November 1993 that he was officially appointed to that post by Mate Boban.²⁰² On 16 February 1994, Jadranko Prlić also became a member of the Presidential Council of the HR H-B.²⁰³

83. In June 1994, Jadranko Prlić became Vice-President of the Government and Minister of Defence of BiH and of the Federation of BiH.²⁰⁴ He held that post until 1 February 1996, when he became the Minister of Foreign Affairs of BiH.²⁰⁵

B. Jadranko Prlić's Powers

84. The Prosecution contends that Jadranko Prlić had a number of powers²⁰⁶ by way of which he participated, through his actions and omissions, in the JCE. It argues that Jadranko Prlić was one of the most powerful officials of the HVO HZ(R) H-B, occupying the second and even the top position in the HVO HZ(R) H-B hierarchy as the only coordinator.²⁰⁷ While Mate Boban was Herceg-Bosna's "Head of State", it was Jadranko Prlić who in fact controlled the government and held the reins of power.²⁰⁸ As coordinator of the Government of the HVO HZ(R) H-B, Jadranko Prlić had the power to organise high-level meetings of the HVO leadership, initiate, agree with and participate in decisions and decrees that comprised official HVO policy and practice and signed the vast majority of them.²⁰⁹ The Prosecution submits that the "Prlić Government" also had the power to override, annul and abolish decrees, decisions and other measures of departments which were

²⁰⁰ P 04611; P 09545, p. 103; Decision of 14 March 2006, Adjudicated Fact no. 71 (*Kordić* Judgement, para. 732); P 08973, p. 61; Ciril Ribičić, T(F), p. 25451; P 04560, pp. 1-3.

²⁰¹ See, for example, P 06995; P 07001; P 07461; 1D 01593. See also P 01015.

²⁰² See "Specific Role of the President of the HVO and the President of the Government of the HR H-B" in the Chamber's factual findings with regard to the political and administrative structure of the HZ(R) H-B. He was officially dismissed as President of the Government of the HR H-B by Ivan Bender, Acting President of the HR H-B ("*v. d. Predsjednika*") on 15 June 1996: Neven Tomić, T(F), p. 34739; P 10657, p. 1. The Chamber notes that although the English translation of Exhibit P 10657 refers to the post of Prime Minister, the original document states "*Predsjednika*", which is literally translated as "president".

²⁰³ The designated members were Krešimir Zubak, Ivan Bender, Pero Marković, Ivo Živković, Branimir Huterer, Jadranko Prlić, Jozo Martinović, Valentin Ćorić, Mile Akmadžić, Ante Roso and Ivo Lozančić; P 07876. See also P 07856, pp. 83-85.

²⁰⁴ Zdravko Sančević, T(F), p. 28725; P 09078, p. 13; 1D 02355, p. 1; 1D 02223, p. 1.

²⁰⁵ P 09078, p. 14; 1D 03043, p. 14; 1D 03042, p. 1. The Chamber observes that Witness BH stated that Jadranko Prlić held the post of Minister of Foreign Affairs of the Federation of Bosnia and Herzegovina as of February 1994: Witness BH, T(F), p. 17540, closed session. Since this date precedes the date of the establishment of the Federation of Bosnia and Herzegovina, the Chamber decides to give credence to Jadranko Prlić's statements about the posts he held from 1994 onwards.

²⁰⁶ Indictment, paras 3 and 17.1.

²⁰⁷ Prosecution Final Trial Brief, paras 374, 379, 389, 391 and 401-421; Prosecution Closing Arguments, T(F), pp. 51897, 51901, 51904, 51928 and 51929.

²⁰⁸ Prosecution Final Trial Brief, para. 374.

²⁰⁹ Indictment, para. 17.1. (a); Prosecution Final Trial Brief, para. 380; Prosecution Closing Arguments, T(F), p. 52011.

contrary to the desired policy, practice or strategy in the HZ(R) H-B.²¹⁰ Jadranko Prlić also had considerable powers to appoint and remove people in positions in departments and other organs of the HVO HZ(R) H-B.²¹¹ The Prosecution also asserts that Jadranko Prlić had a special role in directing the activities of several departments of the HVO HZ(R) H-B and their senior officials such as the departments of the interior (including the MUP), of defence (including the armed forces) and of justice.²¹² The Prosecution states that Jadranko Prlić's power emanated from his direct control of bodies such as the ODPB and the Service for the Exchange of Prisoners and Other Persons.²¹³ It alleges that Jadranko Prlić also had considerable powers regarding fiscal and financial matters²¹⁴ and that he also directed and supervised the work of the municipal authorities.²¹⁵ It alleges that Jadranko Prlić exercised *de jure* and *de facto* authority and considerable influence over the full range of Herceg-Bosna military and defence matters.²¹⁶ The Prosecution furthermore states that Jadranko Prlić was an important link between the international community and the HVO military and security bodies.²¹⁷

85. The Prosecution likewise contends that Jadranko Prlić had the power to establish and close prisons, camps and detention facilities;²¹⁸ that he also controlled, regulated and/or facilitated the delivery of and access to humanitarian aid in the territory claimed to be part of Herceg-Bosna, including East Mostar.²¹⁹ Finally, the Prosecution submits that Jadranko Prlić played a key role in relations with leaders of Croatia with whom he maintained political, logistical, financial and military cooperation.²²⁰ It submits that Jadranko Prlić worked in close cooperation with Franjo Tuđman and that a large part of his power was derived from the fact that he enjoyed Franjo Tuđman's support.²²¹

86. The Prlić Defence argues that Jadranko Prlić never "effectively eclipsed" Mate Boban²²² and had limited powers in the Government of the HVO HZ(R) H-B;²²³ that as President of the Government of the HVO HZ(R) H-B, Jadranko Prlić was to supervise the implementation of the

²¹⁰ Prosecution Final Trial Brief, para. 382.

²¹¹ Indictment, para. 17.1. (i); Prosecution Final Trial Brief, paras 383 and 385; Prosecution Closing Arguments, T(F), p. 51797.

²¹² Indictment, para. 17.1. (c); Prosecution Final Trial Brief, paras 401-427.

²¹³ Indictment, para. 17.1. (i) and (c); Prosecution Final Trial Brief, paras 271 and 385.

²¹⁴ Indictment, para. 17.1. (g); Prosecution Final Trial Brief, paras 386, 402 and 411.

²¹⁵ Indictment, para. 17.1. (e); Prosecution Final Trial Brief, paras 382 and 383.

²¹⁶ Indictment, para. 17.1. (k), (h), (j); Prosecution Final Trial Brief, paras 364 and 401-421.

²¹⁷ Prosecution Final Trial Brief, para. 420.

²¹⁸ Indictment, para. 17.1. (n); Prosecution Final Trial Brief, para. 464.

²¹⁹ Indictment, para. 17.1. (t).

²²⁰ Indictment, para. 17.1. (b) et (k); Prosecution Final Trial Brief, para. 380.

²²¹ Prosecution Final Trial Brief, para. 392.

²²² Prlić Defence Final Trial Brief, para. 321.

HVO's programme but merely in a technical sense²²⁴ because he had only a limited role²²⁵ and no decision-making powers.²²⁶ The Prlić Defence further submits that the President of the HVO/Government of the HZ(R) H-B did not have the real power to appoint anyone, because appointments were made at the proposal of the departments of the HVO/Government.²²⁷ Moreover, it submits that Jadranko Prlić had no power of control over the departments of the HVO HZ(R) H-B or the ministries of the Government of the HR H-B;²²⁸ that he in particular had no control over the civilian police or the Head of the Department of the Interior.²²⁹ Furthermore, it argues that neither Jadranko Prlić nor the HVO HZ(R) H-B had control over the municipalities or areas within the municipalities of the HZ(R) H-B.²³⁰ The Prlić Defence asserts that Jadranko Prlić had no *de facto* influence or control over the military HVO and did not, and could not, issue any orders, make any operational decisions, impose his will on the Main Staff, or command any HVO units.²³¹ It further argues that the HVO never participated in discussions about the operations of the Main Staff of the HVO.²³² The Prlić Defence also contends that Jadranko Prlić was not responsible for opening any prisons or concentration camps and, while he made concerted efforts to close those facilities, he neither had *de jure* nor *de facto* authority to do so.²³³ Lastly, the Prlić Defence argues that while Jadranko Prlić did admittedly attend some meetings in Zagreb hosted by the Croatian leadership, no evidence supports a finding that he was attending meetings as a member of the alleged JCE or that he "led high-level meetings".²³⁴

87. In view of the allegations in the Indictment, the Chamber will determine (1) the scope of Jadranko Prlić's powers as President of the HVO/Government of the HZ(R) H-B in directing the work and activities of the HVO/Government, its departments/ministries, commissions and services, as well as municipal organs. It will then examine more particularly (2) his authority in military matters, (3) his powers in establishing and maintaining the detention centres of the HZ(R) H-B, as well as (4) his powers in the delivery of and access to humanitarian aid. Finally, it will consider (5)

²²³ Prlić Defence Final Trial Brief, paras 172-174, 224, 319-321, 327 (a), (c), (e), (h), (i), (u) and 338. *See also* Prlić Defence Closing Arguments, C(F), pp. 52227-52230 and 52232-52234.

²²⁴ Prlić Defence Final Trial Brief, para. 172.

²²⁵ Prlić Defence Final Trial Brief, para. 173.

²²⁶ Prlić Defence Final Trial Brief, paras 320 and 321.

²²⁷ Prlić Defence Final Trial Brief, paras 174, 320 and 327 (i).

²²⁸ Prlić Defence Final Trial Brief, para. 320.

²²⁹ Prlić Defence Final Trial Brief, paras 326 (b) and 327 (h).

²³⁰ Prlić Defence Final Trial Brief, paras 320 and 327 (e).

²³¹ Prlić Defence Final Trial Brief, paras 319-321, 326 (b), 327 (a), 327 (h) and 346. *See also* Prlić Defence Closing Arguments, pp. 52227-52230.

²³² Prlić Defence Final Trial Brief, para. 319.

²³³ Prlić Defence Final Trial Brief, paras 321, 326 (h) and 346. *See also* Prlić Defence Closing Arguments, T(F), p. 52282.

²³⁴ Prlić Defence Final Trial Brief, para. 327 (b).

Jadranko Prlić's links with the Republic of Croatia and its leaders, and (6) formulate its findings with regard to Jadranko Prlić's powers.

1. Jadranko Prlić's Powers as President of the Government of the HVO HZ(R) H-B in Directing the Work and Activities of the Government of the HVO HZ H-B (including Departments/Ministries, Commissions and Services, as well as Fiscal, Judiciary and Municipal Organs)

a) Jadranko Prlić's Decision-Making Powers in the HVO/Government of the HZ(R) H-B

88. The Chamber notes that between August 1992 and April 1994, Jadranko Prlić organised and presided over many meetings of the HVO/Government of the HZ(R) H-B, which met at least once a week,²³⁵ as well as those of the "cabinet" of the Government of the HR H-B, which had the authority to make urgent decisions on defence and security when the circumstances did not allow for a meeting of the government to be held.²³⁶ Meetings of the HVO/Government of the HZ(R) H-B were attended in particular, by Mate Boban,²³⁷ President of the HZ(R) H-B;²³⁸ Bruno Stojić,²³⁹ Head of the Department of Defence of the HVO HZ H-B and later Minister of Defence of the HVO HR H-B;²⁴⁰ Valentin Ćorić,²⁴¹ Chief of the Military Police Administration²⁴² and later Minister of the Interior of the HR H-B;²⁴³ as well as by Milivoj Petković and Slobodan Praljak,²⁴⁴ Chief and Commander of the Main Staff respectively.²⁴⁵ Mate Boban and Valentin Ćorić also attended, alongside Jadranko Prlić, meetings of the "cabinet" of the Government of the HR H-B.²⁴⁶ These meetings – and sometimes also those of the "cabinet", led by Jadranko Prlić – discussed in particular defence and security issues, including the military situation in the territory of the

²³⁵ P 09078, p. 94. For example, the HVO met eight times in January 1993: P 01063; P 01097; P 01137; P 01197; P 01227; P 01264; P 01317; P 01324. Five times in June 1993: P 02606; 1D 01610; 1D 01668/P 03413; 1D 01275; P 02874. Four times in August 1993: 2D 01272; P 04111; P 04276/P 04275; P 04560.

²³⁶ P 05517, p. 2. *See*, for example, P 06667; P 07279; P 07310; P 08092.

²³⁷ *See*, for example, P 01798.

²³⁸ Mate Boban was first president of the HZ H-B and then the HR H-B: *see* "President of the HZ(R) H-B" in the Chamber's factual findings with regard to the political and administrative structure of the HZ(R) H-B. Regarding his participation in HVO meetings, *see*, for example, P 01798; P 06667.

²³⁹ *See*, for example, P 00543; P 00715; P 01197; P 01602; P 01798; 1D 01666; 1D 01610; P 03573; P 04111; P 04841; P 05955; 1D 02179.

²⁴⁰ P 01146; P 09545, pp. 77 and 78. Bruno Stojić then held the post of Head of the HR HB's Office for the Production and Sale of Weapons and Military Equipment: P 07200.

²⁴¹ *See*, for example, P 06667; P 07082; P 07514.

²⁴² P 01572, p. 2; P 09545, p. 111.

²⁴³ P 06772.

²⁴⁴ 2D 02000, paras 13 and 92; Davor Marijan, T(F), pp. 35621 and 35622; 1D 01609; P 02575; 1D 01672; P 05799. Regarding the content of the meetings, *see*, for example, Neven Tomić, T(F), pp. 33974-33979.

²⁴⁵ Milivoj Petković was Chief of the HVO Main Staff from April 1992 to July 1993 and from April 1994 to August 1994: 4D 00830, p. 6; Herbert Okun, T(F), p. 16674.

²⁴⁶ P 06667; P 07310.

HZ(R) H-B;²⁴⁷ the establishment of a military judiciary in the territory of the HZ(R) H-B²⁴⁸ and measures to be taken to ensure the observance of the "codes of war";²⁴⁹ the budget of the HZ(R) H-B;²⁵⁰ the movement of the Croatian population to the territories of the HZ(R) H-B;²⁵¹ the location, detention conditions and exchange of "prisoners of war" with the ABiH²⁵² as well as the passage of humanitarian convoys through the territory of the HZ(R) H-B.²⁵³

89. The Chamber recalls that according to *Neven Tomić*,²⁵⁴ the HVO Government adopted decisions on the basis of proposals from the HVO departments discussed at HVO sessions.²⁵⁵ Giving a statement as a suspect, Jadranko Prlić denied having had any decision-making powers in the HVO as they lay in the hands of the collective organ of the HVO Government over which he presided.²⁵⁶ Thus he could not make any decisions either formally or actually.²⁵⁷ The Chamber, however, recalls that, as President of the HVO/Government of the HZ(R) H-B, Jadranko Prlić had the power to lead debates at government meetings, led discussions about the adoption of bills or decrees, led the taking of the vote and, where necessary, proposed the revision of bills.²⁵⁸ It also recalls that the President of the HVO/Government of the HZ(R) H-B, namely Jadranko Prlić, signed the official HVO documents, such as decrees and decisions.²⁵⁹ The Chamber notes that during or following meetings of the HVO/Government, Jadranko Prlić signed many decrees and decisions on various matters, including the appointment and dismissal of HVO members at the level of the Government, departments/ministries and services of the HZ(R) H-B,²⁶⁰ for example, the

²⁴⁷ See, for example, P 01197; P 01227; P 01324; P 01798; 1D 01664; 1D 01666; P 02575; 1D 01609; 1D 01667; 1D 01668; 1D 01275; P 03796; P 04756; 4D 00508, p. 1; P 09078, p. 94.

²⁴⁸ 1D 01179, item 13, p. 4; P 00559, items 3 to 5; 2D 01262.

²⁴⁹ P 06687 under seal, p. 2; Roger Watkins, T(F), pp. 18798 and 18799.

²⁵⁰ See, for example, 2D 01262; P 01097, p. 3; P 08092..

²⁵¹ See, for example, 1D 01668; 1D 01872.

²⁵² See, for example, P 01439; P 02679; P 03560, item 7; P 04841, conclusion 1.

²⁵³ See, for example, P 01602; P 08114, p. 6.

²⁵⁴ Head of the HVO Department of Finance and then Deputy Finance Minister of the HR H-B; *Neven Tomić* was Head of the HVO Department of Finance from 15 August 1992 until at least August 1993: Miroslav Rupčić, T(F), p. 23333; *Neven Tomić*, T(F), pp. 33720, 33724, 33730 and 34105; P 10275; 1D 01934. Following the establishment of the HR H-B in August 1993, *Neven Tomić* became Deputy Finance Minister of the HR H-B under the management of Finance Minister Jozo Martinović: *Neven Tomić*, T(F), pp. 33880 and 34087.

²⁵⁵ *Neven Tomić*, T(F), p. 34126. See "Organisation of Work within the Government of the HVO HZ H-B and within the Government of the HR H-B" in the Chamber's factual findings with regard to the political and administrative structure of the HZ(R) H-B.

²⁵⁶ P 09078, p. 36. See also P 00303, Article 16.

²⁵⁷ Opening Statement by the Accused Prlić, T(F), p. 27562.

²⁵⁸ See "Specific Role of the President of the HVO and the President of the Government of the HR H-B" in the Chamber's factual findings with regard to the political and administrative structure of the HZ(R) H-B.

²⁵⁹ See "Specific Role of the President of the HVO and the President of the Government of the HR H-B" in the Chamber's factual findings with regard to the political and administrative structure of the HZ(R) H-B.

²⁶⁰ See "Specific Role of the President of the HVO and the President of the Government of the HR H-B" in the Chamber's factual findings with regard to the political and administrative structure of the HZ(R) H-B. See also P 00303, article 9; Davor Marijan, T(F), p. 35728; *Neven Tomić*, T(F), pp. 33726 and 34126. See, for example, the minutes of a session of the HVO held on 27 November 1992, during which the HVO unanimously adopted proposals for lower-level

appointment of Berislav Pušić to the post of Head of the Service for the Exchange of Prisoners and Other Persons on 5 July 1993.²⁶¹

90. In view of the foregoing, the Chamber finds that Jadranko Prlić as President of the HVO/Government participated in the HVO/Government meetings and was informed of the situation in the territory of the HZ(R) H-B. He contributed to the adoption of decisions taken collectively, which comprised HVO policy, by taking an active part in drawing them up, including decisions relating to the appointment and dismissal of some members of the HVO. Finally, he signed laws, decisions and decrees adopted by the HVO/Government of the HZ(R) H-B.

b) Jadranko Prlić's Direct Involvement in Some HVO Departments/Ministries and Services

91. More particularly as to whether Jadranko Prlić had direct authority over several departments/ministries and services of the HVO/Government of the HZ(R) H-B, the Chamber notes that, concerning the Department/Ministry of Defence, Jadranko Prlić participated in particular in setting up the military and defence programme and structures of the HZ(R) H-B²⁶² for "the most effective possible operation of the defence system".²⁶³ He also approved the methodology for adopting defence plans²⁶⁴ and participated in the adoption of the decision on the control of HZ(R) H-B airspace.²⁶⁵ He also made some appointments, for example, Marijan Biškić who on 1 December 1993 was appointed Deputy Minister responsible for security in the Ministry of Defence of the HR H-B.²⁶⁶ The Chamber further notes that Bruno Stojić regularly reported to his President on defence matters, including the military situation on the ground.²⁶⁷ The Chamber also notes that on 29 July 1993, because of the overall military situation in the territory of the HZ H-B, especially in the Mostar area, the HVO agreed that Jadranko Prlić would organise special working meetings with the collegiums of the departments of defence and the interior.²⁶⁸

92. The Chamber considers that this evidence shows that as President of the HVO/Government of the HZ(R) H-B, Jadranko Prlić was involved in the supervision and activities of the Department/Ministry of Defence of the HZ(R) H-B.

appointments in the departments: P 00824, pp. 3 and 4; 1D 00190 and 1D 00193; P 05813/P 05517, Article 17; Philip Watkins, T(F), p. 18796; P 06687 under seal, p. 1; P 01136; P 03204; P 04565; P 06996.

²⁶¹ P 03191/P 03208; Witness BB, T(F), p. 25269, closed session.

²⁶² P 00988; P 00518, p. 3.

²⁶³ This appointment was made at the proposal of Bruno Stojić, *see* P 00988, Article 1.

²⁶⁴ P 00767, p. 3.

²⁶⁵ P 07310, p. 7.

²⁶⁶ *See* "The SIS of the HR H-B" in the Chamber's factual findings with regard to the political and administrative structure of the HZ(R) H-B. The Chamber recalls that the Defence Minister at that time was Perica Jukić.

²⁶⁷ *See* in particular P 01324, pp. 2 and 3; 1D 02179.

²⁶⁸ P 03796, p. 5.

93. As to whether Jadranko Prlić had direct authority over the Department/Ministry of the Interior, the Chamber observes that, through a decision signed on 6 January 1993 by Jadranko Prlić as President of the HVO HZ H-B, the HVO HZ H-B appointed two deputy heads of the HVO Department of the Interior.²⁶⁹ The Chamber notes that on 29 July 1993, through a decision signed by Jadranko Prlić, the HVO HZ H-B approved the rules on the internal organisation of the Department of the Interior.²⁷⁰ It further notes that Jadranko Prlić attended and/or presided over meetings of the Government of the HR H-B at which decisions about the Ministry of the Interior and its activities were adopted,²⁷¹ for example the decision of 27 December 1993, whereby the Ministry of the Interior was entrusted with preparing a report on the measures and actions taken to prevent crime and related activities in the territory of the HR H-B.²⁷² Moreover, on 29 July 1993, because of the overall military situation in the territory of the HZ H-B, especially in the Mostar area, the HVO agreed that Jadranko Prlić would organise special working meetings with the collegiums of the departments of defence and the interior.²⁷³ Lastly, the Chamber notes that Jadranko Prlić proposed the appointment of Valentin Ćorić as Minister of the Interior of the HR H-B²⁷⁴ to Franjo Tuđman, who approved it.²⁷⁵

94. The Chamber considers that this evidence shows that, as President of the HVO/Government of the HZ(R) H-B, Jadranko Prlić was involved in the supervision and activities of the Department/Ministry of the Interior of the HZ(R) H-B.

95. As to whether Jadranko Prlić had direct authority over the Department/Ministry of Justice and General Administration, the Chamber observes that, as President of the HVO/Government of the HZ(R) H-B, Jadranko Prlić presided over and attended several government meetings and those of the "cabinet" of the Government of the HR H-B, at which decisions on the organisation of the judicial authorities, more specifically, the structure of the judicial bodies and the appointment of judges and prosecutors, were taken.²⁷⁶ The Chamber recalls that the power to appoint the personnel of the Department of Justice and General Administration as well as the judges and prosecutors of

²⁶⁹ 1D 00190 and 1D 00193.

²⁷⁰ P 03791.

²⁷¹ P 06667, p. 4; P 07354, p. 2; P 07514, p. 6; P 08253, pp. 6 and 10; P 08276, pp. 5, 6, 11 and 12; P 06689, p. 2; P 01403, pp. 3 and 4; P 07850.

²⁷² P 07354, p. 2.

²⁷³ P 03796, p. 5.

²⁷⁴ P 06583; Marijan Biškić, T(F), p. 15050; P 06581, pp. 26-29.

²⁷⁵ P 06581, pp. 26-29.

²⁷⁶ P 00559, pp. 3-5; 2D 01262, pp. 1 and 19-22; P 01137, pp. 5 and 6; P 01536, p. 3; 1D 01184, pp. 5 and 6; P 06189, p. 3; 2D 00854; P 06667, p. 4; P 07310, pp. 1, 2, 7 and 8; P 07631, pp. 1 and 2. See also "A Judicial System in Difficulty" in the Chamber's factual findings with regard to the ordinary law judicial structure.

military and civilian courts rested with the Presidency of the HZ H-B.²⁷⁷ It, however, notes that as of 17 October 1992, Jadranko Prlić signed some appointments in the Department of Justice and General Administration, and appointed judges.²⁷⁸

96. The Chamber considers that this evidence shows that, as President of the HVO/Government of the HZ(R) H-B, Jadranko Prlić was involved in the supervision and activities of the Department/Ministry of Justice and General Administration of the HZ(R) H-B.

97. As to whether Jadranko Prlić had the power to control the fiscal and financial organs of the HVO/Government of the HZ(R) H-B, the Chamber notes that between August 1992 and January 1994, Jadranko Prlić, as President of the HVO/Government of the HZ(R) H-B, controlled, in whole or in part, the fiscal and financial organs of the HVO HZ(R) H-B.²⁷⁹ Through those organs, he directed, supported and facilitated the raising or collection of funds, more specifically, the collection of excise payments,²⁸⁰ taxes²⁸¹ and customs duties.²⁸² The Chamber notes in particular that Jadranko Prlić drew up, supervised and controlled the budget of the HVO/Government of the HZ(R) H-B.²⁸³

98. The Chamber considers that this evidence shows that, as President of the HVO/Government of the HZ(R) H-B, Jadranko Prlić directed and controlled the fiscal organs of the HVO/Government of the HZ(R) H-B and its budget.

99. As to whether Jadranko Prlić had power over the ODPR, the Chamber recalls its findings that, at the organisational level, the ODPR was accountable to the HVO HZ H-B and not to its president personally.²⁸⁴ However, much evidence shows that Jadranko Prlić was personally involved in the activities of the ODPR and its management. The Chamber recalls that, through a decision signed by Jadranko Prlić on 27 November 1992, the HVO established the ODPR as well as its internal organisation and scope of responsibility.²⁸⁵ The same day, as the President of the HVO,

²⁷⁷ See "Department of Justice and Administration" in the Chamber's factual findings with regard to the political and administrative structure of the HZ(R) H-B.

²⁷⁸ Zoran Buntić, T(F), pp. 30421, 30932 and 30933; P 10517, p. 3; P 01061; 1D 02123; 1D 02124.

²⁷⁹ See, for example, 1D 00036, Article 2; P 00102; Miroslav Rupčić, T(F), pp. 23448-23451; P 01097, p. 1.

²⁸⁰ See, for example, 1D 00028; 1D 00030.

²⁸¹ See, for example, 1D 00025; P 00102; Miroslav Rupčić, T(F), pp. 23448-23451.

²⁸² See, for example, P 00408/1D 00013; 1D 00034.

²⁸³ P 00412; P 00511; Miroslav Rupčić, T(F), pp. 23342 and 23343; 1D 02135; P 07628; P 06189, p. 2; P 01403, pp. 3 and 4; 1D 02136.

²⁸⁴ See "Hierarchical Nexus between the ODPR with the HVO and the Government of the HR H-B" in the Chamber's findings with regard to the political and administrative structure of the HZ(R) H-B.

²⁸⁵ See "ODPR" in the Chamber's factual findings with regard to the political and administrative structure of the HZ(R) H-B.

Jadranko Prlić signed a decision appointing Darinko Tadić to the post of Head of the ODPR.²⁸⁶ On 31 May 1993, he proposed to the HVO HZ H-B that Martin Raguž be appointed Deputy Head of the ODPR and signed the decision to that effect.²⁸⁷ Darinko Tadić headed the ODPR until 1 December 1993, when the Government of the HR H-B, through a decision signed by Jadranko Prlić, replaced him with Martin Raguž.²⁸⁸ *Witness BA*, who had the opportunity to meet Darinko Tadić and Jadranko Prlić, stated that Darinko Tadić was directly subordinated to Jadranko Prlić.²⁸⁹ The Chamber also notes that the ODPR submitted monthly reports on its activities to the HVO/Government of the HZ(R) H-B.²⁹⁰ Furthermore, the Chamber notes that on 21 June 1993, the HVO, through a decision signed by Jadranko Prlić, established a "headquarters" for organising and coordinating the work of the bodies of the HVO and the HZ H-B and the municipal councils of the HVO that looked after displaced persons and refugees.²⁹¹ The headquarters comprised, *inter alia*, Darinko Tadić and Martin Raguž.²⁹² On 16 July 1993, Jadranko Prlić participated in a meeting – attended among others, by Krešimir Zubak, Minister of Justice and General Administration,²⁹³ and Darinko Tadić, Head of the ODPR of the HZ H-B²⁹⁴ – during which they informed an international organisation of their plan to negotiate with the Croatian ODPR for transit visas for Muslims "wishing to leave",²⁹⁵ that is, for about 10,000 people, including men who were then detained.²⁹⁶ The Chamber also observes that, in a letter addressed to the ODPR and dated 16 August 1993, Jadranko Prlić instructed the ODPR to facilitate the working conditions for three experts from the Croatian ODPR and ensure their security and access to information during their visit in the territory of the HZ H-B as part of joint activities related to displaced persons and humanitarian and social issues.²⁹⁷

100. The Chamber finds that Jadranko Prlić was involved in directing and organising the activities of the ODPR and had the power to direct and control it.

²⁸⁶ P 00848. *See also* "ODPR" in the Chamber's factual findings with regard to the political and administrative structure of the HZ(R) H-B.

²⁸⁷ Martin Raguž, T(F), pp. 31310-31316; P 03079, p. 2. *See also* "ODPR" in the Chamber's factual findings with regard to the political and administrative structure of the HZ(R) H-B.

²⁸⁸ *See* "ODPR" in the Chamber's factual findings with regard to the political and administrative structure of the HZ(R) H-B.

²⁸⁹ *Witness BA*, T(F), pp. 7164 and 7165, closed session; P 09712 under seal, para. 12; 1D 02141.

²⁹⁰ Martin Raguž, T(F), pp. 31309, 31310 and 31387.

²⁹¹ Martin Raguž, T(F), pp. 31545 and 31546.

²⁹² Martin Raguž, T(F), pp. 31545 and 31546; P 03092.

²⁹³ P 07424, p. 1.

²⁹⁴ P 00848.

²⁹⁵ The quotation marks are in the original text.

²⁹⁶ P 09679 under seal, p. 1.

²⁹⁷ 1D 02141.

101. As to whether Jadranko Prlić had power over the Service for the Exchange of Prisoners and Other Persons, the Chamber recalls that during a meeting held on 5 July 1993 and chaired by Jadranko Prlić, the HVO HZ H-B decided to set up the Service as an executive organ of the Commission for Exchanges which was also established at that meeting.²⁹⁸ The same day, Jadranko Prlić, as President of the HVO HZ H-B, signed the decision establishing the Service for the Exchange of Prisoners and Other Persons and appointed Berislav Pušić as its head.²⁹⁹

102. On 29 July 1993, Jadranko Prlić participated in a meeting of the HVO HZ H-B at which it was unanimously decided to "expand the Service for the Exchange of Prisoners and Other Persons" to include representatives of the HVO HZ H-B from the municipalities of Mostar, Čapljina, Livno and Stolac because of "the situation on the ground" and, in particular, "the migration of the Muslim population".³⁰⁰

103. Moreover, in a letter dated 10 December 1993, Berislav Pušić proposed to Jadranko Prlić, among other things, that a body other than the Service for the Exchange of Prisoners and Other Persons be entrusted with the classification of prisoners and that the Government of the HR H-B, whose President was Jadranko Prlić, approve a list of "persons [civilians] who voluntarily want to leave the area of the HR H-B" drawn up by the Service for the Exchange of Prisoners and Other Persons.³⁰¹ The Chamber also recalls that on 15 and 18 December 1993 as well as on 3 January 1994, further to Mate Boban's decision of 10 December 1993 to close the detention facilities in the territory of the HR H-B by 17 December 1993 at the latest, Berislav Pušić sent reports to the Government of the HR H-B regarding the release of detainees from the prisons in Gabela and Ljubuški and the Heliodrom.³⁰²

104. In view of the evidence, the Chamber finds that Jadranko Prlić, as President of the Government of the HVO HZ(R) H-B, exercised direct authority over the Service for the Exchange of Prisoners and Other Persons in particular, by supervising the establishment, organisation and activities of the Service and by being keeping informed of its activities.

²⁹⁸ See "Exchange Service and Commission for Prisoners and Other Persons" in the Chamber's factual findings with regard to the political and administrative structure of the HZ(R) H-B.

²⁹⁹ See "Powers of the Exchange Service and Commission" and "Hierarchical Nexus between the Exchange Service and the HVO of the HZ H-B" in the Chamber's factual findings with regard to the political and administrative structure of the HZ(R) H-B.

³⁰⁰ P 03796, p. 4.

³⁰¹ P 07102, p. 6.

³⁰² See "Transfer and Release of Detainees from Gabela Prison" in the Chamber's factual findings with regard to Gabela Prison.

c) Jadranko Prlić's Involvement in Directing and Supervising the Work of Municipal Governments

105. As to Jadranko Prlić's power to direct and supervise the work of the municipal governments, the Chamber recalls that the HVO/Government of the HZ(R) H-B coordinated the work of the municipal administrative bodies and could dissolve the municipal HVOs, annul their enactments, and appoint and dismiss their members.³⁰³ The HVO Government could also abrogate the decisions of the municipal HVOs that contravened the regulations in force in the HZ(R) H-B.³⁰⁴ It was in this context that Jadranko Prlić directed and supervised the work of the HVO municipal authorities.³⁰⁵ He participated in the decision of 22 March 1993 on the dissolution of the municipal HVOs which did not conform to the policies in force in the HZ(R) H-B, for example the Ljubuški HVO because of the difficulties linked to the mobilisation of conscripts in that municipality.³⁰⁶ He also received reports from the municipal HVOs, *inter alia*, on the relations between the municipal HVOs and the HVO HZ H-B.³⁰⁷ Finally, Jadranko Prlić participated in the appointment of members of various municipal HVO councils, among others, those of the municipalities of Vareš, Jablanica and Ljubuški.³⁰⁸

2. Jadranko Prlić's Powers in Military Matters

106. The Chamber recalls its findings that Mate Boban, the Supreme Commander, sent his military orders to the Chief of the Main Staff and sometimes to the Head of the Department of Defence.³⁰⁹ The Main Staff sent orders directly to the military units.³¹⁰ Although the Chamber acknowledges that, hierarchically speaking, Jadranko Prlić was not directly superior to the Main Staff,³¹¹ which was responsible for the conduct of military operations on the ground,³¹² the fact remains that Jadranko Prlić as President of the HVO/Government had an influence on the defence strategy and the military operations of the HVO. The Chamber recalls that, as a civilian authority,

³⁰³ See "Relations of the HVO HZ H-B and the Government of the HR H-B with Municipal Authorities" in the Chamber's factual findings with regard to the political and administrative structure of the HZ(R) H-B.

³⁰⁴ See "Relations of the HVO HZ H-B and the Government of the HR H-B with Municipal Authorities" in the Chamber's factual findings with regard to the political and administrative structure of the HZ(R) H-B.

³⁰⁵ P 00431; P 00921, item 5; P 02248; P 05262.

³⁰⁶ P 01781; P 01700, Article 1.

³⁰⁷ P 01853; 2D 00852, pp. 8 and 9; P 06292.

³⁰⁸ P 05805; P 08239, pp. 9 and 10.

³⁰⁹ See "Role of the Supreme Commander in Guiding the Armed Forces" in the Chamber's factual findings with regard to the military structure of the HZ(R) H-B.

³¹⁰ See "Orders Given by the Main Staff to the Armed Forces" and "Chain of Command and Control of the Armed Forces" in the Chamber's factual findings with regard to the military structure of the HZ(R) H-B.

³¹¹ Marijan Biškić, T(F), p. 15346. Note, however, P 07345, a letter in which Jadranko Prlić "requests" Ante Roso to cooperate; Milivoj Petković, T(F), pp. 50009, 50010, 50342 and 50343.

³¹² See "Command and Control of the Armed Forces by the Main Staff" in the Chamber's factual findings with regard to the military structure of the HZ(R) H-B.

the Government of the HVO HZ(R) H-B had the power and responsibility to control, in general and particularly in terms of the military strategy, the armed forces of the HZ(R) H-B.³¹³ The Chamber notes that between August 1992 and April 1994, Jadranko Prlić, as President of the HVO/Government of the HZ(R) H-B, participated in meetings, some of which he even chaired, during which the situation and the military strategy of the HVO in the territory claimed to be part of the HZ(R) H-B were discussed.³¹⁴ During the meetings, the HVO/Government adopted regulations concerning the mobilisation of military personnel³¹⁵ and the supply of weapons, ammunition and other military equipment to the HVO.³¹⁶ The Chamber notes in particular the HVO's decision of 15 January 1993, signed by Jadranko Prlić, which set out that all the ABiH forces stationed in the provinces declared Croatian provinces by the "Geneva accords" were to submit themselves to the command of the HVO Main Staff within five days.³¹⁷ The decision was to be implemented by the Department of Defence.³¹⁸ The Chamber also notes the HVO meeting of 3 April 1993, chaired by Jadranko Prlić and attended among others by Mate Boban and Bruno Stojić during which the HVO set 15 April 1993 as the deadline for the implementation of the Vance-Owen Plan, which, for the HVO, meant, in particular, the subordination of the ABiH armed forces to the HVO in provinces 3, 8 and 10 and the setting up of a joint HVO/ABiH command in other provinces.³¹⁹ It was also decided that if the Muslim authorities refused to sign a declaration to that effect, the HVO would apply it unilaterally, including by military means.³²⁰

107. The Chamber notes that, according to *Milivoj Petković's* testimony, Jadranko Prlić could issue operative orders to the armed forces but only through the Department of Defence.³²¹ The Chamber, however, notes that Jadranko Prlić, as President of the HVO/Government, issued decisions which had a direct impact on the course of the military operations of the armed forces of the HZ(R) H-B.³²² For example, on 26 June 1993, Bruno Stojić, Head of the HVO Department of Defence, Jadranko Prlić, Mate Boban, the Supreme Commander, and the Main Staff co-signed an order instructing the municipal HVOs of Livno and Tomislavgrad, among other things, to ensure

³¹³ See "Powers of the HVO HZ H-B and the Government of the HR H-B in Military Matters" in the Chamber's factual findings with regard to the military structure of the HZ(R) H-B.

³¹⁴ P 00479; 2D 01262, pp. 4-7; P 00767, p. 3; P 01798; 2D 00852, p. 6; P 07310, pp. 2-7; P 08239, pp. 6 and 7.

³¹⁵ P 00767, pp. 3 and 7; P 01836; P 02707; P 07396; P 03039.

³¹⁶ P 00951; P 07041.

³¹⁷ P 01146.

³¹⁸ P 01155, p. 1; P 01146, p. 2.

³¹⁹ P 01798, p. 3. See also "Subsequent History of the Vance-Owen Plan; Attempts to Implement the Principles of the Plan in the Field (January 1993 - August 1993)" in the Chamber's factual findings with regard to the main events following the establishment of Herceg-Bosna.

³²⁰ P 01798, p. 4. See also "Subsequent History of the Vance-Owen Plan; Attempts to Implement the Principles of the Plan in the Field (January 1993 - August 1993)" in the Chamber's factual findings with regard to the main events following the establishment of Herceg-Bosna.

³²¹ Milivoj Petković, T(F), pp. 50009, 50010, 50342 and 50343.

that the Military Police forces allowed Serbs to leave the territory of the two municipalities.³²³ On 30 June 1993, Jadranko Prlić and Bruno Stojić co-signed a proclamation addressed to the Presidents of the municipal HVOs, all Defence Offices, the commands of the military and the civilian police and the media, declaring - following an attack by Muslim forces - a general mobilisation and the introduction of a curfew.³²⁴

108. Furthermore, the Chamber notes that representatives of the international community stated that they discussed military issues with Jadranko Prlić and that he appeared to be very well informed of the situation on the ground such as the situation in and around Mostar, in central Bosnia and, more generally, in the areas claimed to belong to the HZ(R) H-B under the Vance-Owen Plan, between October 1992 and April 1994.³²⁵

109. The Chamber further notes that Jadranko Prlić played a key role in a series of ceasefire negotiations in Gornji Vakuf in January 1993³²⁶ and in Mostar between the HVO and the ABiH in December 1993 and around January 1994.³²⁷ The evidence shows that Jadranko Prlić not only attended those negotiations as the highest representative of the HVO but also took decisions on behalf of the HVO, for example, to stop the use of HVO forces in combat or to set up a team of negotiators.³²⁸

110. Moreover, the Chamber recalls its findings that the Prosecution did not prove beyond reasonable doubt that Jadranko Prlić had direct authority over the MUP of the HZ(R) H-B.³²⁹ The Chamber nevertheless notes Jadranko Prlić's power to coordinate the deployment of civilian police units which at that time were under the direct authority of the Ministry of the Interior.³³⁰ On 20 October 1993, Jadranko Prlić signed a decision adopted by the Government on 19 October 1993, accepting the proposal of the Ministry of the Interior of the HR H-B recommending to the Ministry of Defence of the HR H-B that, in cooperation with the Main Staff, the active police be replaced by

³²² P 01184; 1D 01588; P 03038, p. 1; Philip Watkins, T(F), p. 18799; P 06687 under seal, p. 2.

³²³ P 02967.

³²⁴ P 03038, p. 1.

³²⁵ Ray Lane, T(F), pp. 23637-23639, 23642-23643, 23649 and 23716; Witness BB, T(F), p. 17157, closed session; P 09839 under seal, paras 1 and 4.3; Christopher Beese, T(F), pp. 3179-3181, private session; Witness DZ, T(F), pp. 26482-26484, closed session; P 10367 under seal, paras 14 and 20; Witness BB, T(F), pp. 17157, 17159 and 17160, closed session. *See also* P 02046 and P 01015.

³²⁶ Ray Lane, T(F), pp. 23681-23684, 23687, 23688, 23691, 23696 and 23697; P 01238; P 01215.

³²⁷ Witness DZ, closed session, T(F), pp. 26688-26697, 26701 and 26715-26717; 1D 02189 under seal; 1D 02098; P 07576, pp. 2 and 3.

³²⁸ P 01215, p. 2; 1D 02189 under seal, p. 1.

³²⁹ *See* "Ministry of the Interior" in the Chamber's factual findings with regard to the political and administrative structure of the HZ(R) H-B.

³³⁰ *See* "Ministry of the Interior" in the Chamber's factual findings with regard to the political and administrative structure of the HZ(R) H-B.

HVO reserve units on the front lines.³³¹ On 28 November 1993, Valentin Ćorić, Minister of the Interior at that time, informed Mate Boban, Jadranko Prlić and Ante Roso that he planned to implement the decision.³³²

111. In view of the evidence, the Chamber finds, by a majority, with Judge Antonetti dissenting, that Jadranko Prlić had power in military matters, in particular the power to preside over and participate in meetings at which decisions on the strategy and the military situation in the HZ(R) H-B were taken, to adopt decisions and decrees on such matters, to be informed about the military situation and, if necessary, to take decisions directly which had a direct impact on the course of the military operations of the armed forces of the HZ(R) H-B.

3. Jadranko Prlić's Authority over Detention Centres

112. The Chamber recalls that Gabela Prison was officially established and Boško Previšić was appointed as its warden through two HVO decisions taken on 8 June 1993 and signed by Jadranko Prlić.³³³ The Chamber notes that Jadranko Prlić also held the power to close the detention centres in the territory of the HZ(R) H-B, because on 30 November 1993, during a meeting which was also attended by international representatives, Jadranko Prlić said he intended to close the "PoW camps" and was prepared to do so unilaterally, if necessary.³³⁴ On 2 December 1993, he sent a letter to Cedric Thornberry, Head of the UNPROFOR Civil Affairs Office, and to Haris Silajdžić, President of the Government of BiH,³³⁵ in which he asked the international representatives to use their influence with the Muslims leaders so as to ensure that all detention centres set up by the HVO and the ABiH were closed at the same time.³³⁶ By a decision dated 22 December 1993, Jadranko Prlić officially closed Gabela Prison.³³⁷

113. Jadranko Prlić also had the power to grant access to the detention centres to the international organisations. The Chamber already found that Jadranko Prlić intervened to grant access to the

³³¹ P 05963; P 06837.

³³² P 06837.

³³³ Jadranko Prlić's decision establishes two detention centres: the "county" military prison and the "county prison" for the municipalities of Čapljina, Neum, Ljubuški and Ravno at Gabela: *see* "Opening and Closing of Gabela Prison" in the Chamber's factual findings with regard to Gabela Prison.

³³⁴ P 06965, paras 2 and 6.

³³⁵ 1D 01874, pp. 1-3; Witness DZ, T(F), p. 26681, closed session.

³³⁶ P 07008, p. 2, para. 2.

³³⁷ "Opening and Closing of Gabela Prison" in the Chamber's factual findings with regard to Gabela Prison.

Heliodrom to the representatives of several international organisations and journalists on 16 August 1993,³³⁸ suggesting to one of them to visit the sites.³³⁹

114. In view of the evidence, the Chamber finds that Jadranko Prlić had power to set up and close detention centres in the HZ(R) H-B and to authorise access to the detention centres to international organisations.

4. Jadranko Prlić's Powers in Delivery of and Access to Humanitarian Aid

115. The Chamber notes that on 17 November 1992, Mile Akmadžić, President of the Government of the RBiH, appointed Jadranko Prlić as the representative of the BiH Government, in particular, for cooperation with the logistics centres of the Republic of Croatia in the distribution of humanitarian aid to the inhabitants of BiH.³⁴⁰

116. According to *Klaus Johann Nissen*, an ECMM observer,³⁴¹ Jadranko Prlić was authorised to conclude agreements on behalf of the HVO HZ(R) H-B on the passage of humanitarian convoys to the north of BiH because that fell within his political and military remit in the HVO.³⁴² According to *Witness BA*, a representative of an international organisation,³⁴³ Jadranko Prlić was the main HVO official for negotiating and authorising the passage of humanitarian convoys in the territory of the HZ(R)H-B.³⁴⁴

117. The Chamber also recalls that in June, July and August 1993, Jadranko Prlić participated in many meetings between representatives of international organisations and the HVO negotiating free access for humanitarian convoys to the HZ(R) H-B and, more specifically, to East Mostar.³⁴⁵ Moreover, on 10 July 1993, Jadranko Prlić participated in negotiating and concluding the Makarska

³³⁸ See "Access to the Heliodrom for Representatives of International Organisations and Journalists" in the Chamber's factual findings with regard to the Heliodrom.

³³⁹ See "Access to the Heliodrom for Representatives of International Organisations and Journalists" in the Chamber's factual findings with regard to the Heliodrom.

³⁴⁰ ID 00898.

³⁴¹ Klaus Johann Nissen, T(F), pp. 20405-20407.

³⁴² Klaus Johann Nissen, T(F), p. 20468.

³⁴³ Witness BA, T(F), p. 7153, closed session; P 09712 under seal, para. 3.

³⁴⁴ P 09712 under seal, paras 8 and 56; Witness BA, T(F), pp. 7161 and 7162, closed session. An incident when a UNHCR convoy was stopped by the HVO Military Police near Čapljina in February 1993 illustrates this authority. The UNHCR reported the incident to Jadranko Prlić and the HVO response came from Valentin Ćorić whom Jadranko Prlić had entrusted with the issue: P 01451.

³⁴⁵ "Blocking of International Organisations and Humanitarian Aid" in the Chamber's factual findings with regard to the Municipality of Mostar. See also P 09712 under seal, para. 69; P 10264; Klaus Johann Nissen, T(F), pp. 20467-20469; Witness BD, T(F), pp. 20739 and 20740, closed session; P 04027 under seal; P 09899 under seal, p. 1; P 04358; P 10041, para. 106.

agreement between the ABiH and the HVO on the free passage of humanitarian convoys in the territory of BiH and signed it on behalf of the HVO.³⁴⁶

118. In view of the evidence, the Chamber finds that Jadranko Prlić held the power to negotiate and authorise the delivery of humanitarian aid in the territory of the HZ(R) H-B and in BiH.

5. Links between Jadranko Prlić and Croatian Leaders

119. As to Jadranko Prlić's links with the Government of Croatia, the evidence establishes that between September 1992 and the end of April 1994, Jadranko Prlić, as President of the HVO/Government of the HZ(R) H-B,³⁴⁷ attended five meetings in Croatia with Franjo Tuđman, President of Croatia, and other Croatian leaders.³⁴⁸ From 17 September 1992 onwards, Jadranko Prlić held discussions with Franjo Tuđman about the internal policy of the HVO/Government of the HZ(R) H-B. He was in fact one of Franjo Tuđman's principal interlocutors for discussions about the political and military strategy of the HVO HZ(R) H-B³⁴⁹ and the choice of candidates for posts in the Government of the HR H-B.³⁵⁰ The Chamber further recalls that on 5 and 26 October 1992, Jadranko Prlić, Bruno Stojić, Slobodan Praljak and Milivoj Petković, as members of a "delegation of Croatia and the HZ H-B", met with Ratko Mladić, a general of the VRS,³⁵¹ in particular to discuss the division of BiH between the Serbs and the Croats.³⁵²

120. Jadranko Prlić also worked on economic cooperation between the HZ(R) H-B and the Republic of Croatia³⁵³ and cooperated with the Croatian ODPB in organising the departure of Muslims "wishing to leave"³⁵⁴ the HZ H-B for Croatia or third countries.³⁵⁵

6. The Chamber's Findings on Jadranko Prlić's Powers

121. In view of the evidence, the Chamber finds that Jadranko Prlić, as President of the Government of the HVO HZ(R) H-B, had the power to direct the work and activities of the

³⁴⁶ P 10264; Klaus Nissen, T(F), pp. 20467-20469. The Chamber notes that the agreement was signed by Hadžo Efendić, representative of the RBiH, and Jadranko Prlić, representative of the HVO, in the presence of Mate Granić, representative of the Republic of Croatia, and representatives of the ICRC, the UNHCR and UNPROFOR.

³⁴⁷ P 00498, p. 2.

³⁴⁸ P 00498; P 06454; P 06581; P 07570; P 07856.

³⁴⁹ P 00498, pp. 26-30; P 06454, pp. 30-39; P 06581, pp. 20 and 21; P 07570, translation ET_0186-8196, pp. 55 and 56; P 07856, pp. 46 and 47.

³⁵⁰ P 06454, p. 107; P 06581, translation ET-0132-3041, pp. 18, 19 and 22-30, and translation 1D 57-0070, pp. 1-13.

³⁵¹ Herbert Okun, T(F), p. 16671.

³⁵² P 11376, p. 1; P 11380, pp. 1 and 2. *See also* "The Ultimate Purpose of the Alleged JCE: the Creation of a Croatian Entity Partly within the Borders of the Banovina of 1939" in the Chamber's findings with regard to the JCE.

³⁵³ P 00498, p. 30; P 06454, pp. 37-39.

³⁵⁴ The quotation marks are in the original text.

³⁵⁵ P 09679 under seal, p. 1; P 07019.

Government of the HVO HZ(R) H-B, including the departments/ministries, commissions, services such as the ODPR and the Service for the Exchange of Prisoners and Other Persons as well as fiscal, judicial and municipal bodies. His power in particular involved the power to make regulations and appointments as part of the decisions taken by the collective organ of the HVO/Government. His role in the decision-making process was not limited only to the power of signature. He actively participated in taking the decisions confirmed by the collective body. He also had military prerogatives, in particular with regard to the strategy and the military situation in the HZ(R) H-B, and the possibility to make decisions that had a direct impact on the course of the military operations of the armed forces of the HZ(R) H-B. He held power over the detention centres in the HZ(R) H-B, particularly the power to open and close them and to grant international organisations access to them. Finally, he played a key role in the relations of the HVO/Government of the HZ(R) H-B with the Government of Croatia.

C. Jadranko Prlić's Responsibility under JCE 1

122. The evidence showed that Jadranko Prlić had the role of coordinating and directing the departments/ministries and services of the HVO/Government of the HZ(R) H-B, including in the military sphere. The Chamber will now analyse to what extent Jadranko Prlić, by his acts or omissions in exercising his functions, contributed to the common criminal purpose, particularly to the commission of crimes by the armed forces of the HVO.

123. To do so, the Chamber will analyse in turn the evidence it has about Jadranko Prlić's contribution to the crimes committed by the HVO in (1) the Municipality of Gornji Vakuf in January 1993 and (2) the municipalities of Prozor and Jablanica in April 1993, (3) his involvement in the campaign of mass arrests of Muslims beginning on 30 June 1993, (4) his contribution to the crimes committed in the municipalities of Mostar and (5) Vareš, and (6) his contribution to the HVO policy of population movement. It will then examine (7) his contribution to the crimes committed at various HVO detention facilities, namely the Heliodrom, the Vojno Detention Centre, Dretelj Prison and Gabela Prison. Lastly, after examining whether Jadranko Prlić (8) denied, concealed or encouraged the crimes against the Muslims, or failed to take any measures to prevent the crimes or punish the perpetrators, the Chamber will (9) set out its finding about Jadranko Prlić's contribution to the JCE.

124. Inasmuch as Judge Antonetti disagrees with the majority of the Chamber as to the existence of a JCE,³⁵⁶ he dissents from all of the Chamber's observations and findings with regard to Jadranko Prlić's participation in the JCE. Therefore, the reasoning that follows was adopted by a majority.

1. Municipality of Gornji Vakuf

125. On 15 January 1993, Jadranko Prlić signed a decision, adopted at the extraordinary session of the HVO that same day, whereby all the ABiH units stationed in provinces 3, 8 and 10, declared Croatian provinces by the "Geneva accords", were to submit themselves to the command of the HVO Main Staff within five days. Bruno Stojić, Head of the Department of Defence, was to implement the decision.³⁵⁷ The same day, Bruno Stojić ordered the Main Staff and the Military Police Administration to carry out the HVO decision signed by Jadranko Prlić.³⁵⁸ Milivoj Petković, Chief of the Main Staff, forwarded Bruno Stojić's order to the commanders of the HVO OZs.³⁵⁹ On 16 January 1993, implementing an HVO decision adopted the same day, Miro Andrić, a colonel in the HVO Main Staff,³⁶⁰ passed on the general order on subordination issued by Milivoj Petković on 15 January 1993³⁶¹ to the representatives of the ABiH in Gornji Vakuf and again demanded that all the ABiH forces subordinate themselves to the HVO forces.³⁶² The Chamber recalls that, according to *Fahrudin Agić*, on 14 January 1993 Miro Andrić had demanded the subordination of all the ABiH forces to the HVO forces in the Municipality of Gornji Vakuf.³⁶³ *Fahrudin Agić* also stated that Miro Andrić issued the order on the basis of documents signed by Jadranko Prlić.³⁶⁴ On 16 and 17 January 1993, the ABiH rejected Miro Andrić's orders to subordinate.³⁶⁵

³⁵⁶ See "Existence of a Common Criminal Plan" in the Chamber's findings with regard to the JCE.

³⁵⁷ P 01146; P 09545, pp. 77 and 78.

³⁵⁸ P 01140; Bruno Pinjuh, T(F), pp. 37341-34344.

³⁵⁹ P 01139; P 01156, p. 1.

³⁶⁰ Fahrudin Agić, T(F), pp. 9285-9288; Witness DV, T(F), p. 23037; Slobodan Praljak, T(F), pp. 40689 and 40690.

³⁶¹ A reminder: on 15 January 1993, General Milivoj Petković, Chief of the HVO Main Staff, sent an order on subordination to the chain of command of the HVO armed forces in three of the four operative zones of the HVO armed forces, whereby he ordered all the ABiH units in provinces 3, 8 and 10, declared as Croatian provinces under the Vance-Owen Plan, to subordinate themselves to the HVO in accordance with the orders of Jadranko Prlić and Bruno Stojić: in this respect, see "Subsequent History of the Vance-Owen Plan; Attempts to Implement the Principles of the Plan in the Field (January 1993 - August 1993)" in the Chamber's factual findings with regard to the events following the establishment of Herceg-Bosna; P 01139; also the reference to the Mostar commander in P 01163, pp. 3 and 4.

³⁶² P 01299, pp. 3 and 4; P 01207; P 01162; P 01185, p. 4; P 01236, pp. 4 and 5; 3D 01228, pp. 1 and 2; P 01163, pp. 3 and 4; Nicholas Short, P 09804, *Blaškić* Case, T(F), pp. 22642 and 22653: the Chamber notes that Nicholas Short referred to Zrinko Tokić and not Miro Andrić as the author of one of the two orders on subordination in Gornji Vakuf. The Chamber considers that this information has limited probative value inasmuch as the testimony was admitted by way of a written request pursuant to Rule 92 bis of the Rules, is not corroborated and contradicts the testimony of several witnesses and documentary evidence which attribute the HVO's orders on subordination to Miro Andrić and as being dated 14 and 16 January 1993.

³⁶³ Fahrudin Agić, T(F), pp. 9285-9288; Alistair Rule, P 09803, *Kordić and Čerkez* Case, T(F), pp. 5408 and 5409.

³⁶⁴ According to Fahrudin Agić, Colonel Andrić produced documents from the Government of the HZ H-B "signed" by Jadranko Prlić. The documents arrived by packet communication and, therefore, did not bear Jadranko Prlić's signature

126. On 18 January 1993, Colonel Miro Andrić ordered the HVO troops in Gornji Vakuf to use force to compel the ABiH to implement the terms of the ceasefire agreement of 13 January 1993 and to capture the village of Uzričje in order to open a route to Gornji Vakuf, in accordance with the order sent by his "superiors".³⁶⁶ The same day, 18 January 1993, Jadranko Prlić sent a letter to the Gornji Vakuf municipal HVO and its Croatian population, assuring them of the support of his government which would not leave them "at the mercy of the Muslim extremists" and promising assistance by HVO armed forces, if necessary.³⁶⁷

127. On 19 January 1993, Jadranko Prlić attended negotiations in Mostar to reach a ceasefire agreement for the Municipality of Gornji Vakuf; Milivoj Petković, Arif Pašalić, Commander of the 4th Corps of the ABiH, and representatives of international organisations were also in attendance.³⁶⁸ At the meeting, Arif Pašalić drew attention to the "harassment of the civilian population" in Gornji Vakuf by the HVO Military Police and "special forces".³⁶⁹ Jadranko Prlić said he had no information about the "harassment" of the Muslims and that, to show his "good will", the HVO would not enact by force "the decision [...] whose deadline was 20 January 1993".³⁷⁰ Likewise, on 19 January 1993, Jadranko Prlić chaired a meeting of the HVO HZ H-B, during which Bruno Stojić analysed the "implementation" of the HVO decision of 15 January 1993. Bruno Stojić said, among other things, that the situation in Gornji Vakuf had finally calmed down.³⁷¹ That document clearly shows that the HVO itself saw a connection between the ultimatum of 15 January 1993 and the fighting in Gornji Vakuf. The Chamber observes that in a report for the period 13 to 22 January 1993, Miro Andrić said that, following orders from his "superiors", he had used force in Gornji Vakuf.³⁷² The Chamber also observes that between 19 and 30 January 1993, Željko Šiljeg, Commander of the North-West OZ, sent several reports, particularly to the HVO HZ H-B, on the situation in Gornji Vakuf. In his report of 19 January 1993, he said that the HVO had captured the villages of Uzričje and Duša and some key facilities in the town of Gornji Vakuf, and that several buildings in the town and the villages were "on fire".³⁷³ In a 23 January 1993 report sent to the HVO HZ H-B, Željko Šiljeg said that most buildings in Donja Hrasnica had been burned down or

but only his name: Fahrudin Agić, T(F), pp. 9297 and 9285-9288. However, the Chamber does not know the date or the exact terms of the first order of Jadranko Prlić.

³⁶⁵ P 01236; Alistair Rule, P 09803, *Kordić and Čerkez* Case, T(F), p. 5409; P 01163, pp. 3 and 4; P 01299, p. 4; P 01182, p. 2; P 01207; Nicholas Short, P 09804, *Blaškić* Case, T(F), pp. 22642 and 22653; P 01174, pp. 2 and 3; Andrew Williams, T(F), p. 8659; P 01194; P 01160.

³⁶⁶ 4D 00348/3D 03065.

³⁶⁷ P 01184; P 01197; 4D 00348, p. 3.

³⁶⁸ Ray Lane, T(F), pp. 23681-23684, 23687, 23688, 23691, 23696 and 23697; P 01215. *See also* P 01238.

³⁶⁹ P 01215, p. 3.

³⁷⁰ P 01215, p. 2.

³⁷¹ P 01227, pp. 1 and 2.

³⁷² 4D 00348/3D 03065.

³⁷³ P 01206, p. 1. *See also* 4D 00348/3D 03065.

demolished and that there was no "civilian population" left in Gornja Hrasnica and Donja Hrasnica.³⁷⁴

128. The Chamber recalls that it established that following the HVO attack on the town of Gornji Vakuf on 18 January 1993, the Muslim part of the town was severely destroyed and several houses in the villages of Duša and Uzričje were damaged or destroyed by the HVO forces. The Chamber established that, when the villages were captured following the attack on 18 January 1993, the property of the inhabitants of the villages of Duša and Uzričje – including houses – was burned down by HVO soldiers.³⁷⁵ It also recalls that following the attack on the village of Hrasnica on 18 January 1993, the HVO forcibly removed women, children and elderly people from the village, thus people from the village of Hrasnica who did not belong to any armed force, and destroyed the property of the Muslim inhabitants of that village.³⁷⁶

129. On 25 January 1993, an ECMM representative met with Jadranko Prlić in Mostar regarding the conflict in Gornji Vakuf. Jadranko Prlić said he had ordered the HVO commander in Gornji Vakuf to stop all attacks immediately.³⁷⁷ According to an ECMM report, a partial withdrawal of the HVO troops had been arranged for 26 January 1993.³⁷⁸ The Chamber recalls that, according to *Nicholas Short*,³⁷⁹ the first significant lull in fighting in Gornji Vakuf occurred on 26 or 27 January 1993.³⁸⁰

130. On 29 January 1993, Željko Šiljeg sent a detailed report to the HVO HZ H-B indicating the number of torched Muslim houses and items stolen in the villages of Uzričje, Duša and Trnovača, as well as the names of seven Muslim "civilians" killed during the HVO shelling of Duša.³⁸¹ The Chamber has already established that on the morning of 18 January 1993, the HVO fired several shells on the village of Duša in particular on Enver Šljivo's house, killing seven occupants who had

³⁷⁴ P 01357, p. 6.

³⁷⁵ See "Allegations of Burned Houses and Theft of Muslim Property in the Village of Duša", "Allegations of Burned Houses and Theft of Muslim Property in the Village of Hrasnica", "Allegations of Burned Houses and Theft of Muslim Property in the Village of Uzričje" and "Burned Houses, Thefts of Muslim Property in the Village of Ždrimci and Burning of the *Mekteb*" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

³⁷⁶ See "Attack on the Village of Hrasnica" and "Alleged Criminal Events Following the Attack and Takeover of the Village of Hrasnica" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf. See also "Municipality of Gornji Vakuf" in the Chamber's legal findings with regard to Count 8 (inhumane acts (forcible transfer), a crime against humanity) and Count 9 (unlawful transfer of a civilian, a grave breach of the Geneva Conventions).

³⁷⁷ P 01309, p. 3.

³⁷⁸ P 01309, p. 3.

³⁷⁹ A member of Britbat in Gornji Vakuf from December 1992 to June 1993: Nicholas Short, P 09804, *Blaškić* Case, T(F), p. 22640.

³⁸⁰ Nicholas Short, P 09804, *Blaškić* Case, T(F), p. 24253. See also "Attempts to Arrange a Ceasefire Following the Attacks in the Municipality of Gornji Vakuf" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

³⁸¹ P 01351.

taken refuge there.³⁸² The Chamber holds that this can refer only to the seven "civilians" mentioned in Željko Šiljeg's report of 28 January 1993.³⁸³

131. The Chamber considers that the capture of the villages around Gornji Vakuf and the ensuing crimes were part of the attack plan for the capture of the municipality by the HVO. This can be seen, in particular, in the fact that all the successive attacks on the villages followed the same pattern and that the various reports of commander Željko Šiljeg noted the destruction and appropriation of property with no reference to a possible unlawful nature of the acts. The Chamber considers that Jadranko Prlić was directly involved in planning the attack on Gornji Vakuf, the ultimatum of 15 January 1993 signed by him and its implementation on the ground until the ceasefire when he ordered the cessation of the HVO attacks on 25 January 1993.

132. The Chamber notes that Željko Šiljeg's reports to the HVO discussed the HVO operations launched pursuant to the 15 January 1993 decision signed by Jadranko Prlić. Furthermore, on 19 January 1993 Jadranko Prlić held a meeting with the Head of the Department of Defence, Bruno Stojić, on the "implementation" of the HVO decision of 15 January 1993. The Chamber recalls that Bruno Stojić was one of the addressees of Željko Šiljeg's reports on the HVO operations in Gornji Vakuf. The Chamber, therefore, holds that the only inference it can reasonably draw is that Jadranko Prlić, who was heavily involved in the ultimatum of 15 January 1993, was also informed of the contents of the aforementioned reports of Željko Šiljeg.

133. Colonel Andrić stated that his "superiors" had ordered him to use force to recapture the area. The Chamber holds that the only reasonable inference it can draw is that Jadranko Prlić was one of his "superiors".

134. Inasmuch as Jadranko Prlić participated in planning the attack on Gornji Vakuf, knew about the course of the operations and the crimes committed and continued to exercise his functions in the HVO/Government of the HZ(R) H-B, the Chamber considers that Jadranko Prlić intended that those crimes be committed, namely the destruction of Muslim houses, the murder and detention of Muslims who did not belong to any armed force and the removal of the region's inhabitants to Gornji Vakuf by the HVO in January 1993.

135. Moreover, as for the acts of theft, which the Chamber characterised under the counts of appropriation of property not justified by military necessity and carried out unlawfully and

³⁸² See "Attack on the Village of Duša" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

³⁸³ P 01351, p. 4.

wantonly, and of plunder of public or private property which were not part of the common criminal purpose, the Chamber will examine Jadranko Prlić's possible responsibility for those crimes under JCE 3.

2. Municipalities of Prozor and Jablanica (Sovići and Doljani)

136. The Prosecution argues that by participating in and approving the issuance of the same ultimatum - or one similar to that of 15 January 1993 - to the ABiH in April 1993, Jadranko Prlić caused and contributed to the commission of crimes by the HVO HZ H-B forces in the spring of 1993, more specifically, in and around Prozor, Sovići and Doljani.³⁸⁴

137. The Prlić Defence submits that no ultimatum was issued in April 1993 and that the HVO HZ H-B meeting held on 3 April 1993 was devoted in its entirety to preparations for the exceptionally complex implementation of the Vance-Owen Peace Plan.³⁸⁵ It further contends that clashes or crimes committed in the territory of the HZ H-B had nothing to do with that meeting³⁸⁶ and that no link could be established between Jadranko Prlić and the crimes committed in Sovići and Doljani or in Prozor.³⁸⁷

138. The Chamber recalls that on 3 April 1993, the HVO HZ H-B held its 34th session which discussed, in particular, the implementation of the Vance-Owen Plan.³⁸⁸ Jadranko Prlić chaired the meeting and Mate Boban and Bruno Stojić were also present.³⁸⁹ At the meeting, the HVO set 15 April 1993 as the deadline for the implementation of the Vance-Owen Plan in accordance with the so-called "joint" statement issued by Mate Boban and Alija Izetbegović on 2 April 1993.³⁹⁰ It was decided that if the Muslim authorities refused to sign a statement on the subordination of ABiH armed forces to the HVO in provinces 3, 8 and 10 and the establishment of a joint HVO/ABiH command in other provinces by 15 April 1993 at the latest, the HVO would apply it unilaterally, including by military means.³⁹¹ The statement was released to the press on 4 April 1993.³⁹² Several newspaper articles referred to the statement of 4 April 1993 as an HVO "ultimatum" to the ABiH

³⁸⁴ Indictment, para. 17 (m); Prosecution Final Trial Brief, paras 231 to 251, in particular paras 234, 235 and 242-244.

³⁸⁵ Prlić Defence Final Trial Brief, para. 327 (m).

³⁸⁶ Prlić Defence Final Trial Brief, para. 327 (m).

³⁸⁷ Prlić Defence Final Trial Brief, paras 339 and 345.

³⁸⁸ P 01798, p. 1.

³⁸⁹ P 01798, p. 1.

³⁹⁰ See "Subsequent History of the Vance-Owen Plan; Attempts to Implement the Principles of the Plan in the Field (January 1993 - August 1993)" in the Chamber's factual findings with regard to the main events following the establishment of the HZ H-B.

³⁹¹ P 01798, pp. 3 and 4; P 09545, pp. 82-85. See also "Subsequent History of the Vance-Owen Plan; Attempts to Implement the Principles of the Plan in the Field (January 1993 - August 1993)" in the Chamber's factual findings with regard to the main events following the establishment of the HZ H-B.

³⁹² P 10675, p. 1; P 01804, p. 1; P 01808.

and mentioned 15 April 1993 as the deadline.³⁹³ Asked about the HVO "ultimatum" by journalist Marita Vihervuori on 22 April 1993, Jadranko Prlić said that Mate Boban had merely made a "proposal" on 3 April 1993, that he had issued no ultimatum and that the HVO had not set any 15 April 1993 deadline.³⁹⁴

139. *Witness DZ*³⁹⁵ stated that, based on the Vance-Owen Plan, the HVO wanted to take control of areas 3, 8 and 10 and, for that reason, on 15 April 1993, issued an ultimatum to the ABiH to submit itself.³⁹⁶ *Witness DZ* also stated that he had heard several important HVO officials, including Jadranko Prlić, say that the Vance-Owen Plan allocated those areas to the Croats.³⁹⁷

140. In view of the evidence, the Chamber finds that the statement of 4 April 1993 with the 15 April 1993 deadline was indeed an HVO ultimatum to the ABiH to submit itself to the HVO in the areas considered Croatian according to the HVO HZ H-B interpretation of the Vance-Owen Plan.

141. Regarding the Municipality of Prozor, the Chamber recalls that on 16 April 1993, Željko Šiljeg, Commander of the North-West OZ, drew up a "plan" for an attack on several villages, including the village of Parcani, and sent it to the Main Staff.³⁹⁸ On 17 April 1993, the HVO attacked the village of Parcani and, during the attack, set fire to the Muslim houses in the village.³⁹⁹ Furthermore, on 19 April 1993, after issuing an ultimatum to the Muslim inhabitants of Tošćanica to give up their weapons, the HVO attacked the village and, during the attack, set fire to Muslim houses.⁴⁰⁰

142. The Chamber recalls that, following the ultimatum of 15 January 1993, on 18 January the HVO launched a systematic and widespread attack in the Municipality of Gornji Vakuf. The Chamber considers, by a majority, with Judge Antonetti dissenting, that following the HVO ultimatum of 4 April 1993, whose deadline was 15 April 1993, the "plan" for an attack on several villages in the Municipality of Prozor drawn up by Željko Šiljeg was the result of the implementation of the ultimatum which was identical to the one the HVO issued in January 1993.

³⁹³ P 10675, pp. 1, 3, 5 and 7; P 01804, p. 1; P 01808; P 02046; 1D 01655, p. 1; P 01808; P 09524, p. 1.

³⁹⁴ P 02046/1D 01655, p. 1; P 02094, p. 1.

³⁹⁵ Member of an international organisation between 1 April 1993 and April 1994. *See* *Witness DZ*, T(F), pp. 26472 and 26473, closed session; P 10367 under seal, paras 5 and 10; *Witness DZ*, T(F), p. 26469, closed session.

³⁹⁶ *Witness DZ*, T(F), pp. 26482 and 26483, closed session; P 01804, pp. 1 and 2.

³⁹⁷ *Witness DZ*, T(F), p. 26483, closed session.

³⁹⁸ P 01936; P 01909; P 01917; P 01952. *See* also "Attack on the Village of Parcani on 17 April 1993 and Burning of Houses" in the Chamber's factual findings with regard to the Municipality of Prozor.

³⁹⁹ *See* "Attack on the Village of Parcani on 17 April 1993 and Burning of Houses" in the Chamber's factual findings with regard to the Municipality of Prozor.

143. Concerning the Municipality of Jablanica, the Chamber recalls that on 15 April 1993, the HVO began to shell the town of Jablanica.⁴⁰¹ On 17 April 1993, the HVO launched an attack in the Jablanica valley, where the villages of Sovići and Doljani are situated.⁴⁰²

144. The Chamber recalls that following the capture of the villages of Sovići and Doljani after 17 April 1993, the HVO arrested not only Muslim combatants from the villages, but also the Muslim population there.⁴⁰³ On orders from "superior commanders", the HVO set fire to the Muslim houses and the two mosques in the villages.⁴⁰⁴ The HVO also appropriated Muslim property.⁴⁰⁵

145. The Chamber also found that following negotiations with the ABiH, Milivoj Petković ordered the Commander of the 3rd *Mijat Tomić* Battalion, to release all the detainees from Sovići and Doljani to Jablanica.⁴⁰⁶ On 5 May 1993, the women, children and elderly people, Muslim inhabitants of Sovići and Doljani⁴⁰⁷ detained at the Sovići School and in the hamlet of Junuzovići, that is, approximately 450 people, were moved by HVO soldiers to Gornji Vakuf and not to Jablanica as agreed with the ABiH.⁴⁰⁸ On 5 May 1993, the President of the Gornji Vakuf HVO, Ivan Šarić, sent a report to Jadranko Prlić informing him that about 300 Muslims from Doljani and

⁴⁰⁰ "Attack on the Village of Tošćanica on 19 April 1993, Burning of Houses and Death of Three Residents" in the Chamber's factual findings with regard to the Municipality of Prozor.

⁴⁰¹ Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, T(F), pp. 12 and 13; Safet Idrizović, T(F), pp. 9669, 9672 and 9673; P 09400, p. 20; Witness RR, P 09872 under seal, *Naletilić and Martinović* Case, T(F), pp. 6443, 6483, 6484 and 6519; P 08951; P 09052; Decision of 7 September 2006, Adjudicated Fact no. 27 (*Naletilić* Judgement, para. 30); P 02627, pp. 2 and 3.

⁴⁰² "Sequence of Attacks on the Villages of Sovići and Doljani on 17 April 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

⁴⁰³ See "Arrests of Men, Women, Children and Elderly People in Sovići and Doljani from 17 to 23 April 1993" and "The Chamber's Findings about Alleged Criminal Events at Sovići School" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani). See also "Municipality of Jablanica" in the Chamber's legal findings with regard to Count 10 (imprisonment, a crime against humanity) and Count 11 (unlawful confinement of a civilian, a grave breach of the Geneva Conventions).

⁴⁰⁴ See "HVO Attacks on the Villages of Sovići and Doljani and Arrests of Men, Women, Children and Elderly People from 17 to 23 April 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani). Regarding the destruction of the mosques pursuant to orders from "superior commanders", see also P 02063.

⁴⁰⁵ See "Thefts of Muslim Property at Sovići and Doljani between 17 April and 4 May 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani). See also "Municipality of Jablanica" in the Chamber's legal findings with regard to Count 22 (appropriation of property, not justified by military necessity and carried out unlawfully and wantonly, a grave breach of the Geneva Conventions) and Count 23 (plunder of public or private property, a violation of the laws or customs of war).

⁴⁰⁶ See "Removal of Women, Children and Elderly People from the Sovići School and Houses in the Hamlet of Junuzovići to Gornji Vakuf around 5 May 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

⁴⁰⁷ See "Detention at Sovići School, the Deaths of Detainees and the Work Done" and "Detention of Women, Children and Elderly People in Houses of the Hamlet of Junuzovići" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

⁴⁰⁸ See "Removal of Muslim Women, Children and Elderly People from the Sovići School and Houses in the Hamlet of Junuzovići on 5 May 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

Sovići had been bussed to the Sićaj petrol station and that a decision on their removal had to be made because the Gornji Vakuf HVO could not accommodate them.⁴⁰⁹

146. The Chamber holds that the HVO operations in the municipalities of Prozor and Jablanica followed a systematic course of action and therefore had to be the result of a preconceived HVO plan to implement the ultimatum of 15 April 1993 by force. The Chamber considers that by drafting and formulating the April 1993 ultimatum in the same terms as that of January 1993 and fully aware that the HVO had committed crimes against the Muslim population in the Municipality of Gornji Vakuf following the ultimatum of 15 January 1993, Jadranko Prlić had reasons to know that a repetition of the same ultimatum would have the same outcome, that is, the commission of crimes by the HVO against the Muslim population. He was also personally informed of the removal of the civilians from Sovići and Doljani by the HVO, and did nothing to protect them.

147. In view of the foregoing, the Chamber finds that by participating in drafting the ultimatum the HVO issued to the ABiH in mid-April 1993, Jadranko Prlić intended to repeat the events in Gornji Vakuf in the municipalities of Prozor and Jablanica and accepted the commission of the crimes committed against the Muslim population of the municipalities of Jablanica and Prozor in mid-April 1993, namely the destruction of Muslim property and the arrests and removal of the Muslim population.

148. Moreover, the Chamber did not establish that the destruction of the mosques in Sovići and Doljani in April 1993 alleged under the count of destruction or wilful damage done to institutions dedicated to religion was part of the common criminal purpose. It will, therefore, analyse those crimes as part of Jadranko Prlić's responsibility under JCE 3.

3. Jadranko Prlić's Involvement in the Campaign of Mass Arrests of Muslims Beginning on 30 June 1993 in Several Municipalities

149. The Prosecution submits that it was Jadranko Prlić, not Mate Boban, who, together with Bruno Stojić, issued the HVO's further call-to-arms on 30 June 1993, entrusting the civilian and military police with the supervision of the implementation of the order.⁴¹⁰ According to the Prosecution, the evidence shows that the HVO armed forces perceived Jadranko Prlić and Bruno Stojić's proclamation of 30 June 1993 as a mobilisation order and that the whole chain of command was engaged in its implementation. In the proclamation, Jadranko Prlić and Bruno Stojić also

⁴⁰⁹ P 02191.

⁴¹⁰ Prosecution Final Trial Brief, para. 413.

expressly invoked the Croatian territorial rights, in particular that Mostar would remain a "Croatian town", and stoked ethnic hatred.⁴¹¹

150. The Prlić Defence submits that the 30 June 1993 statement was merely a statement and not an order or a decision;⁴¹² that its objective was to keep the public informed of the events of 30 June 1993;⁴¹³ that Jadranko Prlić did not make any statements or inflammatory comments that demonised "the aggressor"⁴¹⁴ and that the statement did not call for the commission of crimes against the Muslims.⁴¹⁵ If any crimes were in fact committed by any of those mobilised, to which there was no evidence, such crimes could not be attributed to Jadranko Prlić.⁴¹⁶

151. The evidence shows that after Jadranko Prlić and Bruno Stojić issued a joint proclamation on 30 June 1993 instructing the Croatian people in BiH to defend itself against the Muslim aggression following the ABiH attack on the HVO positions, Bruno Stojić, as Head of the Department of Defence, was put in charge of implementing that decision. He ordered the mobilisation of all Croatian conscripts and imposed a curfew in the HZ H-B.⁴¹⁷ The same day, Željko Šiljeg, Commander of the North-West OZ, requested "instructions for work" from Milivoj Petković and Bruno Stojić on the basis of Jadranko Prlić and Bruno Stojić's joint statement.⁴¹⁸ He also forwarded "the order of the Defence Department and the HVO HZ H-B" to the *Rama* Brigade and the 2nd Military Police Battalion, among others.⁴¹⁹

152. On 1 July 1993, pursuant to Jadranko Prlić and Bruno Stojić's order and on behalf of Valentin Ćorić, Radoslav Lavrić sent an order to all the departments and sections of the Military Police Administration and to all Military Police battalions demanding, *inter alia*, the arrest of all conscripts who had not regulated their status.⁴²⁰

153. On 6 July 1993, during a meeting attended by representatives of the international community, Jadranko Prlić told *Witness BA* that 6,000 Muslim men had been arrested and placed in detention because they were of draft age and that the HVO had done that in response to the ABiH attack.⁴²¹ He also said that the HVO had had a meeting and decided to release the detainees because

⁴¹¹ Prosecution Final Trial Brief, para. 433.

⁴¹² Prlić Defence Final Trial Brief, para. 327 (s).

⁴¹³ Prlić Defence Final Trial Brief, para. 229.

⁴¹⁴ Prlić Defence Final Trial Brief, para. 230.

⁴¹⁵ Prlić Defence Final Trial Brief, paras 343, 345 and 347 (b).

⁴¹⁶ Prlić Defence Final Trial Brief, para. 347 (b).

⁴¹⁷ P 03038.

⁴¹⁸ P 03026.

⁴¹⁹ P 03039.

⁴²⁰ P 03077.

⁴²¹ *Witness BA*, T(F), p. 7221, closed session; P 09712 under seal, paras 45 and 71.

the HVO could not look after them.⁴²² As the Chamber noted, the releases were transformed into a forcible expulsion from BiH.⁴²³

154. The Chamber considers that while Jadranko Prlić and Bruno Stojić's statement of 30 June 1993 did not call for the mass arrest of Muslims, it did call all the Croats to arms against the Muslims. Moreover, the chronological account of the events that occurred after the statement attests to the implementation of a preconceived plan. The Chamber notes that it was after the issuance of the joint statement of 30 June 1993 that the chain of command was set in motion in order to arrest Muslims - both those who did not belong to any armed force as well as Muslim HVO soldiers and soldiers of the ABiH - in the municipalities of Mostar, Stolac, Čapljina and Prozor in the summer of 1993.⁴²⁴ *Milivoj Petković's* statements before the Chamber, according to which in the HZ(R) H-B the HVO civilian authorities controlled the military authorities,⁴²⁵ take on their full meaning here. The military authorities could not have made arrests without the approval of the civilian authorities, including the consent of Jadranko Prlić, their president. The military chain of command perceived the joint statement of 30 June 1993 in the same way it did the ultimatums Jadranko Prlić issued in January and April 1993 on behalf of the HVO. Jadranko Prlić also accepted the mass arrests of Muslim men, including those who did not belong to any armed force, on 6 July 1993.

155. The Chamber considers that the only inference it can draw is that inasmuch as the actions of the HVO armed forces came after the joint proclamation of 30 June 1993 and followed a preconceived plan, Jadranko Prlić knew of the plan and intended to have Muslim men arrested indiscriminately and *en masse*, and placed in detention.

4. Municipality of Mostar

156. The Chamber will analyse the evidence on Jadranko Prlić's contribution to the crimes in Mostar by examining (a) his possible role in the municipal HVO's policy of "Croatisation" of the Muslims in Mostar, (b) his role in the eviction operations in May 1993 and in the transfer of the

⁴²² Witness BA, T(F), p. 7225, closed session; P 09712 under seal, para. 71.

⁴²³ See "Release of Muslim Detainees from the Heliodrom in mid-July 1993 in Exchange for Their Leaving BiH with their Families" in the Chamber's factual findings with regard to the Municipality of Mostar. See also "Departure of Detainees from the Heliodrom to Croatia between about 17 July 1993 and November 1993" in the Chamber's factual findings with regard to the Heliodrom.

⁴²⁴ See "Arrests and Detention of Muslim Men Following the Attack on 30 June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar; "Arrest and Incarceration of the Muslim Men of Military Age in Stolac Municipality in July 1993" and "Arrests of Women, Children and Elderly People; Removal of the Population; Thefts of Property and Damage to Property in Stolac Municipality in July and August 1993" in the Chamber's factual findings with regard to the Municipality of Stolac. See also "Arrest and Incarceration of Muslim Men in the Municipality of Čapljina in July 1993" in the Chamber's factual findings with regard to the Municipality of Čapljina; "Arrests of Muslim Men from Prozor Municipality from Spring 1993 to the End of 1993" in the Chamber's factual findings with regard to the Municipality of Prozor.

Muslim population of Mostar from mid-May 1993 to February 1994, and (c) his role in the crimes related to the siege of East Mostar.

a) Jadranko Prlić's Possible Involvement in the Policy of "Croatisation" of the Muslims of Mostar

157. The Prosecution submits that Jadranko Prlić encouraged, facilitated and supported efforts to "Croatise" the Bosnian Muslims and other non-Croatian populations in areas claimed to be part of Herceg-Bosna, which included the adoption and signing of decisions, decrees and regulations.⁴²⁶ The Prlić Defence argues that the notion of "Croatisation" as alleged by the Prosecution is completely unfounded.⁴²⁷

158. The Chamber notes that Jadranko Prlić signed various decrees and decisions approving the introduction of a Croatian culture in the territory of the HZ(R) H-B, for example, the use of the Croatian language as the language of instruction in the schools and at the University of Mostar,⁴²⁸ the use of the Croatian dinar as the official currency of the HZ H-B⁴²⁹ and the coat-of-arms and the flag of the HZ H-B.⁴³⁰ The Chamber recalls that Jadranko Prlić's power to make regulations was not limited only to the power of signature because he also led the debates for the adoption of those documents, conducted the taking of the vote and, if necessary, proposed the revision of the documents.⁴³¹ The facts show that Jadranko Prlić did not request any modifications of those documents in order to take into account the interests of the Muslim population. The evidence, however, does not establish that Jadranko Prlić used or failed to use his power to make regulations to promote the policy of discrimination against the Muslims introduced by the Mostar HVO municipal authorities with the aim of encouraging the departure of Muslims from that municipality.

159. The Chamber established that between May 1992 and May 1993, the Mostar municipal HVO, assisted by the HVO HZ-HB, took control of the Municipality of Mostar and implemented a policy seeking to introduce a distinction between Croats and Muslims, and disadvantage the Muslims in the municipality.⁴³² It observed, *inter alia*, that the municipal HVO began implementing a legal provision concerning accommodation of "refugees and displaced persons" and access to humanitarian aid, in particular by its decision of 15 April 1993, modified on 29 April 1993; that

⁴²⁵ Milivoj Petković, T(F), p. 50342.

⁴²⁶ Indictment, para. 17.1 (f).

⁴²⁷ Prlić Defence Final Trial Brief, paras 326 (e), 327 (f) and 335.

⁴²⁸ 1D 00200; 1D 00199; P 00714; P 09545, para. 203; P 00672; P 00715, p. 35.

⁴²⁹ P 00447; P 00772; P 09545, para. 203.

⁴³⁰ P 00772.

⁴³¹ See "Jadranko Prlić's Decision-Making Powers in the HVO/Government of the HZ(R) H-B" in the Chamber's findings with regard to Jadranko Prlić's responsibility under the JCE; P 00672; P 00715.

although that legislation did not specifically target Muslims, it greatly disadvantaged them in respect of housing and access to humanitarian aid and, as a consequence, forced them to leave Mostar.⁴³³

160. The Chamber observes that an international organisation sent two letters to the HZ H-B authorities - namely to the ODPB, whose head was Darinko Tadić, and one specifically to Mate Boban - denouncing the statute decision the HVO adopted in April 1993 which forced the Muslims onto the streets and to leave Mostar.⁴³⁴ However, there is no evidence indicating that Jadranko Prlić was informed of the discriminatory policy of the municipal HVO. Despite his links with the Mostar municipal HVO, nothing indicates that Jadranko Prlić was in any way involved in the discriminatory legislation adopted by the Mostar HVO municipal authorities or that he knew about it.⁴³⁵ Consequently, the Chamber cannot accuse Jadranko Prlić of failing to intervene in order to annul the decision or to instruct the Mostar municipal HVO to amend it.

b) Jadranko Prlić's Role in the Arrest Operations in May 1993 and Evictions of the Muslim Population of Mostar from mid-May 1993 to February 1994

i. Operations of 9 May 1993 and the Following Days

161. The Chamber recalls that during the days that followed the attack of 9 May 1993, the HVO engaged in a campaign to evict the Muslims of West Mostar from their flats, gathering them at several locations in the town and then detaining them for several days, in particular at the Heliodrom.⁴³⁶ During the arrest campaign, the HVO members physically abused the Muslims.⁴³⁷ The HVO conducted the operations in waves, in an orchestrated and organised manner, as part of a campaign that led to the detention at the Heliodrom of between 1,500 and 2,500 Muslims from West Mostar.⁴³⁸ The Chamber holds that the repetition and scale of the acts of violence against the Muslims during the campaign indicate that they were part of a preconceived plan and were by no means acts of some undisciplined individuals.

⁴³² See "Taking Over Political Control and 'Croatisation' of the Municipality by the HVO" in the Chamber's factual findings with regard to the Municipality of Mostar.

⁴³³ See "Taking Over Political Control and 'Croatisation' of the Municipality by the HVO" in the Chamber's factual findings with regard to the Municipality of Mostar.

⁴³⁴ Witness BB, T(F), pp. 17147 and 17148, closed session; P 09708 under seal, p. 2

⁴³⁵ Neven Tomić, T(F), pp. 34090-34095; IC 00877.

⁴³⁶ See "Violence and Thefts against Muslims Arrested, Evicted from Their Flats, Placed in Detention and Displaced in May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

⁴³⁷ See "Violence and Thefts against Muslims Arrested, Evicted from Their Flats, Placed in Detention and Displaced in May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

⁴³⁸ See "Arrivals of Detainees Following Waves of Muslim Arrests on 9 and 10 May 1993" in the Chamber's factual findings with regard to the Heliodrom.

162. The Prosecution submits that Jadranko Prlić was aware of the operations of 9 May 1993 because various bodies of his government were directly involved in them, and that the operations were covered by world media.⁴³⁹ In support of its allegation, it refers to a UN report of 19 May 1993.⁴⁴⁰ The Prlić Defence argues that there is no evidence supporting any link between Jadranko Prlić or the HVO HZ H-B and what transpired on 9 May 1993 and thereafter.⁴⁴¹

163. The Chamber notes that in support of its allegation, the Prosecution refers to a UN report of 19 May 1993.⁴⁴² In the Chamber's opinion, nothing in the report specifically indicates that Jadranko Prlić knew about the preparations for and the execution of the operations of 9 May 1993.

164. The Chamber recalls its observations that when the Vranica building fell into HVO hands on 10 May 1993, the HVO, and in particular its *Juka Prazina* unit, forcibly arrested and detained Muslims from West Mostar, both ordinary inhabitants and members of the ABiH.⁴⁴³ The Chamber recalls that Bruno Stojić set up the *Juka Prazina* unit and appointed Juzuf Prazina alias "Juka" as its commander on 16 February 1993.⁴⁴⁴ Around 14 May 1993, *Witness BA*, a member of an international organisation who was in Mostar between 14 May and 20 July 1993,⁴⁴⁵ told Jadranko Prlić that he had heard that Juka Prazina was a criminal and had inflicted violence on the Muslims of West Mostar during the night. Jadranko Prlić replied that he knew about those acts of violence but considered Juka Prazina to be fairly useful; he also said that Juka Prazina was under the protection of the HVO.⁴⁴⁶ The Chamber finds that Jadranko Prlić knew that Juka Prazina was dangerous. However, the evidence does not support a finding that he knew that Juka Prazina was participating in the operations to evict the Muslims. The Chamber, therefore, cannot find that Jadranko Prlić had reasons to know that Juka Prazina was committing violent acts against Muslims during those operations.

165. Nonetheless, the Chamber notes that during the 38th session of the HVO on 17 May 1993, attended among others by Jadranko Prlić and Bruno Stojić, the situation in Mostar was discussed. The HVO expressed its support for the relocation of civilians to the Heliodrom and said that the women, children and elderly people had been released.⁴⁴⁷ The Chamber considers that by

⁴³⁹ Prosecution Final Trial Brief, para. 447.

⁴⁴⁰ P 02458, paras 31-35.

⁴⁴¹ Prlić Defence Final Trial Brief, para. 342.

⁴⁴² P 02458, paras 31-35.

⁴⁴³ See "Fall of the Vranica Building on 10 May 1993", "Tobacco Institute" and "Mechanical Engineering Faculty" in the Chamber's factual findings with regard to the Municipality of Mostar.

⁴⁴⁴ P 01498.

⁴⁴⁵ Witness BA, T(F), p. 7153, closed session; P 09712 under seal, para. 3.

⁴⁴⁶ Witness BA, T(F), pp. 7193-7194 and 7210-7212, closed session; P 09712 under seal, para. 34.

⁴⁴⁷ ID 01666.

participating in the meeting and raising no objections while continuing to exercise his functions at the head of the HVO, Jadranko Prlić accepted the arrests of Muslim men of Mostar who did not belong to any armed forces carried out around 9 May 1993.

ii. Jadranko Prlić's Knowledge of the Operations to Evict Muslims from Mostar from mid-May 1993 to February 1994

166. The Chamber recalls its findings that during the eviction operations from mid-May 1993 to February 1994, the HVO forced the Muslims from West Mostar to leave their homes, detained them and inflicted violence on them in order to force them to go primarily to East Mostar and on some occasions, in September 1993, to third countries.⁴⁴⁸ The Chamber holds that the repetition and scale of the violence against the Muslims during the campaign indicate that they were part of a preconceived plan and could by no means have been acts of some undisciplined soldiers.

167. In June 1993, representatives of the international community alerted Valentin Ćorić, Berislav Pušić, Bruno Stojić and Jadranko Prlić to the evictions of Muslims from West Mostar to East Mostar. All four gave the same reply: the evictions were carried out by criminals not under HVO control.⁴⁴⁹ More specifically, between 17 June and 19 or 20 July 1993, *Witness BA* and other members of international organisations informed Jadranko Prlić that the "evictions" of Muslims in Mostar were being conducted in a systematic manner, street by street, and were becoming more and more violent.⁴⁵⁰ Jadranko Prlić assured them that human rights would be respected.⁴⁵¹

168. On 19 or 20 July 1993, during a working dinner with representatives of the international community, including *Witness BA*, and HVO officials, Jadranko Prlić expressed disagreement with the events that were happening in Mostar and said that, if that did not stop, he would resign from the HVO HZ H-B.⁴⁵² According to *Witness BA*, although Jadranko Prlić did not specifically use the term "ethnic cleansing", given the context of the conversation, he could have been referring only to the ethnic cleansing being carried out in the Mostar area.⁴⁵³ In view of the foregoing, the Chamber

⁴⁴⁸ See "Crimes Allegedly Committed in May 1993", "Crimes Allegedly Committed in June 1993", "Crimes Alleged to Have Been Committed by the HVO Following the Attack of 30 June 1993", "Other Crimes Alleged to Have Been Committed in July and August 1993 in West Mostar" and "Crimes Alleged to Have Been Committed from September 1993 to April 1994" in the Chamber's factual findings with regard to the Municipality of Mostar.

⁴⁴⁹ Antoon van der Grinten, T(F), pp. 21046 and 21048; P 02806 under seal, p. 2; *Witness BA*, T(F), pp. 7201, 7202, 7206 and 7207, closed session; P 09712 under seal, para. 66; P 10367 under seal, para. 60; P 02652, p. 2; P 03804 under seal, para. 6.

⁴⁵⁰ *Witness BA*, T(F), pp. 7163, 7164, 7201, 7202, 7232, 7344 and 7345, T(E), p. 7346, closed session; P 09712 under seal, paras 66, 73 and 75.

⁴⁵¹ *Witness BA*, T(F), pp. 7206 and 7207, closed session; P 03804 under seal, para. 6.

⁴⁵² *Witness BA*, T(F), pp. 7163, 7164, 7344 and 7345, T(E), p. 7346, closed session; P 09712 under seal, paras 1 and 75.

⁴⁵³ *Witness BA*, T(F), pp. 7163 and 7164, closed session; P 09712 under seal, para. 10.

finds that from at least June 1993, Jadranko Prlić knew that the HVO forces were moving the Muslim population of West Mostar to East Mostar. Even so, the removal of the Muslim population did not stop and Jadranko Prlić continued to exercise his functions in the HVO/Government of the HR H-B.

169. Moreover, the Chamber notes that on 6 July 1993, as President of the HVO HZ H-B, Jadranko Prlić signed a decree on the use of apartments abandoned by the tenants, those from which "enemy activity was conducted", those to which no-one held "tenancy rights" and those for which "no lease agreement exists". Under the decree, the owner of an apartment, save for those detained by the HZ H-B, was to temporarily forfeit the right to use it if he had vacated it after 30 April 1992 so that it could be allocated, for example, to members of the HVO. Moreover, after the cessation of an imminent threat of war was declared, he had only seven days to retake occupancy. Failing that, he would lose his tenancy rights and the apartment would be considered permanently abandoned.⁴⁵⁴

170. The Chamber recalls that within the framework of the operations to evict Muslims from West Mostar, the apartments of the expelled Muslims were allocated to HVO soldiers, members of the Military Police and sometimes even to Croatian families.⁴⁵⁵ The Chamber considers that by signing the decree of 6 July 1993, Jadranko Prlić accepted the HVO HZ H-B practice of appropriating the apartments of the Muslims expelled from West Mostar and knew about it as of June 1993. Jadranko Prlić thus contributed to the process of evicting Muslims from Mostar, because once the Muslims were deprived of their apartments, their return to Mostar became unrealistic.

171. In view of the foregoing, the Chamber can find beyond reasonable doubt that Jadranko Prlić was repeatedly alerted to the forcible evictions of the Muslims from West Mostar at least from June 1993. Despite the protests by the representatives of the international community to high-ranking officials of the HVO, including Jadranko Prlić, the evictions of the Muslims from West Mostar continued until February 1994. In view of his position of authority as President of the HVO/Government of the HZ(R) H-B, the Chamber holds that Jadranko Prlić could have intervened with the armed forces of the HVO and changed the course of the events. The Chamber considers that the only inference it can reasonably draw is that by failing to act, by validating the loss of apartments belonging to Muslims in Mostar and by remaining in power while fully cognizant of the crimes against the Muslims in West Mostar, Jadranko Prlić contributed to the climate of violence in

⁴⁵⁴ P 03089, articles 1, 7, 10 and 12.

⁴⁵⁵ See "Violence and Thefts Committed against Muslims Arrested, Evicted from their Flats, Placed in Detention and Displaced in May 1993", "Crimes Allegedly Committed in June 1993", "Eviction and Transfer of Muslims to East Mostar or Other Countries from mid-July to August 1993" and "Rapes, Sexual Assaults, Thefts, Threats and

Mostar and accepted the commission of acts of violence linked to the eviction campaigns, that is, the mistreatment and forced removal, which were an integral part of the preconceived plan.

c) Jadranko Prlić's Role in the Siege of East Mostar

i. Acceptance of the HVO Campaign of Fire and Shelling of East Mostar

172. According to the Prosecution, Jadranko Prlić knew full well about the destruction of mosques and property belonging to Muslims who were being expelled from their homes⁴⁵⁶ and did nothing to prevent or punish those crimes.⁴⁵⁷ According to the Prlić Defence, there is no evidence that Jadranko Prlić engaged, either directly or indirectly, in any activity resulting in the destruction of cultural, religious or private property. The destruction of property by individuals, whether civilians or members of a military unit, did not occur under the direction, control or authority of Jadranko Prlić or the HVO HZ(R) H-B.⁴⁵⁸

173. The Chamber recalls its finding that from June 1993 to March 1994, East Mostar, a cramped and densely-populated residential area, was subjected to intense and continuous HVO fire and shelling, including sniper fire. The consequence of the prolonged attack was that many inhabitants of East Mostar lived in a climate of terror and some were killed or wounded by the shooting;⁴⁵⁹ the HVO severely damaged or destroyed ten mosques in East Mostar;⁴⁶⁰ and that the HVO authorities minimised or concealed their responsibility for the destruction of the Old Bridge.⁴⁶¹

174. The Chamber recalls that Jadranko Prlić was constantly kept informed of the military situation, not only by the HVO, but also by members of international organisations.⁴⁶² In fact, while exercising his functions, he was kept abreast of the HVO campaign of fire and shelling against East Mostar.⁴⁶³ *Witness DZ*, a member of an international organisation,⁴⁶⁴ stated that during his stay in

Intimidation of Muslims during the Eviction Operations in West Mostar in July and August 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

⁴⁵⁶ Prosecution Final Trial Brief, para. 489.

⁴⁵⁷ Prosecution Final Trial Brief, para. 490.

⁴⁵⁸ Prlić Defence Final Trial Brief, para. 347 (c).

⁴⁵⁹ See "Shelling and Artillery Fire Targeting East Mostar", "Attempt by the HVO Authorities to Minimise or Conceal their Responsibility for the Destruction of the Old Bridge" and "Targeting Members of International Organisations" in the Chamber's factual findings with regard to the Municipality of Mostar.

⁴⁶⁰ See "Chamber's Findings on the Existence of a Siege in East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

⁴⁶¹ See "Attempt by the HVO Authorities to Minimise or Conceal their Responsibility for the Destruction of the Old Bridge" in the Chamber's factual findings with regard to the Municipality of Mostar.

⁴⁶² See "Jadranko Prlić's Powers in Military Matters" in the Chamber's findings with regard to Jadranko Prlić's responsibility under the JCE.

⁴⁶³ See more specifically Antoon van der Grinten, T(F), pp. 21092, 21093 and 21096; P 03900 under seal; P 10367 under seal, para. 21; Witness DZ, T(F), p. 26469, closed session.

⁴⁶⁴ Witness DZ, T(F), pp. 26472 and 26473, closed session; P 10367 under seal, paras 5 and 10.

Mostar between May 1993 and April 1994, he met Jadranko Prlić, Bruno Stojić and Milivoj Petković on several occasions and that they were well aware of the shelling and sniping in East Mostar, particularly against civilians and members of international organisations.⁴⁶⁵ *Witness DZ* in particular mentioned the reaction of Jadranko Prlić who "smiled" when the issues were raised and made it clear he thought that such were "the rules of the game", that shooting and shelling in a war zone was normal and that things like that did happen on the ground - that was "just part of the routine for the HVO".⁴⁶⁶

175. Regarding the destruction of the Old Bridge, the Chamber notes that during his testimony as a suspect in 2001, Jadranko Prlić stated that no civilian or military goals could justify the destruction of the Old Bridge.⁴⁶⁷ The Chamber recalls that the old town quarter of Mostar, of which the Old Bridge was an integral part, was deliberately targeted on 8 November 1993 by an HVO tank.⁴⁶⁸ The HVO armed forces had a military interest in destroying the Old Bridge, but its destruction also put the residents of the Muslim enclave on the right bank of the Neretva in virtually total isolation. The Chamber therefore found that the Old Bridge indeed constituted a military target for the HVO, but that the impact of its destruction on the Muslim civilian population of Mostar was disproportionate to the concrete military advantage to be gained by its destruction.⁴⁶⁹ Furthermore, it recalls its observations that on 10 November 1993 Jadranko Prlić took part in discussions with Franjo Tuđman which did not focus on determining the responsibility for the destruction of the Old Bridge but on finding the reasons that could be given to prevent international public opinion from attributing the responsibility to the HVO armed forces.⁴⁷⁰ The Chamber finds that by attempting to conceal the responsibility of the HVO for the destruction of the Old Bridge, Jadranko Prlić in fact accepted its destruction.

176. The Chamber thus considers that Jadranko Prlić knew about the HVO crimes committed during the HVO campaign of fire and shelling against East Mostar - that is, the murders and destruction of property, including mosques and the Old Bridge - and that by minimising them or attempting to deny them, he accepted and encouraged them. The Chamber finds that Jadranko Prlić

⁴⁶⁵ *Witness DZ*, T(F), pp. 26484, 26485, 26489 and 26490, closed session; P 10367 under seal, paras 20 and 21.

⁴⁶⁶ *Witness DZ*, T(F), pp. 26484, 26485, 26489 and 26490, closed session; P 10367 under seal, para. 21.

⁴⁶⁷ P 09078, p. 75.

⁴⁶⁸ See "Attack on the Old Bridge by an HVO Tank on 8 November 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

⁴⁶⁹ See "General Findings of the Chamber on the Destruction of the Old Bridge" in the Chamber's factual findings with regard to the Municipality of Mostar and "Municipality of Mostar" in the Chamber's legal findings with regard to 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).

⁴⁷⁰ See "Attempt by the HVO authorities to Minimise or Conceal their Responsibility for the Destruction of the Old Bridge" in the Chamber's factual findings with regard to the Municipality of Mostar.

thus supported the HVO campaign of fire and shelling against East Mostar as well as its impact on the population of East Mostar.

ii. Jadranko Prlić's Role Regarding Living Conditions of the Population of East Mostar and Blocking of Humanitarian Aid

177. The Prosecution alleges that Jadranko Prlić knew that the inhabitants of East Mostar were suffering a genuine "humanitarian catastrophe" and that he played a significant role in using humanitarian aid as a means of accomplishing the goals of the JCE.⁴⁷¹

178. The Prlić Defence submits that every humanitarian convoy that ever travelled through HZ(R) H-B territory eventually reached its destination and that Jadranko Prlić and the HVO HZ H-B/Government of the HR H-B made all possible efforts to facilitate the transport and distribution of humanitarian aid.⁴⁷²

179. The Chamber recalls that it established that between June 1993 and April 1994, the Muslim population in and around East Mostar lived in extremely harsh conditions.⁴⁷³ Between June 1993 and April 1994, the inhabitants of East Mostar, subjected to constant HVO fire and shelling, suffered from a shortage of food, water and electricity, and did not have appropriate access to medical care.⁴⁷⁴ The Chamber found *inter alia* that in June 1993, the HVO hindered repair works on the water supply system in East Mostar proposed by the THW company. *Witnesses BA* and *BC* said that despite Jadranko Prlić's assurances that there would be no obstacles to repairing the water supply system and that he would permit repair work to go ahead, the HVO constantly raised "bureaucratic obstacles" to prevent the repair of the system in East Mostar by the THW company.⁴⁷⁵ The Chamber nevertheless noted that between July and November 1993, the HVO, and in particular the HVO municipal office for reconstruction in Mostar which communicated with Jadranko Prlić attempted to repair the hydraulic system.⁴⁷⁶

180. The Chamber finds that in June 1993 Jadranko Prlić assured members of international organisations that he would authorise repair works on the water supply system by the THW

⁴⁷¹ Prosecution Final Trial Brief, paras 493-498.

⁴⁷² Prlić Defence Final Trial Brief, para. 327 (t).

⁴⁷³ See "Living Conditions for the Population in East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

⁴⁷⁴ See "Access to Food", "Access to Water and Electricity" and "Access to Medical Care" in the Chamber's factual findings with regard to the Municipality of Mostar.

⁴⁷⁵ Witness BC, T(F), p. 18330, closed session. For example, *Witness BC* indicates that an engineer from the THW company spent days negotiating with those in charge of the water supply system in West Mostar to obtain permission to repair the water pipes but that he eventually gave up; P 09712 under seal, paras 43 and 65.

whereas the HVO created bureaucratic obstacles to prevent the repair works in June 1993 and considers that the only possible explanation is that Jadranko Prlić deliberately impeded the attempts to repair the water supply system by the THW company by placing bureaucratic obstacles in the way.

181. Moreover, the Chamber notes that according to two documents dated 2 December 1993, Jadranko Prlić proposed to Haris Silajdžić, President of the Government of BiH, that a number of measures be introduced to alleviate the suffering of the population of East Mostar, including the organisation of a soup kitchen in West Mostar - with all guarantees of safety for the arrival and return of the inhabitants of East Mostar - and the admission of wounded Muslim and Serbian "civilians" and military personnel from East Mostar by the hospitals and other medical institutions in the HR H-B.⁴⁷⁷ The Chamber, however, noted it had no evidence to support a finding that the proposals were ever implemented.⁴⁷⁸

182. The Chamber finds that Jadranko Prlić knew of the bad living conditions of the population in East Mostar and in particular of the lack of food. He also knew about the lack of water in East Mostar and prevented the attempts to repair the water supply system in June 1993. The Chamber holds that, except for the attempts to repair the water supply system after June, Jadranko Prlić did nothing to improve the situation of the population in East Mostar. The Chamber finds that, even though he was aware of the appalling overall situation of the inhabitants of East Mostar and had the power to intervene, Jadranko Prlić failed to act to improve the living conditions of the population of East Mostar.

183. Concerning the free passage of the humanitarian convoys, the Chamber recalls that Jadranko Prlić was one of the HVO people with the authority to grant passage to the international and humanitarian organisations to deliver humanitarian aid to East Mostar.⁴⁷⁹ The Chamber recalls that the HVO impeded the regular delivery of humanitarian aid to East Mostar at least between June and December 1993 by restricting access to East Mostar for international organisations, in particular through administrative restrictions, and by completely blocking access for humanitarian convoys to East Mostar for almost two months in the summer of 1993 and in December 1993.⁴⁸⁰

⁴⁷⁶ Witness BD, T(F), pp. 20897, 20901-20903 and 20958-20960, closed session; Grant Finlayson, T(F), p. 18150; 1D 01566; 2D 00501; 1D 02180; 1D 02826.

⁴⁷⁷ 1D 01874, p. 2; *See also* P 07008, p. 3.

⁴⁷⁸ *See* "Access to Food" in the Chamber's factual findings with regard to the Municipality of Mostar.

⁴⁷⁹ *See* "Blocking of International Organisations and Humanitarian Aid" in the Chamber's factual findings with regard to the Municipality of Mostar.

⁴⁸⁰ *See* "Blocking of International Organisations and Humanitarian Aid" in the Chamber's factual findings with regard to the Municipality of Mostar.

184. The Chamber, *inter alia*, established, in particular, that Jadranko Prlić was one of the HVO officials who on 10 June 1993 informed *Witness BA* that the ODPR had issued a decision - which the Chamber does not have - laying down stricter administrative requirements and conditions for the movement of humanitarian aid convoys, notably requiring that each convoy be individually approved by "the HVO authorities".⁴⁸¹ It also established that Jadranko Prlić had the power to authorise access to East Mostar for members of international organisations⁴⁸² and that he refused to grant such authorisation in July 1993. Accordingly, Jadranko Prlić told *Witness BC*, who met him between 10 and 15 July 1993, that as long as the military situation on the ground remained the same – according to *Witness BC*, Jadranko Prlić was referring to the ABiH attack on the *Tihomir Mišić* barracks – the HVO would not be able to grant humanitarian access to East Mostar.⁴⁸³ Furthermore, the frequent meetings between representatives of the international organisations and the HVO held in July and August 1993 so as to negotiate free access for humanitarian convoys to East Mostar - for example, the one held on 8 August 1993 in Makarska which was attended by Jadranko Prlić and Berislav Pušić - attest to the difficulties the international organisations encountered. The negotiations produced no results until 21 August 1993. That day, after yet another round of difficult negotiations, authorisation to deliver humanitarian aid to the population of East Mostar was granted.⁴⁸⁴

185. The Chamber finds that Jadranko Prlić knew about the difficulties that the international organisations, particularly humanitarian ones, had regarding access to East Mostar, and that he had the power to grant them access. It notes that from June 1993 to at least December 1993, the HVO and in particular Jadranko Prlić created numerous administrative barriers in order to restrict the delivery of humanitarian aid to East Mostar. During some periods, Jadranko Prlić blocked all access to the area.⁴⁸⁵ It therefore finds that by contributing to blocking the delivery of humanitarian aid to East Mostar from June 1993 to at least December 1993, Jadranko Prlić must have foreseen that it would cause serious bodily harm to the inhabitants of East Mostar and would constitute a serious attack on their human dignity. Therefore, he intended to cause great suffering to the population of Mostar.

⁴⁸¹ P 09712 under seal, para. 64. See also "Blocking of International Organisations and Humanitarian Aid" in the Chamber's factual findings with regard to the Municipality of Mostar.

⁴⁸² Witness BD, T(F), p. 20700, closed session. See also "Blocking of International Organisations and Humanitarian Aid" in the Chamber's factual findings with regard to the Municipality of Mostar.

⁴⁸³ Witness BC, T(F), pp. 18360-18365, closed session; P 09999 under seal. See also "Blocking of International Organisations and Humanitarian Aid" in the Chamber's factual findings with regard to the Municipality of Mostar.

⁴⁸⁴ See "Blocking of International Organisations and Humanitarian Aid" in the Chamber's factual findings with regard to the Municipality of Mostar.

⁴⁸⁵ P 04420 under seal, p. 1; Witness BD, T(F), pp. 20719-20720, closed session.

5. Municipality of Vareš

186. In this part, the Chamber will address (a) Jadranko Prlić's possible involvement in concealing the HVO crimes in Stupni Do and his failure to punish the perpetrators, as well as (b) Jadranko Prlić's involvement in displacing the Croats from Vareš.

a) Jadranko Prlić's Possible Involvement in Concealing the HVO Crimes in Stupni Do and His Failure to Punish the Perpetrators

187. The Prosecution submits that Jadranko Prlić concealed the HVO crimes in Stupni Do and failed to punish the perpetrators.⁴⁸⁶ It alleges that on 31 October 1993, when questioned about the events in Stupni Do, Jadranko Prlić 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, but as of 30-31 October 1993, none of the HVO commanders involved had been suspended or disciplined in any way.⁴⁸⁷

188. The Prlić Defence submits that Jadranko Prlić was not connected with any crimes that may have been committed in Stupni Do, had no control over them and was not responsible for them.⁴⁸⁸

189. The Chamber recalls that on 30 October 1993, following the events in Stupni Do, Jadranko Prlić assured *Philip Watkins*⁴⁸⁹ that Milivoj Petković had removed the local HVO commanders from their posts and that an investigation was underway.⁴⁹⁰ The Chamber already established that, in a handwritten message dated 26 October 1993, Milivoj Petković ordered Ivica Rajić, Commander of the 2nd Operations Group and the *Bobovac* Brigade from Vareš,⁴⁹¹ not to follow the instructions to conduct an investigation that he had given in writing, and that Milivoj Petković orally repeated the order that same day.⁴⁹² Moreover, the Chamber recalls that on 1 November 1993, Bruno Stojić asked Mate Boban to promote Ivica Rajić, who was involved in the events in Stupni Do, to the rank of HVO colonel and Mate Boban granted the request that same day.⁴⁹³

⁴⁸⁶ Indictment, para. 215, and Prosecution Final Trial Brief, para. 509.

⁴⁸⁷ Indictment, para. 215.

⁴⁸⁸ Prlić Defence Final Trial Brief, para. 348.

⁴⁸⁹ Philip Watkins was an ECMM observer in Mostar between October 1993 and January 1994. *See Philip Watkins, T(F)*, p.18749.

⁴⁹⁰ Witness EA, T(F), pp. 24534 and 24537, and T(E), p. 24534, closed session; P 06303 under seal.

⁴⁹¹ Ivica Rajić commanded the *Bobovac* Brigade from Vareš from 12 May to 24 October 1993: P 02328; IC 00710; 4D 00847; 4D 00532. *See also* "2nd Operations Group" in the Chamber's factual findings with regard to the Municipality of Vareš.

⁴⁹² *See* "Information and Investigative Procedures Ordered by the HVO and Absence of Prosecution" in the Chamber's factual findings with regard to the Municipality of Vareš.

⁴⁹³ P 06328; P 06339; P 06362.

190. In view of the evidence, the Chamber notes that when Jadranko Prlić told *Philip Watkins* on 30 October 1993 that the HVO members responsible for the events in Stupni Do had been removed from their posts, that information was inaccurate. However, the Chamber does not know whether on 30 October 1993, when he spoke to Philip Watkins, Jadranko Prlić knew that Bruno Stojić and Milivoj Petković had decided not to prosecute those responsible for the events in Stupni Do.⁴⁹⁴

191. The Chamber also established that on 5 November 1993, Jadranko Prlić attended a meeting with Franjo Tuđman in Split along with Slobodan Praljak, Milivoj Petković and Mate Boban.⁴⁹⁵ During the meeting, Milivoj Petković explained that on 25 October 1993, he received an HVO report that the HVO troops had killed about 80 people, including 47 members of the ABiH, and torched practically everything in the village; he also said that he had requested an investigation.⁴⁹⁶ During the meeting, Milivoj Petković named Ivica Rajić as one of the commanders in charge of the HVO military operation in Stupni Do.⁴⁹⁷ The participants in the meeting then expressed concern about the possible effects the events in Stupni Do, which had become public, might have.⁴⁹⁸ At the end of the meeting, it was decided to conduct investigations to establish who was to be held accountable for the events in Stupni Do.⁴⁹⁹ The Chamber finds that at least by 5 November 1993, Jadranko Prlić was informed of the murders of people who did not belong to any armed force during the attack on Stupni Do and the destruction carried out by the HVO. On that date, he also knew that Milivoj Petković had requested an investigation into the events.

192. The Chamber recalls that the minutes of a meeting held on 10 November 1993 show that Franjo Tuđman ordered Mate Boban and Mate Granić to replace Ivica Rajić at the head of the Kiseljak HVO.⁵⁰⁰ Jadranko Prlić also attended the meeting of 10 November 1993 and knew about the order.⁵⁰¹ Nevertheless, Mate Boban afterwards gave assurances to Ivica Rajić that the HVO would find a solution to keep him in his post. The Chamber established that Ivica Rajić continued to exercise his functions under the assumed name of Viktor Andrić and was therefore never bothered or punished by the HVO for his responsibility in the events in Stupni Do.⁵⁰² However, the evidence

⁴⁹⁴ See "Municipality of Vareš" in the Chamber's findings with regard to Milivoj Petković's responsibility and "Municipality of Vareš" in the Chamber's findings with regard to Bruno Stojić's responsibility under the JCE.

⁴⁹⁵ P 06454, pp. 57-60, 72 and 73.

⁴⁹⁶ P 06454, pp. 57-60, 72 and 73.

⁴⁹⁷ P 06454, pp. 58 and 59.

⁴⁹⁸ P 06454, pp. 57-60, 72 and 73.

⁴⁹⁹ P 06454, pp. 1 and 112; P 06842; 4D 00506; Nelson Draper, T(F), pp. 16600-16602; Philip Watkins, T(F), pp. 19014 and 19015.

⁵⁰⁰ P 06581, pp. 8-16 and 57.

⁵⁰¹ P 06581, p. 3.

⁵⁰² See "Keeping Ivica Rajić in His Post and Adoption of the Assumed Name of Viktor Andrić" in the Chamber's factual findings with regard to the Municipality of Vareš.

does not support a finding by the Chamber that Jadranko Prlić knew that Franjo Tuđman's order to Mate Boban to replace Ivica Rajić had not been implemented.

193. The Chamber further recalls that on the basis of an order from Slobodan Praljak which he signed on behalf of Milivoj Petković, Ivica Rajić sent two reports to Milivoj Petković about the events in Stupni Do. The reports, signed by Ivica Rajić on 8 and 15 November 1993, were in fact submitted to him for signature with the sole purpose of making the international community believe that the HVO was conducting an investigation.⁵⁰³ Based on the evidence, the Chamber cannot establish that Jadranko Prlić knew about the two reports and that their purpose was therefore to deceive the international community.

194. In a letter to UNPROFOR Commander General Cot dated 4 December 1993, Jadranko Prlić again indicated that the HVO had conducted an investigation to establish the responsibility of the perpetrators of the events in Stupni Do.⁵⁰⁴ In view of the evidence analysed above, the Chamber cannot find that Jadranko Prlić knew that the information he provided to UNPROFOR on 4 December 1993 was inaccurate.

195. While Jadranko Prlić did know about the murders and destruction carried out by Ivica Rajić's troops in Stupni Do on 5 November 1993, the Chamber cannot find that Jadranko Prlić was involved in the absence of sanctions against the perpetrators of the crimes. Therefore, it cannot find that Jadranko Prlić knowingly lied to the members of international organisations when he told them that investigations and sanctions were underway while that was not the case. Consequently, the Chamber cannot accuse Prlić of accepting the crimes committed in Stupni Do.

b) Jadranko Prlić's Involvement in Moving Croats from Vareš

196. The Prosecution contends that Jadranko Prlić participated in the movement of Croats from Vareš into the territory claimed to be part of Herceg-Bosna so as to create or reinforce Croat-majority populations there in furtherance of the JCE.⁵⁰⁵ It alleges that the HVO efforts to move Croats from Vareš to Herzegovina were underway by at least August 1993; that on 20 October 1993, despite the resistance of the Vareš Croats, the HVO was able to move approximately 5,500 to 6,000 Croats who had previously taken refuge in Vareš to Herzegovina; and that following the

⁵⁰³ See "Information and Investigative Procedures Ordered by the HVO and Absence of Legal Prosecution" in the Chamber's factual findings with regard to the Municipality of Vareš.

⁵⁰⁴ ID 01912.

⁵⁰⁵ Indictment, para. 17.1 (r). See also Prosecution Final Trial Brief, paras 283 to 292 and 462.

HVO attack on Stupni Do on 23 October 1993, which provoked ABiH attacks on Vareš in response, the last Croats finally left the town of Vareš just as the HVO had expected or hoped for.⁵⁰⁶

197. The Prlić Defence argues that there was no "reverse ethnic cleansing" of Croats and that there were no attempts to permanently re-populate certain areas controlled by the HZ(R) H-B with BiH Croats in order to homogenise those areas.⁵⁰⁷ On the contrary, Jadranko Prlić and the HVO HZ(R) H-B did what they could to assist over 100,000 Croats who had been displaced.⁵⁰⁸ The Prlić Defence insists that the Croats from the Municipality of Vareš needed to be evacuated for humanitarian reasons.⁵⁰⁹

198. The Chamber recalls that the Municipality of Vareš was not included in provinces 3, 8 and 10 of the Vance-Owen Plan which the HZ(R) H-B authorities considered Croatian.⁵¹⁰ The Chamber notes in particular Slobodan Praljak's statement about Vareš during a meeting of brigade commanders in April 1993 that the Municipality of Vareš would not be included in the territory of the HZ H-B.⁵¹¹

199. The Chamber recalls that in June 1993, between 10,000 and 15,000 BiH Croats arrived in the town of Vareš.⁵¹² The departure of some of the Croats to other territories in BiH or to Croatia was gradually organised for humanitarian reasons linked to the living conditions of the "displaced persons" by the HZ H-B authorities and the Vareš municipal authorities from June 1993 until 21 October 1993.⁵¹³

200. The evidence establishes that Jadranko Prlić contributed to the organisation of the removal of the Croats from the municipalities of Kakanj and Vareš and their rehousing in the HZ(R) H-B in August 1993. Thus in a letter dated 3 August 1993, Jadranko Prlić sought assistance from the President of the Government of Croatia to transport them from Central Bosnia.⁵¹⁴ In a letter to the President of the Mostar HVO dated 18 August 1993, Jadranko Prlić communicated the decision to evacuate the Kakanj Croats from the Municipality of Vareš to western Herzegovina, and spoke

⁵⁰⁶ Prosecution Final Trial Brief, paras 283 to 292, in particular paras 285, 287 and 288.

⁵⁰⁷ Prlić Defence Final Trial Brief, para. 327 (r).

⁵⁰⁸ Prlić Defence Final Trial Brief, para. 327 (r).

⁵⁰⁹ Prlić Defence Final Trial Brief, para. 222.

⁵¹⁰ See "Negotiations within the Framework of the Vance-Owen Plan (August 1992 - January 1993)" in the Chamber's findings with regard to the main events following the establishment of Herceg-Bosna.

⁵¹¹ P 01788, p. 2.

⁵¹² See "Departure of Croats Living in Vareš" in the Chamber's factual findings with regard to the Municipality of Vareš.

⁵¹³ See "Departure of Croats Living in Vareš" in the Chamber's factual findings with regard to the Municipality of Vareš.

⁵¹⁴ Witness DE, T(F), pp. 15641 and 15642, closed session; 1D 01266.

about preparations for their accommodation, means of transport and their passage through Serbian-controlled territories in BiH.⁵¹⁵

201. On 4 October 1993, the Kakanj HVO, which was in "exile" in Vareš, sent a letter to Mate Boban and Jadranko Prlić requesting the evacuation of about 7,000 Kakanj Croats who had taken refuge in Vareš to the territory of the HR H-B or of Croatia.⁵¹⁶ According to *Witness DE*, a Croat from Vareš, around 13 October 1993, there were still some 4,000 displaced persons in the Vareš area.⁵¹⁷ On 20 October 1993, about 3,500 displaced persons from the municipalities of Kakanj and Zenica arrived in Vareš and that same day, that is, 20 October 1993, the HVO, including the ODPR, which was under the direct authority of Jadranko Prlić,⁵¹⁸ organised the departure of 5,500 Croats from the Municipality of Vareš and their arrival in the Municipality of Čapljina because of fierce fighting in the areas where they were.⁵¹⁹

202. The Chamber recalls that after 23 October 1993 and the events in Stupni Do, the HVO political authorities called on the Croatian population to leave the Municipality of Vareš because of a risk of a response by the ABiH.⁵²⁰ On 25 October 1993, *Philip Watkins* met with Jadranko Prlić to discuss the situation of the Croats in Central Bosnia⁵²¹ because Jadranko Prlić was particularly concerned about the arrival and rehousing of 5,000 Croatian refugees and another 10,000 refugees from central Bosnia in the following two months.⁵²²

203. During a meeting of the Government of the HR H-B on 4 November 1993 - attended among others by Jadranko Prlić and Bruno Stojić - Bruno Stojić said that the ABiH was continuing to violate the ceasefire declarations, to provoke fighting and to terrorise the "civilians". He also said that the Muslims were carrying out "ethnic cleansing".⁵²³ The Government of the HR H-B then decided that the ODPR would take care of the receipt and accommodation of the Croatian "refugees" from the Vareš area and that UNPROFOR would be asked to provide humanitarian aid to the areas of Vitez, Busovača, Kiseljak and Kreševo as a matter of priority.⁵²⁴ The Chamber noted that as of 4 November 1993, the ABiH had surrounded the town of Vareš, which fell into ABiH hands on 5 November 1993. Jadranko Prlić was present at the meeting with Franjo Tuđman on

⁵¹⁵ P 04282.

⁵¹⁶ 1D 00921/3D 00838, p. 2.

⁵¹⁷ *Witness DE*, T(F), pp. 15645 and 15646, closed session; 1D 00932.

⁵¹⁸ *Witness BA*, T(F), pp. 7164 and 7165, closed session; P 09712 under seal, para. 12.

⁵¹⁹ 1D 01355; P 05996; *Martin Raguž*, T(F), pp. 31319-31321, 31373 and 31375; 1D 01672; 1D 02168.

⁵²⁰ P 02980, p. 21.

⁵²¹ *Philip Watkins*, T(F), pp. 18765 and 18766; P 06084 under seal, p. 1.

⁵²² *Philip Watkins*, T(F), pp. 18765 and 18766; P 06084 under seal.

⁵²³ 1D 02179, p. 1.

⁵²⁴ 1D 02179.

5 November 1993 in Zagreb during which Milivoj Petković explained that Vareš had practically fallen.⁵²⁵

204. Based on these facts, the Chamber infers that Jadranko Prlić knew that some HZ(R) H-B officials did not wish that municipality to be included in the area of BiH considered "Croatian". Inasmuch as he contributed to the movement of the Croatian population in the territories of the HZ(R) H-B and continued to exercise his functions in the HVO/Government of the HZ(R) H-B, the Chamber finds that he shared that wish.

6. Jadranko Prlić Contributed to the HVO HZ(R) H-B Policy of Population Movement

205. The Prosecution alleges that Jadranko Prlić organised, participated in, proposed, requested, caused, supported and/or advocated the movement of large numbers of Bosnian Croats into the territory claimed to be part of Herceg-Bosna so as to create or reinforce Croat-majority populations there in furtherance of the JCE.⁵²⁶ It claims that Jadranko Prlić was not secretive about his intention to pursue the policy of "reverse ethnic cleansing" because during the meetings with international representatives in which he participated, he constantly returned to the issue of exchanges and transfers of population.⁵²⁷

206. The Prlić Defence submits that Jadranko Prlić never advocated the dislocation or relocation of anyone in BiH.⁵²⁸ It claims that there was no "reverse ethnic cleansing" of Croats and that there were no attempts to permanently re-populate certain areas controlled by the HZ(R) H-B with BiH Croats in order to homogenise those areas. On the contrary, Jadranko Prlić and the HVO HZ(R) H-B did what they could to assist over 100,000 Croats who had been displaced.⁵²⁹ According to the Prlić Defence, the evidence shows that the Muslim political and military leadership instilled fear in the Croats.⁵³⁰

207. At a meeting on 1 February 1993 attended by Jadranko Prlić, the HVO HZ H-B established the Commission for the Question of the Migration of Population.⁵³¹

208. On 5 May 1993, during a meeting in Mostar attended by Mate Boban, Darinko Tadić and representatives of an international organisation, Jadranko Prlić advocated a population and property

⁵²⁵ P 06454, p. 61.

⁵²⁶ Indictment, para. 17.1 (r); Prosecution Final Trial Brief, para. 462.

⁵²⁷ Prosecution Final Trial Brief, para. 463.

⁵²⁸ Prlić Defence Final Trial Brief, para. 327 (s).

⁵²⁹ Prlić Defence Final Trial Brief, para. 327 (r).

⁵³⁰ Prlić Defence Final Trial Brief, para. 326 (d).

⁵³¹ P 01388, point 6, p. 2.

exchange programme whereby, for example, a Muslim in Mostar could exchange his flat for a flat occupied by a Croat in Zenica.⁵³²

209. According to an ECOMM report of 13 June 1993, the HVO was conducting a large-scale propaganda campaign to provoke a mass exodus of the Croatian population from the Municipality of Travnik to the north.⁵³³ At an HVO HZ H-B meeting chaired by Jadranko Prlić on 15 June 1993, it was decided to organise the anticipated relocation of many Croats from central Bosnia and northern Herzegovina to the HZ H-B because they were under "threat of massacre and extermination" there.⁵³⁴ The Chamber recalls that during that period, between 400 and 650 Muslims were forced to leave their homes in West Mostar in order to accommodate the Croats from other areas in BiH and in particular from Travnik.⁵³⁵ The Chamber finds that this movement of the Muslim population resulted from the implementation of the plan of 15 June 1993 to rehouse the Croats from central Bosnia and northern Herzegovina.

210. On 21 June 1993, Jadranko Prlić, as President of the HVO HZ H-B, signed a decision creating a staff for organising and coordinating the effort to accommodate and provide for expelled people and refugees.⁵³⁶

211. According to *Witness DZ*, during a meeting on 23 June 1993, Vladislav Pogarčić, speaking on behalf of Mate Boban, Bruno Stojić and Jadranko Prlić, expressed their wish to gather the Croatian population in one Croatian entity.⁵³⁷

212. On 16 July 1993 in Mostar, in the presence of representatives of the international community, Darinko Tadić, Krešimir Zubak and Jasna Mihalčić, a representative of the ODPH from Croatia, Jadranko Prlić announced the impending arrival of a large number of Croats in Mostar and said that 10,000 Muslims wished to leave Mostar for third countries.⁵³⁸ Jadranko Prlić also negotiated with Croatia for transit visas to be granted to the Muslims wishing to go to third countries through its territory.⁵³⁹ On 29 July 1993, Jadranko Prlić participated in a meeting of the HVO HZ H-B during which the issue of the accommodation, movement and anticipated arrival of

⁵³² P 09712 under seal, para. 38.

⁵³³ P 02737, p. 2; P 02849, p. 4; Christopher Beese, T(F), pp. 3252 and 3253.

⁵³⁴ ID 01668, conclusion 3; P 03413, p. 1.

⁵³⁵ See "Crimes Allegedly Committed in June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

⁵³⁶ P 02887.

⁵³⁷ P 10367 under seal, para. 70; *Witness DZ*, T(F), p. 26577, closed session; *Witness DZ*, T(F), p. 26564, closed session.

⁵³⁸ *Witness BA*, T(F), p. 7234, closed session; P 09679, para. 1; P 09712 under seal, para. 50.

⁵³⁹ *Witness BA*, T(F), pp. 7233-7235, closed session; P 09712 under seal, paras 52 and 74; P 09679, para. 1.

10,000 Croats from Central Bosnia was raised, while the ODPH of Croatia was asked to assist in the movement of the Croats by providing logistical support.⁵⁴⁰

213. The Chamber recalls that Jadranko Prlić participated in organising and thus facilitating the departure of the Croatian population of central Bosnia to Herzegovina between August and November 1993.⁵⁴¹ Furthermore, according to an ODPH letter dated 3 November 1993 sent to the HVO municipalities and the President of the Government of the HR H-B and according to the minutes of a meeting of the Government of the HR H-B held on 4 November 1993 and attended among others, by Jadranko Prlić, Bruno Stojić and Martin Raguž, the relocation of 10,000 to 15,000 Croats from Vareš to other HVO municipalities was raised, particularly because of fighting with the ABiH in the territory of the municipality.⁵⁴²

214. Moreover, speaking about the consolidation of Croatian territories during a meeting in Split on 5 November 1993 in the presence of Franjo Tuđman, Milivoj Petković and Slobodan Praljak, Jadranko Prlić said as follows: "We must move closer to rounding off territories. As a government, last spring we defined both the proposals and the conclusions, even with regard to moving certain brigades from some areas, which would include moving the population from those areas and concentrating it in certain directions that we think could become and remain Croatian areas."⁵⁴³ The Chamber recalls that as of 4 November 1993, the ABiH had surrounded the town of Vareš, which fell into ABiH hands on 5 November 1993.⁵⁴⁴ The Chamber found that the threat of ABiH attacks and the fact that the attacks did occur were sufficient to trigger the departure of the Croats from the municipality, but it also established that HVO forces exerted pressure on the Croats to leave Vareš.⁵⁴⁵

215. In view of the evidence, the Chamber finds that Jadranko Prlić planned and facilitated the movement of the Croatian population from the areas where it was to territories claimed to belong to the HZ(R) H-B. Although that movement could be partly justified by the ongoing fighting, it was also prompted by the HVO. In any event, it was one part of the policy of moving Croatian and Muslim populations intended by the HZ(R) H-B leadership and demonstrates Jadranko Prlić's wish to populate the territories considered Croatian with Croats to the detriment of the Muslims.

⁵⁴⁰ P 03796, p. 4, point 14.

⁵⁴¹ See "Jadranko Prlić's Involvement in Moving Croats from Vareš" in the Chamber's findings with regard to Jadranko Prlić's responsibility under the JCE.

⁵⁴² 1D 01354; 1D 02179.

⁵⁴³ P 06454, p. 36.

⁵⁴⁴ See "Departure of Croats Living in Vareš" in the Chamber's factual findings with regard to the Municipality of Vareš.

⁵⁴⁵ See "Departure of Croats Living in Vareš" in the Chamber's factual findings with regard to the Municipality of Vareš.

7. Detention Facilities

216. The Prosecution alleges that Jadranko Prlić played a central role in establishing and maintaining HZ(R) H-B prisons and detention facilities, and thus largely contributed to the crimes committed there.⁵⁴⁶ Jadranko Prlić took measures to rectify the situation or close the prisons and detention facilities only when he was forced to do so because of international pressure on Croatia and the HZ(R) H-B. In any case, Jadranko Prlić and his government took no measures to address the situation properly and effectively⁵⁴⁷ even though Jadranko Prlić had the power to intervene because he could grant and arrange access to the prisons and detention centres, and could also close them.⁵⁴⁸ On the contrary, Jadranko Prlić was personally involved with establishing and re-opening the prisons in Dretelj and Gabela, in direct furtherance of the JCE conducted by the HVO HZ H-B.⁵⁴⁹ Moreover, given his extensive *de jure* and *de facto* powers, he could have intervened to stop or at least to try to stop the practice of forced labour,⁵⁵⁰ at a time when the international community repeatedly expressed grave concern to him over forced labour at the front lines.⁵⁵¹ Jadranko Prlić never condemned the HVO's practice of forced labour or lifted a finger to stop it.⁵⁵²

217. According to the Prlić Defence, Jadranko Prlić and the HVO HZ(R) H-B were not involved in or part of any plans to establish, organise, direct, fund, facilitate, support or participate in, maintain or operate a system of prisons, concentration camps or other detention facilities.⁵⁵³ All detentions ordered by the HVO HZ(R) H-B were lawful, whereas any facilities used for unlawful detention were established without authorisation, encouragement or support from Jadranko Prlić or the HVO HZ(R) H-B.⁵⁵⁴ Finally, Jadranko Prlić and the HVO HZ(R) H-B were not engaged in any activity related to unlawful forced labour,⁵⁵⁵ had no control over it and were not responsible for it. Those who did engage in or authorised the use of forced labour were not subordinate to Jadranko Prlić or the HVO HZ(R) H-B.⁵⁵⁶

⁵⁴⁶ Indictment, para. 17.1 (n), (o) and (w); Prosecution Final Trial Brief, paras 464-487.

⁵⁴⁷ Prosecution Final Trial Brief, para. 477.

⁵⁴⁸ Prosecution Final Trial Brief, paras 467 and 482.

⁵⁴⁹ Prosecution Final Trial Brief, para. 464.

⁵⁵⁰ Prosecution Final Trial Brief, para. 479.

⁵⁵¹ Prosecution Final Trial Brief, para. 480.

⁵⁵² Prosecution Final Trial Brief, para. 481.

⁵⁵³ Prlić Defence Final Trial Brief, paras 326 (h), 321 and 346. *See also* Prlić Defence Closing Arguments, T(F), p. 52282.

⁵⁵⁴ Prlić Defence Final Trial Brief, paras 327 (n), 346 and 347 (d).

⁵⁵⁵ Prlić Defence Final Trial Brief, paras 326 (j) and 327 (o).

⁵⁵⁶ Prlić Defence Final Trial Brief, para. 347 (f).

218. The Chamber found earlier that Jadranko Prlić had authority over the detention facilities of the HVO HZ(R) H-B, particularly to open them and close them.⁵⁵⁷

219. The Chamber also notes that between July and September 1993, Jadranko Prlić presided over several HVO working meetings at which the detention facilities were discussed, particularly the way to solve the problems of overcrowding and the detention conditions of detainees in the detention facilities of the HVO HZ(R) H-B.⁵⁵⁸ For example, during a working meeting on 6 September 1993 attended by Jadranko Prlić and Bruno Stojić, the Government of the HR H-B took several decisions to bring the detention facilities for "prisoners of war" in line with the norms of international law.⁵⁵⁹ The departments/ministries of defence, justice and administration were tasked with overseeing the implementation of the decisions.⁵⁶⁰ The minutes of the meeting show that the detention conditions of people belonging to "enemy forces and [people] preparing a [...] rebellion" were bad and could harm the interests of the HR H-B. However, the minutes show that although the government denied any responsibility in the matter, it was nevertheless going to take measures to try to improve the detention conditions and to bring them in line with international humanitarian law.⁵⁶¹

220. Based on this evidence, the Chamber infers that Jadranko Prlić was informed of the detention of Muslims by the HVO in extremely precarious conditions and that the detentions were inconsistent with international law. Even if he did seek to improve the detention conditions and the treatment of the detainees - as the Chamber found in the parts relating to the various detention facilities - the measures were insufficient or inappropriate because the conditions and treatment remained poor until the day the centres were closed down.⁵⁶² The Chamber, therefore, finds that Jadranko Prlić as President of the HVO/Government did admittedly take some measures, albeit insufficient or inappropriate, and accepted the extremely precarious conditions in which the Muslim detainees were living. The Chamber will now analyse in greater detail the evidence relating to Jadranko Prlić's participation in the crimes committed at (a) the Heliodrom, (b) the Vojno Detention Facility, (c) Dretelj Prison and (d) Gabela Prison.

⁵⁵⁷ See "Jadranko Prlić's Authority over Detention Centres" in the Chamber's findings with regard to Jadranko Prlić's responsibility under the JCE.

⁵⁵⁸ P 03560, p. 4, point 7; P 03573; P 04841.

⁵⁵⁹ P 04841.

⁵⁶⁰ P 04841, p. 3.

⁵⁶¹ P 04841, pp. 2 and 3.

⁵⁶² See in particular "Conditions of Confinement" in the Chamber's factual findings with regard to the Heliodrom, "Conditions of Confinement and the Death of a Detainee" in the Chamber's factual findings with regard to Dretelj Prison and "Conditions of Confinement at Gabela Prison" in the Chamber's factual findings with regard to Gabela Prison.

a) Heliodrom

221. In this part, the Chamber will analyse (i) Jadranko Prlić's knowledge of the detentions and conditions of detention of Muslims at the Heliodrom, Jadranko Prlić's role regarding (ii) access to the Heliodrom, (iii) the use of detainees for work at the front line and (iv) the release of the detainees from the Heliodrom.

i. Jadranko Prlić's Knowledge of Detentions and Detention Conditions of Muslims at the Heliodrom

222. The Chamber notes that at the 38th session of the HVO on 17 May 1993, attended among others, by Jadranko Prlić and Bruno Stojić, the situation in Mostar was discussed and that the HVO expressed its support for the relocation of civilians to the Heliodrom, saying that the women, children and elderly people had been released.⁵⁶³

223. In a press release dated 23 July 1993, Jadranko Prlić communicated that the detainees in all the detention centres, including the Heliodrom, were all men of military age and that many of them were regarded as standard military prisoners, while some were members of the ABiH reserve force.⁵⁶⁴ On 22 June 1993, he also indicated that the women, children and elderly people detained at the Heliodrom had been released and that immediately after arrest, all the detainees underwent medical examination and those who had any medical problems were released regardless of their age.⁵⁶⁵

224. The Chamber, however, recalls that the detainees incarcerated at the Heliodrom between 9 or 11 May 1993 and 19 April 1994 included both members of the ABiH and people who did not belong to any armed force arrested during large-scale HVO operations.⁵⁶⁶ The Chamber also found that the detention of the men not belonging to any armed force was not justified by security considerations.⁵⁶⁷ The Chamber likewise found that during their detention at the Heliodrom, some detainees suffered from hunger and a lack of hygiene, and lost weight, sometimes a significant

⁵⁶³ ID 01666.

⁵⁶⁴ P 03673, p. 2.

⁵⁶⁵ P 03673, p. 2.

⁵⁶⁶ See "Arrivals of Detainees Following Waves of Arrests in the Second Half of May 1993" in the Chamber's factual findings with regard to the Heliodrom. Concerning the fact that only Muslims were detained at the Heliodrom, see "Arrivals of Detainees Following Waves of Muslim Arrests on 9 and 10 May 1993" in the Chamber's factual findings with regard to the Heliodrom.

⁵⁶⁷ See "Arrivals of Detainees following Waves of Muslim Arrests on 9 and 10 May 1993" in the Chamber's factual findings with regard to the Heliodrom.

amount, and that the HVO authorities were informed of the situation by way of various reports.⁵⁶⁸ It also recalls that at several meetings of the HVO/Government of the HZ(R) H-B attended by Jadranko Prlić, particularly those held on 19 and 20 July 1993, the situation of the detainees at the HVO detention centres was raised. During the meetings, the HVO HZ(R) H-B conceded that efforts had to be made to improve the detention conditions but did not consider itself responsible for that.⁵⁶⁹

225. The Chamber considers that by issuing the press release on 23 July 1993 after being informed at the HVO meetings on 19 and 20 July 1993 of the precarious situation of the detained Muslims at the detention centres, Jadranko Prlić imparted information about the detention of Muslims which he knew was inaccurate. The Chamber further considers that the fact that Jadranko Prlić did take measures to improve the detention conditions of the detainees but did not deem himself responsible for their implementation does not exonerate him of his responsibility. Jadranko Prlić ought to have ensured the actual implementation of the decision of 19 July 1993. However, on 23 July 1993 he publicly justified the detention of Muslims at the Heliodrom and denied that their situation was bad. The Chamber finds that Jadranko Prlić facilitated the detention of civilians and the bad conditions in which the detainees were living.

ii. Jadranko Prlić's Role regarding Access to the Heliodrom

226. The Chamber recalls its finding that although the HVO authorities granted the ICRC and other representatives of the international community access to the Heliodrom, they were not allowed to visit all the facilities and the detainees there; moreover, the HVO authorities hid detainees from the representatives of the international community and refused to provide information about the detainees who were absent when the representatives called the roll.⁵⁷⁰

227. The Chamber found that Jadranko Prlić was involved in granting the representatives of international organisations access to the Heliodrom.⁵⁷¹ Accordingly, in a report on his meeting with Jadranko Prlić on 16 August 1993, a representative of an international organisation says that

⁵⁶⁸ See "Access to Food and Water", "Lack of Hygiene" and "Conditions of Confinement in Isolation Cells" in the Chamber's factual findings with regard to the Heliodrom.

⁵⁶⁹ P 03560, p. 4; P 03573.

⁵⁷⁰ See "Restrictions on Visits to Heliodrom Detainees by Members of the International Community" in the Chamber's factual findings with regard to the Heliodrom.

⁵⁷¹ See "Access to the Heliodrom for Representatives of International Organisations and Journalists" in the Chamber's factual findings with regard to the Heliodrom.

Jadranko Prlić suggested to him that he visit the Heliodrom and that he agreed.⁵⁷² The Chamber does not, however, know whether the visit in fact took place.

228. Based on the evidence, the Chamber cannot determine that Jadranko Prlić refused to grant the international organisations access to the Heliodrom or that he hid detainees from the representatives of the international community.

iii. Jadranko Prlić's Role in Using Detainees at the Front Line

229. The Chamber recalls that between May 1993 and March 1994, the HVO used detainees from the Heliodrom for work at the front line during which they were regularly wounded and killed.⁵⁷³ The Chamber also found that Jadranko Prlić belonged to the HZ(R) H-B authorities who were informed of incidents during the work of detainees from the Heliodrom and elsewhere.⁵⁷⁴ Accordingly, in August 1993 and in February and March 1994, representatives of the international community informed Jadranko Prlić that Heliodrom detainees were being sent to do work at the front and that some of them had been wounded while working.⁵⁷⁵ An ICRC letter dated 16 March 1994 sent to Marijan Biškić,⁵⁷⁶ Jadranko Prlić, Željko Šiljeg and Ante Roso indicates that on 1 January 1994, a group of detainees from the Heliodrom was taken to Šantić Street in Mostar to work at the front line.⁵⁷⁷ According to the letter, the HVO soldiers stubbed out their cigarettes all over the detainees' bodies and beat them.⁵⁷⁸

230. The Chamber also noted that Heliodrom detainees were used not only for labour at the front line but also as human shields positioned at the front line during fighting with the ABiH in July, August and September 1993.⁵⁷⁹ In a letter from the Međugorje office of the ICRC dated 20 January 1994, Jadranko Prlić, Milivoj Petković and Marijan Biškić were informed that many detainees from the HVO camps in Mostar, Vojno and Vrđi had been taken to the front line in Mostar, forced to wear HVO uniforms and carry fake wooden weapons while fighting was raging in August and

⁵⁷² P 09846 under seal.

⁵⁷³ See "Detainees from the Heliodrom and the Vojno Detention Centre Injured or Killed While Working" in the Chamber's factual findings with regard to the Vojno Detention Centre and "Detainees Killed or Wounded during Forced Labour" in the Chamber's factual findings with regard to the Heliodrom.

⁵⁷⁴ See "Attempts to Restrict Use of Heliodrom Detainees for Work" in the Chamber's factual findings with regard to the Heliodrom.

⁵⁷⁵ P 09846 under seal; P 07895, p. 1; P 08079 under seal, p. 2.

⁵⁷⁶ Officially appointed by Jadranko Prlić on 1 December 1993 as Deputy Minister for security and the HVO Military Police in the Ministry of Defence of the HR H-B; Marijan Biškić, T(F), pp. 15039, 15048 and 15049; P 07236, p. 2, article 4; P 06994; P 06998, p. 1.

⁵⁷⁷ P 08079 under seal, p. 2.

⁵⁷⁸ P 08079 under seal, p. 2.

⁵⁷⁹ See "Use of Heliodrom Detainees as Human Shields" in the Chamber's factual findings with regard to the Heliodrom.

September 1993.⁵⁸⁰ The Chamber further recalls that four members of the ABiH detained at the Heliodrom, namely Salim Kladašak, Mustafa Tašić, Šefik Tašić and Ismet Čilić, were killed on 17 September 1993 while being used as human shields in Mostar by the *Vinko Škrobo* ATG and that on 20 January 1994, Jadranko Prlić received a protest letter from the ICRC stating that several detainees had been killed while being used as human shields in Mostar on 17 September 1993.⁵⁸¹

231. In view of Josip Praljak's testimony, the Chamber finds that nobody in charge of the Heliodrom or any other HVO member was ever punished for making Heliodrom detainees work at the front line.⁵⁸²

232. The Chamber finds that from at least as early as August 1993, Jadranko Prlić knew that detainees from the Heliodrom were being sent to the front to work and that some of them had been wounded or mistreated while working. Given his position of authority, Jadranko Prlić, once notified by the ICRC, had the power to intervene and put an end to the practice. By failing to act from as early as August while continuing to exercise his functions in the HVO HZ H-B and the Government of the HR H-B, Jadranko Prlić facilitated the use of detainees from the Heliodrom for work at the front line and as human shields, and accepted their abuse and the death of some of them.

iv. Jadranko Prlić's Role in Releasing Heliodrom Detainees

233. The Chamber recalls that, in order to be released from the Heliodrom, Heliodrom detainees, after signing a "form" supplied by the ODPR of the HZ H-B indicating a country of destination, were forced to leave BiH with their families and move, at least initially, to Croatia in July, August, October and November 1993 before leaving for third countries.⁵⁸³ The Chamber also found that the "consent" of the detainees to leave BiH with their families⁵⁸⁴ was not genuine inasmuch as they did not in fact have a real choice: they could either remain detained at the Heliodrom in extremely harsh conditions,⁵⁸⁵ separated from their families – whereas some had already been detained for several months⁵⁸⁶ – or leave.

⁵⁸⁰ P 07636, p. 1. See also "Use of Heliodrom Detainees as Human Shields" in the Chamber's factual findings with regard to the Heliodrom.0

⁵⁸¹ See "Heliodrom Detainees Killed while Being Used as Human Shields" in the Chamber's factual findings with regard to the Heliodrom.

⁵⁸² Josip Praljak, T(F), pp. 15011 and 15012.

⁵⁸³ See "Organisation of Departure of Detainees from the Heliodrom to Third Countries or to ABiH-Held Territory" in the Chamber's factual findings with regard to the Heliodrom.

⁵⁸⁴ See "Organisation of Departure of Detainees from the Heliodrom to Third Countries or to ABiH-Held Territory" in the Chamber's factual findings with regard to the Heliodrom.

⁵⁸⁵ See "Conditions of Confinement" in the Chamber's factual findings with regard to the Heliodrom.

⁵⁸⁶ See "Arrivals of Detainees at the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

234. According to the report of an international organisation drawn up after a meeting with Jadranko Prlić, Krešimir Zubak and Darinko Tadić on 16 July 1993, the three men informed the international organisation that they were planning to negotiate with the Croatian ODPB for the issuance of transit visas for the Muslims "wishing to leave",⁵⁸⁷ that is, for about 10,000 people, including men in detention, and asked the organisation to help them in the endeavour, which it refused to do, characterising the "plan" as "ethnic cleansing".⁵⁸⁸ During the meeting, Jadranko Prlić also asked the international community for support in establishing transit centres, in particular in Ljubuški, for Muslims leaving for abroad and waiting for Croatian ODPB transit visas.⁵⁸⁹ The members of the international community did not wish to provide any such assistance because they could not ascertain if the requests for departure were voluntary.⁵⁹⁰ According to a report of an international organisation based on HVO information, around 18 and 19 July 1993, 2,500 detainees – roughly the number of detainees at the Heliodrom – were moved "voluntarily". The report explains, however, that the detention conditions at the Heliodrom were terrible and that the detainees "'voluntarily' left those conditions".⁵⁹¹

235. The Chamber finds that at least on one occasion in July 1993, Jadranko Prlić planned and facilitated the organisation of the departure of about 2,500 detainees from the Heliodrom to Croatia, although he knew that an international organisation had characterised the "plan" as "ethnic cleansing".

b) Vojno Detention Centre

236. In a letter from the Međugorje office of the ICRC dated 20 January 1994, Jadranko Prlić, Milivoj Petković and Marijan Biškić were informed that many detainees from the HVO camps in Mostar, Vojno and Vrđi had been taken to the front line in Mostar and forced to wear HVO uniforms and carry fake wooden weapons while fighting was raging in August and September 1993.⁵⁹² In January 1994, the ICRC also informed Jadranko Prlić and Milivoj Petković about the

⁵⁸⁷ The quotation marks are in the original text.

⁵⁸⁸ P 09679 under seal, p. 1.

⁵⁸⁹ Witness BA, T(F), pp. 7232-7234, closed session; P 09712 under seal, paras 50, 51, 52 and 74; P 09679 under seal.

⁵⁹⁰ Witness BA, T(F), pp. 7235 and 7236, closed session; P 09712 under seal, para. 52.

⁵⁹¹ P 03554 under seal, p. 1; Klaus Johann Nissen, T(F), p. 20488.

⁵⁹² See "Use of Heliodrom Detainees as Human Shields" in the Chamber's factual findings with regard to the Heliodrom.

Vojno Detention Centre and in particular about the detainees' work at the front line and the death of some of them.⁵⁹³

237. Furthermore, in a letter dated 16 March 1994, Jadranko Prlić was informed that the detainees who had been sent from the Heliodrom to the Vojno Detention Centre between August 1993 and the end of January 1994 to work at the front lines were severely abused by HVO members both during the work and inside the Vojno Detention Centre.⁵⁹⁴

238. The Chamber finds that as of 20 January 1994, Jadranko Prlić was informed that detainees from the Vojno Detention Centre were being used to work at the front line and that several of them had been mistreated, wounded and killed during the work. Nonetheless, those crimes continued until the end of January 1994. By continuing to exercise his functions and because he, took no measures to stop the crimes which continued until the end of January 1994, the Chamber holds that the only inference it can reasonably draw is that Jadranko Prlić accepted the use of detainees at the front line and the death and wounding of the detainees during the work.

239. Moreover, the Chamber recalls that the detainees at the Vojno Detention Centre were subjected to acts of violence and severe abuse by Mario Mihalj and Dragan Šunjić, both members of the 2nd Brigade of the HVO,⁵⁹⁵ between 8 November 1993 and 28 January 1994.⁵⁹⁶ The Chamber observes that Jadranko Prlić was informed of this in an ICRC letter dated 16 March 1994.⁵⁹⁷ The Chamber finds that, by March 1994 at the latest, Jadranko Prlić knew that detainees at the Vojno Detention Centre were mistreated by members of the 2nd Brigade of the HVO. Absent additional evidence, the Chamber does not know whether, after learning about the abuse suffered by the detainees at Vojno, Jadranko Prlić took any measures to put an end to it or punish the perpetrators. Therefore, it cannot find that Jadranko Prlić accepted the crimes.

240. The Chamber recalls that it could not establish that the murders linked to the detention conditions and mistreatment at the HVO detention centres were part of the common criminal purpose. Consequently, it will analyse any responsibility of Jadranko Prlić' for those crimes under JCE 3.

⁵⁹³ P 07636; P 07660. *See* also "Authorities and Prominent Figures Informed of the Existence of the Vojno Detention Centre and the Incidents Taking Place There" and "Types and Locations of Labour in the Vojno-Bijelo Polje Area" in the Chamber's factual findings with regard to the Vojno Detention Centre.

⁵⁹⁴ P 08079 under seal, p. 1.

⁵⁹⁵ P 07787, pp. 2 and 3; Marijan Biškić, T(F), p. 15153; P 04908; P 10219 under seal, p. 5925; P 08079 under seal, p. 1; P 05054; P 08428, p. 13, point 51, pp. 15 and 16, point 59, and p. 18, point 69; P 04767.

⁵⁹⁶ *See* "Authorities and Prominent Figures Informed of the Existence of the Vojno Detention Centre and the Incidents Taking Place There" in the Chamber's factual findings with regard to the Vojno Detention Centre.

⁵⁹⁷ P 08079 under seal, p. 1.

c) Dretelj Prison

241. During a session of the HVO HZ H-B on 20 July 1993, chaired by Jadranko Prlić and attended among others, by Bruno Stojić, a proposal was made to find new detention locations where some of the detainees from Čapljina could be taken and to resolve the problems of overcrowding in the prisons at Dretelj and Gabela.⁵⁹⁸

242. In a press release dated 23 July 1993, Jadranko Prlić stated that the detainees in all the detention centres were all men of military age and that many of them were regarded as standard military prisoners, while some were members of the ABiH reserve force.⁵⁹⁹ He also indicated that immediately after their arrest, all the detainees underwent medical examination and that those who had any medical problems were released regardless of their age.⁶⁰⁰

243. The Chamber recalls that between April and October 1993, the HVO detained at Dretelj Prison both members of the ABiH and people who did not belong to any armed force but who were arrested in droves and detained only because they were Muslim.⁶⁰¹ It recalls that Dretelj Prison was overcrowded, that the detainees did not have enough space or air, that the hygiene conditions were precarious in the extreme, that detainees suffered from hunger and thirst and had no access to medical care during their detention and that their detention conditions in the isolation cells were particularly trying.⁶⁰²

244. The minutes of a working meeting of the Government of the HR H-B held on 6 September 1993 and attended among others, by Jadranko Prlić and Bruno Stojić show that the conditions of detention of people belonging to "enemy forces and [people] preparing a [...] rebellion" were bad and could harm the interests of the HR H-B. The minutes also indicate that the situation was not considered to fall within the Government's responsibility.⁶⁰³ The Chamber recalls that on 7 September 1993, the ICRC was allowed to visit Dretelj Prison where it found that the situation was even worse than that at the Heliodrom and Gabela Prison.⁶⁰⁴

245. During a meeting on 20 September 1993 attended, *inter alia*, by Jadranko Prlić, Bruno Stojić, Berislav Pušić and Mate Granić, an ICRC representative said he had met about 20 detainees

⁵⁹⁸ P 03573; Zoran Buntić, T(F), p. 30585.

⁵⁹⁹ P 03673.

⁶⁰⁰ P 03673, p. 2.

⁶⁰¹ See "Arrivals of Detainees at Dretelj Prison" and "Status of Detainees at Dretelj Prison" in the Chamber's factual findings with regard to Dretelj Prison.

⁶⁰² See "Conditions of Confinement and the Death of a Detainee" in the Chamber's factual findings with regard to Dretelj Prison.

⁶⁰³ Andrew Pringle, T(F), pp. 24145-24151 and 24155; P 04841, pp. 1 and 2.

at Dretelj Prison who were showing signs of malnutrition.⁶⁰⁵ Jadranko Prlić then said that any behaviour contrary to international law was "outrageous", that it was unacceptable for any prisoners to be ill or undernourished and that he would bring those responsible to justice.⁶⁰⁶ The same day, the participants in the meeting, including Jadranko Prlić, visited Dretelj Prison.⁶⁰⁷ They met detainees and Mate Granić told them they would soon be released.⁶⁰⁸ The members of the delegation toured the prison, saw the detention conditions and the state of the detainees, and talked to some of them.⁶⁰⁹ At the end of the visit, it was decided that the ICRC would immediately start work on categorising prisoners with a view to their release; that the following day, that is, 21 September 1993, the ill men would be moved to hospital and 500 detainees would be released; and that the rest of the detainees would be released as soon as accommodation for them was found.⁶¹⁰

246. The Chamber noted that instead of being released, several hundred detainees were taken from Dretelj Prison to Gabela Prison and the Heliodrom,⁶¹¹ while those with letters of guarantee were sent to third countries via Croatia.⁶¹² The Chamber also recalls that the last detainees to leave Dretelj Prison were taken to Gabela Prison in the first days of October 1993, that is, at the time Dretelj Prison was closed.⁶¹³

247. Moreover, in a letter of 20 January 1994 addressed to Marijan Biškić, Milivoj Petković, Jadranko Prlić and Vladislav Pogarčić, the ICRC noted the particularly horrendous situation at Dretelj Prison during the previous months and the death of several detainees because of "appalling detention conditions" and mistreatment.⁶¹⁴

⁶⁰⁴ P 04863 under seal.

⁶⁰⁵ See "Restrictions on Access to Dretelj Prison" in the Chamber's factual findings with regard to Dretelj Prison; P 05219 under seal.

⁶⁰⁶ P 05219 under seal, pp. 1 and 2; Witness DZ, T(F), p. 26623, closed session; P 05221, pp. 1 and 2.

⁶⁰⁷ Fahrudin Rizvanbegović, T(F), pp. 2219 and 2289; Zdravko Sančević, T(F), pp. 28815-28817; Witness DZ, T(F), p. 26623, closed session; P 05219 under seal, pp. 1 and 2; P 05221, pp. 1 and 2; Adalbert Rebić, T(F), pp. 28312 and 28313; 1D 01936, p. 1.

⁶⁰⁸ P 05219 under seal; Zdravko Sančević, T(F), pp. 28815-28818; P 05221, p. 3; 1D 01936, p. 1; Adalbert Rebić, T(F), p. 28313; Fahrudin Rizvanbegović, T(F), pp. 2219 and 2289.

⁶⁰⁹ Fahrudin Rizvanbegović, T(F), pp. 2219 and 2220.

⁶¹⁰ P 05219 under seal; Zdravko Sančević, T(F), pp. 28815-28818; P 05221, p. 3; 1D 01936, p. 1; Adalbert Rebić, T(F), p. 28313.

⁶¹¹ See "Positive Impact of Tomislav Šakota's Arrival on the Conditions of Confinement at Dretelj Prison" and "Departure of Detainees from Dretelj Prison to Other Detention Sites" in the Chamber's factual findings with regard to Dretelj Prison.

⁶¹² See "Departure of Detainees from Dretelj Prison to the Croatian Islands" in the Chamber's factual findings with regard to Dretelj Prison.

⁶¹³ See "Departure of Detainees from Dretelj Prison to Other Detention Sites" in the Chamber's factual findings with regard to Dretelj Prison.

⁶¹⁴ P 07629.

248. The Chamber finds that during the meetings in which Jadranko Prlić participated in July 1993, the HVO/Government of the HZ(R) H-B decided to take measures to improve the conditions of detention of the detainees. The decisions did not bring about the expected improvements because in September 1993, the detention conditions were still just as bad. At the end of September 1993, a decision was taken to release the detainees and to bring those responsible for the bad detention conditions to justice. However, the detainees were not released but moved to other detention centres, in particular to Gabela Prison, while some were sent to third countries via Croatia. Furthermore, the Chamber found no evidence that those responsible for the bad detention conditions were ever brought to justice.

249. The Chamber considers that Jadranko Prlić, while continuing to exercise his functions in the HVO/Government of the HZ(R) H-B, continued to be informed of the bad detention conditions and the mistreatment of the detainees in the prisons. Instead of having them released, the detainees were moved to other centres and some were sent to third countries via Croatia. The Chamber, therefore, finds that Jadranko Prlić accepted the extremely precarious conditions and the mistreatment of the detainees in Dretelj Prison and even facilitated them by not releasing the detainees. By failing to act, he also facilitated the departure of detainees to foreign countries via Croatia.

250. The Chamber recalls that it could not establish that the murders linked to the detention conditions and mistreatment at the HVO detention centres were part of the common criminal purpose. Consequently, it will analyse any responsibility of Jadranko Prlić for those crimes under JCE 3.

d) Gabela Prison

251. The Chamber recalls that, the HVO HZ H-B established Gabela Prison⁶¹⁵ and appointed Boško Previšić as its warden further to two decisions signed by Jadranko Prlić as President of the HVO on 8 June 1993.⁶¹⁶ Moreover, by a decision dated 22 December 1993, Jadranko Prlić officially closed Gabela Prison.⁶¹⁷

⁶¹⁵ Jadranko Prlić's decision establishing two detention centres: the "county" military prison and the "county prison" for the municipalities of Čapljina, Neum, Ljubuški and Ravno at Gabela. P 02679. *See* also P 03350, p. 3, para. 11.

⁶¹⁶ P 02674; P 03350, p. 3, para. 11. *See* also "Opening and Closing of Gabela Prison" in the Chamber's factual findings with regard to Gabela Prison.

⁶¹⁷ *See* "Opening and Closing of Gabela Prison" in the Chamber's factual findings with regard to Gabela Prison.

252. The Chamber recalls that at Gabela Prison, the HVO detained Muslim men aged between 16 and 60, both members of the ABiH and the HVO as well as Muslim men who did not belong to any armed force.⁶¹⁸ The Chamber found that the detainees lived in bad conditions there.⁶¹⁹

253. The Chamber recalls that in July 1993, the HZ H-B authorities examined the problems of overcrowding and lack of space at Gabela Prison. At a session of the HVO HZ H-B held on 19 July 1993 and chaired by Jadranko Prlić, the HVO granted the request of the Čapljina municipal HVO to relocate the detainees so as to improve their detention conditions and reduce the overcrowding. The following day, at a session of the HVO HZ H-B chaired by Jadranko Prlić, a working group proposed that new detention facilities be found in order to take some of the detainees from the prisons in Gabela and Dretelj there and thus resolve the problem of overcrowding. It was also decided that four people – including Jadranko Prlić – would explore the possibilities of accommodating some detainees from Gabela Prison in other detention centres.⁶²⁰

254. The Chamber recalls that following the decision to close Dretelj Prison in September 1993, many detainees arrived at Gabela Prison, the last of them in early October 1993.⁶²¹ The Chamber further recalls that the detainees at Gabela Prison continued to suffer from a lack of warm clothing, space and hygiene, as well as access to food, water and medical care.⁶²² The Chamber notes that no measures were taken to improve the detainees' situation. It was not until 22 December 1993 that Jadranko Prlić took the decision to close Gabela Prison.⁶²³ The Chamber recalls that the prison nevertheless continued to operate in the following days and received detainees in transit to other centres until the last days of December 1993.⁶²⁴

255. The Chamber considers that although at meetings in which Jadranko Prlić participated, the HVO/Government of the HZ(R) H-B decided to take measures to improve the detention conditions and the treatment of the detainees, the decisions were not followed by any real improvements. Quite the opposite, by having Dretelj Prison closed, which triggered the arrival of hundreds of detainees at Gabela Prison, Jadranko Prlić contributed to exacerbating the problem of prison overcrowding

⁶¹⁸ See "Arrivals of Detainees at Gabela Prison" and "Number and Status of Detainees at Gabela Prison" in the Chamber's factual findings with regard to Gabela Prison.

⁶¹⁹ See "Conditions of Confinement at Gabela Prison" in the Chamber's factual findings with regard to Gabela Prison.

⁶²⁰ See "Lack of Space" in the Chamber's factual findings with regard to Gabela Prison. See also "Lack of Space and Air" in the Chamber's factual findings with regard to Dretelj Prison.

⁶²¹ See "Departure of Detainees from Dretelj Prison to Other Detention Sites" in the Chamber's factual findings with regard to Dretelj Prison.

⁶²² See "Conditions of Confinement at Gabela Prison", "Lack of Space", "Lack of Hygiene", "Lack of Access to Food and Water" and "Lack of Access to Medical Care" in the Chamber's factual findings with regard to Gabela Prison.

⁶²³ See "Opening and Closing of Gabela Prison" in the Chamber's factual findings with regard to Gabela Prison: P 07668.

and, consequently, the conditions of detention of the detainees at Gabela Prison. Jadranko Prlić must have known that he was going to exacerbate the detainees' situation. The Chamber, therefore, finds that Jadranko Prlić accepted the extremely precarious conditions of the detainees at Gabela Prison.

8. Jadranko Prlić Denied, Concealed and Encouraged the Crimes against the Muslims and Failed to Take any Measures to Prevent the Crimes or Punish the Perpetrators

256. The Prosecution alleges that Jadranko Prlić engendered fear, hatred and mistrust towards Bosnian Muslims⁶²⁵ and participated in the dissemination of false, inaccurate and misleading information about the occurrence and commission of crimes, and about the reasons for detaining Muslims and the conditions of their detention.⁶²⁶ It further submits that Jadranko Prlić never publicly condemned or denounced the crimes, or attempted to redress them.⁶²⁷

257. The Prlić Defence argues that the statements regarding ABiH activity simply reflected the situation on the ground and rejects the claim that they engendered fear, hatred and mistrust towards the Muslims.⁶²⁸ Quite the opposite, Jadranko Prlić called for equal rights for all the constituent peoples⁶²⁹ and always advocated peaceful coexistence, national equality and political inclusiveness.⁶³⁰ Lastly, the Prosecution did not adduce any evidence that Jadranko Prlić directly or indirectly had anything to do with the dissemination of disinformation concerning the commission of crimes, the detention of Muslims or the conditions in which they were detained.⁶³¹ Upon learning of potentially unlawful detentions and conditions, Jadranko Prlić did his utmost to assist in rectifying the situation.⁶³²

258. The Chamber will now examine (a) how Jadranko Prlić denied and concealed the crimes against the Muslims, (b) whether he encouraged them and (c) whether he failed to take measures to prevent the commission of other crimes against the Muslims and to prosecute and punish the perpetrators.

⁶²⁴ See "Opening and Closing of Gabela Prison" and "Detainees Released from Gabela Prison on Condition of Leaving for Third Countries" in the Chamber's factual findings with regard to Gabela Prison.

⁶²⁵ Indictment, para. 17.1 (s). See also Prosecution Final Trial Brief, paras 429 to 435.

⁶²⁶ Indictment, para. 17.1 (w) and (x).

⁶²⁷ Prosecution Final Trial Brief, paras 407 and 502 to 512.

⁶²⁸ Prlić Defence Final Trial Brief, para. 326 (d).

⁶²⁹ Prlić Defence Final Trial Brief, para. 327 (s).

⁶³⁰ Prlić Defence Final Trial Brief, para. 347 (a).

⁶³¹ Prlić Defence Final Trial Brief, para. 327 (w) and (x).

⁶³² Prlić Defence Final Trial Brief, paras 327 (w) and (x).

a) Jadranko Prlić Denied and Concealed the Crimes against the Muslims in the HZ(R) H-B

259. The evidence shows that on several occasions Jadranko Prlić denied and attempted to conceal or minimise the HVO crimes against the Muslim population in the HZ(R) H-B. Accordingly, between 17 June and 19 or 20 July 1993, when *Witness BA* and members of other international organisations informed Jadranko Prlić that the evictions of Muslims in Mostar were being conducted in a systematic manner, street by street, and were becoming more and more violent, he replied that the evictions were being carried out by criminals not under HVO control and assured them that human rights would be respected.⁶³³ The Chamber, however, established that the violent evictions of Muslim civilians in West Mostar by the HVO continued until February 1994 and that Jadranko Prlić was aware of them⁶³⁴ but failed to take action.

260. Concerning the detention of Muslims, the Chamber recalls that on 16 August 1993, Jadranko Prlić told a representative of an international organisation that the Muslims from Ljubuški were being interned for their own safety as HVO soldiers returning from the front were seeking revenge.⁶³⁵ The Chamber recalls that it established that the HVO authorities conducted no case-by-case evaluation of the safety reasons that might have led to the detentions and that the detained Muslim civilians did not have the possibility of contesting their detention before competent authorities.⁶³⁶

261. On 23 July 1993, Jadranko Prlić publicly stated that immediately after capture, every person underwent a medical examination and that all those who had a medical problem were released, regardless of their age;⁶³⁷ that all the prisoners detained at Dretelj Prison and the Heliodrom were men of military age;⁶³⁸ and that the HVO HZ H-B had decided that all interested organisations would be allowed access to the facilities where people were being kept in isolation.⁶³⁹ The Chamber established that the detention conditions in the prisons and detention centres of the HVO HZ(R) H-B were harsh and that this issue had been raised at several meetings of the

⁶³³ *Witness BA*, T(F), pp. 7163, 7164, 7201, 7202, 7206, 7232, 7344 and 7345, T(E), p. 7346, closed session; P 09712 closed session, paras 66, 73 and 75; P 03804 under seal, para. 6.

⁶³⁴ See "Jadranko Prlić's Role in Arrest Operations in May 1993 and Evictions of the Muslim Population of Mostar from mid-May 1993 to February 1994" in the Chamber's finding with regard to Jadranko Prlić's responsibility under the JCE.

⁶³⁵ See "Arrests of Muslims in Ljubuški Municipality and Detention Centres in August 1993" in the Chamber's factual findings with regard to Ljubuški Municipality and the detention centres there. See also P 09846 under seal; *Witness BB*, T(F), pp. 17284-17286, closed session.

⁶³⁶ See "Ljubuški Municipality and Detention Centres" in the Chamber's legal findings with regard to Count 10 (imprisonment, a crime against humanity) and Count 11 (unlawful confinement of a civilian, a grave breach of the Geneva Conventions).

⁶³⁷ P 03673, pp. 1 and 2.

⁶³⁸ P 03673.

⁶³⁹ P 03673.

HVO/Government of the HZ(R) H-B attended by Jadranko Prlić.⁶⁴⁰ Furthermore, the Chamber recalls that on 20 September 1993, during a meeting with an ICRC representative who observed that the detainees at Dretelj Prison were showing signs of malnutrition, Jadranko Prlić stated that any behaviour contrary to international law was outrageous, that it was unacceptable for any prisoners to be ill or undernourished and that he would bring those responsible to justice.⁶⁴¹

262. Finally, the Chamber notes a letter Jadranko Prlić wrote to Cedric Thornberry, an UNPROFOR member,⁶⁴² on 2 December 1993 regarding the closing of detention centres in the territory of the HR H-B, in which he expressed his readiness to establish the facts about the possible "incorrect" treatment of the detainees and to take all appropriate measures against the perpetrators of such acts as might be established and documented.⁶⁴³ The Chamber established that the mistreatment of the detainees continued after that date⁶⁴⁴ and that the last detainees at the Heliodrom were released in April 1994.⁶⁴⁵ The Chamber further recalls that Jadranko Prlić held the power to close the detention centres.

263. In view of the foregoing, the Chamber finds that Jadranko Prlić knowingly sought to minimise or conceal the crimes committed by the HVO armed forces in order to facilitate the implementation of the JCE.

b) Jadranko Prlić Encouraged the Crimes Committed against Muslims in the HZ(R) H-B

264. The Prosecution alleges that Jadranko Prlić engendered fear, hatred and mistrust towards Muslims, and hereby contributed to realising the objectives of the JCE and the crimes committed as part of it in Herceg-Bosna,⁶⁴⁶ something which the Prlić Defence contests.⁶⁴⁷

265. The Chamber deems that in several official and public statements, Jadranko Prlić did indeed engender fear, mistrust and hatred of the Muslim population among Bosnian Croats. It notes in particular a letter dated 18 January 1993 addressed to the Croatian inhabitants of the Municipality of Gornji Vakuf in which Jadranko Prlić recalled that the objective of the Muslims "extremists" was

⁶⁴⁰ See "Jadranko Prlić's Knowledge of the Detentions and Detention Conditions of Muslims at the Heliodrom", "Dretelj Prison" and "Gabela Prison" in the Chamber's findings with regard to Jadranko Prlić's responsibility under the JCE.

⁶⁴¹ P 05219 under seal, pp. 1 and 2; Witness DZ, T(F), p. 26623, closed session; P 05221, pp. 1 and 2.

⁶⁴² Cedric Thornberry, T(F), pp. 26166, 26168, 26171-26173 and 26215; P 10041, paras 1 and 4.

⁶⁴³ P 07008, p. 2.

⁶⁴⁴ See, for example, "Heliodrom" in the Chamber's legal findings with regard to Count 15 (inhumane acts, a crime against humanity), Count 16 (inhuman treatment, a grave breach of the Geneva Conventions) and Count 17 (cruel treatment, a violation of the laws or customs of war).

⁶⁴⁵ See "Detainees Exchanges with the ABiH and the Final Releases" in the Chamber's factual findings with regard to the Heliodrom.

⁶⁴⁶ Indictment, para. 17.1 (s). See also Prosecution Final Trial Brief, paras 429 to 435.

⁶⁴⁷ Prlić Defence Final Trial Brief, para. 326 (d).

to cause the departure of the Croatian population of the municipality by spreading "terror".⁶⁴⁸ The Chamber recalls that the same day, that is, 18 January 1993, the HVO launched an attack on the town of Gornji Vakuf⁶⁴⁹ and several villages around Gornji Vakuf during which many crimes against property and the Muslim population were committed.⁶⁵⁰

266. Finally, in a public proclamation to all Croats in the HZ H-B and Croatia issued on 30 June 1993 following an ABiH attack on the HVO armed forces and the Croatian population of Mostar, Jadranko Prlić and Bruno Stojić said that the plan of the "Mujahidin" was to conquer the historic territories of the Croatian people and that "the existence of the Croats in Bosnia and Herzegovina" was under threat and called on the Croats to show strong patriotism and act for their own survival.⁶⁵¹ The Chamber has already found that after the ABiH attacked the HVO *Tihomir Mišić* barracks on 30 June 1993, the HVO arrested several thousand Bosnian Muslim men in and around Mostar, placed them in detention at the Heliodrom or Dretelj Prison⁶⁵² and expelled many Muslim families from West Mostar to East Mostar.⁶⁵³

267. The Chamber notes that both the letter of 18 January 1993 and the proclamation of 30 June 1993 were issued at crucial times, that is, at the time when the HVO launched an attack on several places in Gornji Vakuf or mounted a campaign of mass arrests of Muslims. Based on all the evidence, the Chamber finds that, by his official and public statements, Jadranko Prlić engendered fear, mistrust and hatred of Bosnian Muslims among Bosnian Croats and, in this connection, exacerbated nationalist sentiments among the Bosnian Croats, thus contributing to the realisation of the JCE.

c) Jadranko Prlić Failed to Take Measures to Prevent the Commission of Other Crimes against the Muslims in the HZ(R) H-B, and to Prosecute and Punish the Perpetrators

268. The Chamber observes that the physical perpetrators of the crimes established by the Chamber were not under Jadranko Prlić's direct orders. However, Jadranko Prlić had the hierarchical authority and the power to intervene within the hierarchy of the HVO and the HR H-B,

⁶⁴⁸ P 01184.

⁶⁴⁹ See "Attack on the Town of Gornji Vakuf and the Crimes Alleged as a Consequence of the Attack" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

⁶⁵⁰ See "Attacks of 18 January 1993 in the Municipality of Gornji Vakuf", "Alleged Criminal Events Following the HVO Attack and Takeover of the Villages in the Municipality of Gornji Vakuf" and "Allegations of Removal and Detention of Women, Children, Elderly People and Disabled People in the Village of Duša" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

⁶⁵¹ P 03023/P 03038/P 03039.

⁶⁵² See "Arrests and Detention of Muslim Men Following the Attack on 30 June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

and particularly in relation to the other Accused, in order to prevent and punish the commission of crimes and change the course of events.⁶⁵⁴ Having been informed on many occasions of the crimes committed by HVO members, Jadranko Prlić in the majority of cases⁶⁵⁵ neither sincerely condemned the crimes nor asked his subordinates to conduct investigations and punish the perpetrators, and even if he did take measures to improve the situation of the detainees, they were neither appropriate nor sufficient. During a session of the HVO HZ H-B on 20 July 1993, chaired by Jadranko Prlić and attended among others, by Bruno Stojić,⁶⁵⁶ a proposal was made to find new detention facilities to resolve the problems of overcrowding in the prisons at Dretelj and Gabela.⁶⁵⁷ The same day, 700 detainees from Dretelj Prison were transferred to the Heliodrom.⁶⁵⁸ However, the Chamber recalls that the Heliodrom was overcrowded throughout its operation.⁶⁵⁹

269. The Chamber finds that Jadranko Prlić denied, concealed and encouraged the crimes against the Muslims and took no appropriate measures to prevent the crimes or punish the perpetrators.

9. The Chamber's Findings with regard to Jadranko Prlić's Responsibility under JCE 1

270. In view of these findings, the Chamber is satisfied beyond reasonable doubt that from 14 August 1992 to the end of April 1994, Jadranko Prlić, as President of the HVO and then President of the Government of the HR H-B, had significant *de jure* and *de facto* powers in coordinating and directing the activities of the HVO/Government of the HZ(R) H-B. In particular, he chaired high-level meetings at which decisions on the political and military strategy in the HZ(R) H-B were adopted collectively and could issue military decisions that were sent through the military chain of command. He had powers over the detention centres of the HZ(R) H-B, particularly the power to open and close them and to grant international organisations access to them. Lastly, he played a key role in the relations of HVO/Government of the HZ(R) H-B with the Government of Croatia.

271. As the Chamber established above, by drafting the ultimatums of January 1993 and April 1993, Jadranko Prlić significantly contributed to the implementation of the JCE in the municipalities of Gornji Vakuf, Prozor and Jablanica. He planned, facilitated and encouraged the

⁶⁵³ See "Arrests and Detention of Muslim Men Following the Attack on 30 June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

⁶⁵⁴ See "Jadranko Prlić's Powers" in the Chamber's findings with regard to Jadranko Prlić's responsibility under the JCE.

⁶⁵⁵ The Chamber did not establish that Jadranko Prlić was involved in concealing the crimes in Stupni Do and the absence of sanctions against the perpetrators of the crimes.

⁶⁵⁶ "K. Zubak", "N. Tomić" and Zoran Buntić were also present at the meeting.

⁶⁵⁷ P 03573; Zoran Buntić, T(F), p. 30585.

⁶⁵⁸ P 03942.

⁶⁵⁹ See "Overcrowding at the Camp" in the Chamber's factual findings with regard to the Heliodrom.

crimes committed by HVO members. The ultimatums were followed by systematic and widespread military operations undertaken through the chain of command of the HVO armed forces. The operations involved many crimes against the Muslim population because they were the result of a single preconceived plan.⁶⁶⁰

272. Jadranko Prlić also endorsed the arrests and detentions in Mostar as of 9 May 1993 and the following days, and knowingly turned a blind eye to the increasingly violent ethnic cleansing operations conducted by the HVO against the Muslim population in Mostar in the summer of 1993. On 30 June 1993, Jadranko Prlić once again called on the Croats to take up arms against the Muslims and accepted the mass detention of Muslims conducted by the HVO simultaneously and systematically in several municipalities. Jadranko Prlić also supported the HVO campaign of fire and shelling against East Mostar and its impact on the civilian population of East Mostar and accepted the crimes directly linked to the HVO military operations against East Mostar. While the Muslim population of East Mostar was living under appalling conditions subjected to fire and shelling, Jadranko Prlić personally contributed to blocking the delivery of humanitarian aid to that part of the town from June 1993 to at least December 1993 by obstructing such deliveries and then restricting them.⁶⁶¹ The Chamber deems that he thus knowingly contributed to causing serious bodily harm to the inhabitants of East Mostar and to a serious attack on their human dignity.

273. Furthermore, Jadranko Prlić was informed, both by international representatives and through the internal HVO communication system, about many crimes committed by members of the HZ(R) H-B armed forces. The Chamber considers that, having been informed on many occasions of crimes committed by the HVO members, Jadranko Prlić in the majority of cases neither sincerely condemned the crimes nor asked HVO members to conduct investigations and punish the perpetrators.⁶⁶² Quite the opposite, he sometimes knowingly turned a blind eye to the crimes and acted while being aware that his culpable conduct would result in criminal acts carried out with complete impunity. Jadranko Prlić had the hierarchical authority to intervene - also in relation to the other members of the JCE, among whom were the Accused - in order to prevent and punish the commission of crimes and change the course of events. In particular, he knew about the harsh conditions under which the Muslims arrested by the HVO were being detained at the prisons in Dretelj, Gabela and the Heliodrom. He nonetheless justified the detentions, denied that the detainees' situation was bad and on occasion took inappropriate measures. In fact, while being kept

⁶⁶⁰ Institutions Dedicated to Religion were destroyed only as of 1 June 1993 in East Mostar during the siege.

⁶⁶¹ See "Jadranko Prlić's Role Regarding Living Conditions of the Population of East Mostar and Blocking of Humanitarian Aid" in the Chamber's findings with regard to Jadranko Prlić's responsibility under the JCE.

informed of the bad detention conditions and the mistreatment of the detainees in the prisons, instead of closing the centres, Jadranko Prlić allowed the detainees to be moved to ABiH-held territories or sent to third countries via Croatia. The Chamber, therefore, finds that Jadranko Prlić accepted and encouraged the extremely precarious conditions and the mistreatment of the detainees in the prisons in Dretelj, Gabela and the Heliodrom.

274. He was also informed of the use of detainees from the Heliodrom and the Vojno Detention Centre on the front, of the abuse to which the detainees were subjected during work at the front line and of their use as human shields. The Chamber considers that the only inference it can reasonably draw is that by failing to intervene when he had the ability to do so and by remaining in power while he knew of the crimes committed, Jadranko Prlić facilitated and accepted the commission of the crimes against the Muslims within the HVO detention system.

275. Jadranko Prlić also supported the policy of moving Muslim detainees and their families outside the HZ(R) H-B to third countries via Croatia and participated in the practically simultaneous relocation of Croats from central Bosnia – particularly through the ODP, which was in charge of those movements of population – in order for them to populate the territories claimed to be part of the HZ(R) H-B. The Chamber holds that the only inference it can reasonably draw is that Jadranko Prlić intended to remove the Muslim population outside the territory claimed to be part of the HZ(R) H-B in order to settle the Croats from central Bosnia there.

276. The Chamber holds that all the evidence shows beyond reasonable doubt that Jadranko Prlić's contribution was significant and that he was one of the principal members of the JCE. His contribution also shows his intention to implement the common criminal purpose to expel the Muslim population from the HZ(R) H-B. Inasmuch as he was also informed that the HVO actions were directed mainly against the Muslims, the Chamber is satisfied that Jadranko Prlić's intention was discriminatory and aimed at expelling the Muslim population from the HZ(R) H-B, an intention he shared with the other members of the JCE, in particular the other members of the Government of the HZ(R) H-B/HVO and the chiefs and commanders of the HVO Main Staff.⁶⁶³

⁶⁶² The Chamber did not establish that Jadranko Prlić was involved in concealing the crimes in Stupni Do and the absence of sanctions against the perpetrators of the crimes.

⁶⁶³ See "The Chamber's Findings with regard to Bruno Stojić's Responsibility under JCE 1" in the Chamber's findings with regard to Bruno Stojić's responsibility under the JCE; "The Chamber's Findings with regard to Valentin Ćorić's Responsibility under the JCE"; "The Chamber's Findings with regard to Milivoj Petković's Responsibility under JCE 1" in the Chamber's findings with regard to Milivoj Petković's responsibility under the JCE; "The Chamber's Findings with regard to Slobodan Praljak's Responsibility under JCE 1" in the Chamber's findings with regard to Slobodan Praljak's responsibility under the JCE and "The Chamber's Findings with regard to Berislav Pušić's Responsibility under JCE 1" in the Chamber's findings

277. Regarding Jadranko Prlić's knowledge of the factual circumstances that allowed the Chamber to find by a majority, with Judge Antonetti dissenting, that there was an international armed conflict between the HVO/HV and the ABiH, the evidence indicates that Jadranko Prlić was informed of the HVO military operations against the ABiH and that he himself made reference to them in his statements.⁶⁶⁴ Moreover, the evidence indicates that Jadranko Prlić had knowledge of the participation of Croatia in the conflict between the HVO and the ABiH in BiH, and facilitated it.⁶⁶⁵ The Chamber, therefore, holds that he knew that an armed conflict was taking place during the time he held the posts of HVO President and President of the Government of the HR H-B, and that the conflict was international in character.

278. In view of the foregoing and pursuant to the counts it declared admissible in respect of the acts described above, the Chamber is satisfied beyond reasonable doubt that Jadranko Prlić is guilty of having committed – by participating in a JCE – the following crimes:

Prozor Municipality:

Count 1: persecutions on political, racial and religious grounds, under Article 5 of the Statute.

Count 2: murder, under Article 5 of the Statute.

Count 3: wilful killing, under Article 2 of the Statute.

Count 15: inhumane acts, under Article 5 of the Statute.

Count 16: inhuman treatment, under Article 2 of the Statute.

Count 17: cruel treatment, under Article 3 of the Statute.

Count 19: extensive destruction of property, not justified by military necessity, under Article 2 of the Statute.

Count 20: wanton destruction of cities, towns or villages, or devastation not justified by military necessity, under Article 3 of the Statute.

Gornji Vakuf Municipality:

with regard to Berislav Pušić's responsibility under the JCE. *See* also "Plurality of People Sharing the Common Criminal Purpose" in the Chamber's findings with regard to the JCE.

⁶⁶⁴ *See*, for example, Ray Lane, T(F), pp. 23681-23684, 23687, 23688, 23691 and 23697; P 01215; P 03038.

⁶⁶⁵ *See* "Links between Jadranko Prlić and Croatian Leaders" in the Chamber's findings with regard to Jadranko Prlić's responsibility under the JCE.

Count 1: persecutions on political, racial and religious grounds, under Article 5 of the Statute.

Count 2: murder, under Article 5 of the Statute.

Count 3: wilful killing, under Article 2 of the Statute.

Count 8: inhumane acts (forcible transfer), under Article 5 of the Statute.

Count 9: unlawful transfer of a civilian, under Article 2 of the Statute.

Count 10: imprisonment, under Article 5 of the Statute.

Count 11: unlawful confinement of a civilian, under Article 2 of the Statute.

Count 15: inhumane acts, under Article 5 of the Statute.

Count 16: inhuman treatment, under Article 2 of the Statute.

Count 17: cruel treatment, under Article 3 of the Statute.

Count 19: extensive destruction of property, not justified by military necessity, under Article 2 of the Statute.

Count 20: wanton destruction of cities, towns or villages, or devastation not justified by military necessity, under Article 3 of the Statute.

Jablanica Municipality:

Count 1: persecutions on political, racial and religious grounds, under Article 5 of the Statute.

Count 8: inhumane acts (forcible transfer), under Article 5 of the Statute.

Count 9: unlawful transfer of a civilian, under Article 2 of the Statute.

Count 10: imprisonment, under Article 5 of the Statute.

Count 11: unlawful confinement of a civilian, under Article 2 of the Statute.

Count 19: extensive destruction of property, not justified by military necessity, under Article 2 of the Statute.

Count 20: wanton destruction of cities, towns or villages, or devastation not justified by military necessity, under Article 3 of the Statute.

Mostar Municipality:

Count 1: persecutions on political, racial and religious grounds, under Article 5 of the Statute.

Count 6: deportation, under Article 5 of the Statute.

Count 7: unlawful deportation of a civilian, under Article 2 of the Statute.

Count 8: inhumane acts (forcible transfer), under Article 5 of the Statute.

Count 9: unlawful transfer of a civilian, under Article 2 of the Statute.

Count 10: imprisonment, under Article 5 of the Statute.

Count 11: unlawful confinement of a civilian, under Article 2 of the Statute.

Count 15: inhumane acts, under Article 5 of the Statute.

Count 16: inhuman treatment, under Article 2 of the Statute.

Count 17: cruel treatment, under Article 3 of the Statute.

Count 20: wanton destruction of cities, towns or villages, or devastation not justified by military necessity, under Article 3 of the Statute.

Count 21: destruction or wilful damage done to institutions dedicated to religion or education, under Article 3 of the Statute.

Count 24: unlawful attack on civilians, under Article 3 of the Statute.

Count 25: unlawful infliction of terror on civilians (Mostar), under Article 3 of the Statute.

The Heliodrom:

Count 1: persecutions on political, racial and religious grounds, under Article 5 of the Statute.

Count 2: murder, under Article 5 of the Statute.

Count 3: wilful killing, under Article 2 of the Statute.

Count 6: deportation, under Article 5 of the Statute.

Count 7: unlawful deportation of a civilian, under Article 2 of the Statute.

Count 8: inhumane acts (forcible transfer), under Article 5 of the Statute.

Count 9: unlawful transfer of a civilian, under Article 2 of the Statute.

Count 10: imprisonment, under Article 5 of the Statute.

Count 11: unlawful confinement of a civilian, under Article 2 of the Statute.

Count 12: inhumane acts (conditions of confinement), under Article 5 of the Statute.

Count 13: inhuman treatment (conditions of confinement), under Article 2 of the Statute.

Count 14: cruel treatment (conditions of confinement), under Article 3 of the Statute.

Count 15: inhumane acts, under Article 5 of the Statute.

Count 16: inhuman treatment, under Article 2 of the Statute.

Count 17: cruel treatment, under Article 3 of the Statute.

Count 18: unlawful labour, under Article 3 of the Statute.

Vojno Detention Centre:

Count 1: persecutions on political, racial and religious grounds, under Article 5 of the Statute.

Count 2: murder, under Article 5 of the Statute.

Count 3: wilful killing, under Article 2 of the Statute.

Count 15: inhumane acts, under Article 5 of the Statute.

Count 16: inhuman treatment, under Article 2 of the Statute.

Count 17: cruel treatment, under Article 3 of the Statute.

Count 18: unlawful labour, under Article 3 of the Statute.

Dretelj Prison:

Count 1: persecutions on political, racial and religious grounds, under Article 5 of the Statute.

Count 6: deportation, under Article 5 of the Statute (Dretelj).

Count 7: unlawful deportation of a civilian, under Article 2 of the Statute (Dretelj).

Count 10: imprisonment, under Article 5 of the Statute.

Count 11: unlawful confinement of a civilian, under Article 2 of the Statute.

Count 12: inhumane acts (conditions of confinement), under Article 5 of the Statute.

Count 13: inhuman treatment (conditions of confinement), under Article 2 of the Statute.

Count 14: cruel treatment (conditions of confinement), under Article 3 of the Statute.

Count 15: inhumane acts, under Article 5 of the Statute.

Count 16: inhuman treatment, under Article 2 of the Statute.

Count 17: cruel treatment, under Article 3 of the Statute.

Gabela Prison:

Count 1: persecutions on political, racial and religious grounds, under Article 5 of the Statute.

Count 10: imprisonment, under Article 5 of the Statute.

Count 11: unlawful confinement of a civilian, under Article 2 of the Statute.

Count 12: inhumane acts (conditions of confinement), under Article 5 of the Statute.

Count 13: inhuman treatment (conditions of confinement), under Article 2 of the Statute.

Count 14: cruel treatment (conditions of confinement), under Article 3 of the Statute.

Count 15: inhumane acts, under Article 5 of the Statute.

Count 16: inhuman treatment, under Article 2 of the Statute.

Count 17: cruel treatment, under Article 3 of the Statute.

279. Inasmuch as Jadranko Prlić committed these crimes in order to pursue the common criminal goal, he is held responsible not only for the aforementioned crimes but also for all of the crimes that were part of the common criminal plan.

D. Jadranko Prlić's Responsibility under JCE 3

280. The Prosecution submits that the thefts, killings, sexual abuse and rapes were the natural and foreseeable consequence of the Herceg-Bosna JCE and that Jadranko Prlić was aware of the possibility that these crimes would occur.⁶⁶⁶ According to the Prlić Defence, there is no evidence that Jadranko Prlić foresaw or was objectively able to foresee the commission of any of the alleged crimes.⁶⁶⁷

281. The Chamber established that the murders committed during the eviction campaigns, the deaths resulting from the mistreatment at the detention centres, the rapes and sexual assaults as well as the thefts committed by HVO members during the eviction campaigns were not part of the common criminal purpose pursued.⁶⁶⁸ The Chamber nevertheless notes that many of those crimes were the natural and foreseeable consequence of the implementation of the common criminal goal.⁶⁶⁹ The Chamber will now analyse whether Jadranko Prlić, a member of the JCE, knew or could reasonably foresee that these crimes were likely to be committed by the HVO members as the probable consequence of the implementation of the common goal, and knowingly took that risk.

1. Municipality of Gornji Vakuf

282. The Chamber found that Jadranko Prlić participated in the attack on Gornji Vakuf by being directly involved in its planning, by signing the ultimatum of 15 January 1993 and by overseeing its implementation on the ground until the ceasefire when he ordered the cessation of the HVO attacks on 25 January 1993. It also established that Jadranko Prlić was informed of the climate of violence in which the operations were carried out as of 19 January 1993. By doing nothing himself, like the other members of the JCE, to prevent the commission of the crimes or to punish the perpetrators, Jadranko Prlić contributed to the climate of violence and must have foreseen the possible systematic and widespread thefts of Muslim property in the villages of Hrasnica, Uzričje and Ždrimci in the aftermath of the attack of 18 January 1993.⁶⁷⁰ The Chamber considers that he willingly took and accepted that risk by continuing to exercise his functions of the President of the HVO/Government of the HZ(R) H-B.

⁶⁶⁶ Prosecution Final Trial Brief, para. 516.

⁶⁶⁷ Prlić Defence Final Trial Brief, para. 325.

⁶⁶⁸ See "Existence of a Common Criminal Plan" in the Chamber's findings with regard to the JCE.

⁶⁶⁹ See "Existence of a Common Criminal Plan" in the Chamber's findings with regard to the JCE.

⁶⁷⁰ See "Allegations of Burned Houses and Theft of Muslim Property in the Village of Uzričje", "Allegations of Burned Houses and Theft of Muslim Property in the Village of Hrasnica" and "Burned Houses, Thefts of Muslim Property in the Village of Ždrimci and Burning of the *Mekteb*" in the Chamber's factual findings with regard to the municipality of Gornji Vakuf.

2. Municipality of Jablanica (Sovići and Doljani)

283. The Chamber considers that by drafting the ultimatum of April 1993, formulated in the same terms as that of January 1993, by being informed of the climate of violence against the Muslim population in Gornji Vakuf in January 1993 and by doing nothing himself, like the other members of the JCE, to prevent the commission of the crimes that were part of the common goal or to punish the perpetrators, Jadranko Prlić continued to contribute to the climate of violence in April 1993. He, therefore, must have foreseen the possible commission of the crimes not included in the common goal in the Municipality of Jablanica in April 1993, namely, the murders linked to the detentions, the thefts of Muslim property and the destruction of the mosques in Sovići and Doljani. The Chamber furthermore holds that Jadranko Prlić willingly took and accepted that risk by continuing to exercise his functions of the President of the HVO/Government of the HZ(R) H-B.

3. Municipality of Mostar

284. The Chamber recalls that on several occasions in the summer of 1993, *Witness BA* informed Jadranko Prlić that the evictions of Muslims in West Mostar were being carried out with much violence.⁶⁷¹ The Chamber also established that by signing the decree of 6 July 1993 on the use of apartments by their occupants, Jadranko Prlić approved of the HVO HZ H-B practice of appropriating the apartments of the Muslims expelled from West Mostar.⁶⁷² It therefore considers that Jadranko Prlić knowingly contributed to the climate of violence in Mostar. The Chamber finds that by doing nothing himself, like the other members of the JCE, to prevent the commission of these crimes or to punish the perpetrators, Jadranko Prlić contributed to the climate of violence and he must have foreseen the possible commission of the crimes not envisaged under the common goal. It has no doubt that from at least June 1993, the murders, rapes, sexual abuse and thefts of private property committed by the HVO during the campaigns to evict the Muslim inhabitants in Mostar were predictable and that Jadranko Prlić willingly took the risk and accepted the commission of the crimes by continuing to exercise his functions as the President of the HVO/Government of the HZ(R) H-B.

⁶⁷¹ P 09712 under seal, para. 33; Witness BA, T(F), pp. 7183 and 7184, closed session.

⁶⁷² See "Jadranko Prlić's Knowledge of the Operations to Evict Muslims from Mostar from mid-May 1993 to February 1994" in the Chamber's findings with regard to Jadranko Prlić's responsibility under the JCE.

4. Prisons at Dretelj and Gabela, and the Vojno Detention Centre

285. The Chamber established that throughout their detention at Dretelj Prison, the detainees suffered from hunger and thirst.⁶⁷³ The Chamber also established that on 16 July 1993, a Muslim detainee died of dehydration when HVO soldiers deprived the detainees of food and water.⁶⁷⁴

286. The Chamber recalls that the detention conditions, and in particular the overcrowding in the prisons at Dretelj and Gabela, were discussed at two HVO working meetings, on 19 and 20 July 1993, chaired by Jadranko Prlić.⁶⁷⁵ Given that the crime was committed on 16 July 1993, there is no evidence that Jadranko Prlić knew about the bad detention conditions of the detainees at Dretelj on that date and he could not have reasonably foreseen the murder of a detainee and accepted his own responsibility.

287. As for the Vojno Detention Centre, the Chamber observes that on 20 January 1994, Jadranko Prlić received a letter from the ICRC informing him that several detainees at the Vojno Detention Centre had died during their detention and that some of them allegedly died as a result of maltreatment and bad detention conditions.⁶⁷⁶ The Chamber could only establish that one detainee was shot dead on 5 December 1993.⁶⁷⁷ Since the crime occurred before 20 January 1994, the Chamber cannot find that Jadranko Prlić could reasonably have foreseen the murder of a detainee and accepted his own responsibility.

288. In view of the foregoing, the Chamber is satisfied beyond reasonable doubt that Jadranko Prlić is guilty – by participating in a JCE 3 – of having committed the following crimes:

⁶⁷³ See "Dretelj Prison" in the Chamber's legal findings with regard to Count 12 (inhumane acts (conditions of confinement), a crime against humanity), Count 13 (inhuman treatment (conditions of confinement), a grave breach of the Geneva Conventions) and Count 14 (cruel treatment (conditions of confinement), a violation of the laws and customs of war). See also "Inadequate Access to Food and Water" in the Chamber's factual findings with regard to Dretelj Prison.

⁶⁷⁴ See "Dretelj Prison" in the Chamber's legal findings with regard to Count 2 (murder, a crime against humanity) and Count 3 (wilful killing, a grave breach of the Geneva Conventions).

⁶⁷⁵ P 03560, pp. 4 and 5; P 03573.

⁶⁷⁶ P 07629.

⁶⁷⁷ See "Vojno Detention Centre" in the Chamber's legal findings with regard to Count 2 (murder, a crime against humanity) and Count 3 (wilful killing, a grave breach of the Geneva Conventions).

Gornji Vakuf Municipality:

Count 22: extensive appropriation of property, not justified by military necessity and carried out unlawfully and wantonly, under Article 2 of the Statute.

Count 23: plunder of public or private property, under Article 3 of the Statute.

Jablanica Municipality:

Count 2: murder, under Article 5 of the Statute.

Count 3: wilful killing, under Article 2 of the Statute.

Count 21: destruction or wilful damage done to institutions dedicated to religion or education, under Article 3 of the Statute.

Count 22: extensive appropriation of property, not justified by military necessity and carried out unlawfully and wantonly, under Article 2 of the Statute.

Count 23: plunder of public or private property, under Article 3 of the Statute.

Mostar Municipality:

Count 2: murder, under Article 5 of the Statute.

Count 3: wilful killing, under Article 2 of the Statute.

Count 4: rape, under Article 5 of the Statute.

Count 5: inhuman treatment (sexual assault), under Article 2 of the Statute.

Count 22: extensive appropriation of property, not justified by military necessity and carried out unlawfully and wantonly, under Article 2 of the Statute.

Count 23: plunder of public or private property, under Article 3 of the Statute.

II. Bruno Stojić

289. The Indictment alleges that Bruno Stojić participated in and furthered the JCE in particular by directing and operating the HVO Department of Defence and by controlling the armed forces of the HZ(R) H-B; by controlling the Military Police; by managing all the financial operations of the HVO armed forces, the military equipment and the shipment of military equipment into or through

the HZ(R) H-B; by participating in the subjugation of the Bosnian Muslims; by supporting the involvement of Croatia in the political and military objectives in favour of the HVO armed forces; by contributing to a system of maltreatment, in particular by controlling and directing HVO detention centres and forced labour; by supporting and encouraging the destruction and confiscation of Muslim property; by preventing the delivery of humanitarian aid and access to East Mostar for international organisations; by participating in a system of deportations and forcible transfers of Muslims and by condoning, instigating and avoiding to punish the crimes against Muslims by members of the HVO.⁶⁷⁸

290. As a preliminary matter, the Chamber notes that it will address only the events for which it has evidence that might be relevant to its analysis of Bruno Stojić's responsibility.

291. To determine whether Bruno Stojić significantly participated in the JCE, the Chamber will analyse the relevant evidence relating to Bruno Stojić's (A) functions and (B) powers. It will then examine the Accused's possible responsibility under (C) JCE 1 and (D) JCE 3. Finally, the Chamber will examine Bruno Stojić's possible responsibility as regards the other types of responsibility envisaged by the Statute.

A. Bruno Stojić's Functions

292. Bruno Stojić, son of Žarko, was born on 8 April 1955 in the village of Hamzići, Čitluk Municipality, in the SRBiH.⁶⁷⁹

293. The evidence establishes that in 1991, Bruno Stojić left the post of director of a public utilities company in Neum⁶⁸⁰ and assumed the post of Assistant Minister of the Interior of the SRBiH in charge of materiel management and finances.⁶⁸¹ Moreover, on 18 September 1991, the HDZ-BiH Security Council appointed Bruno Stojić as a member of the HDZ-BiH Crisis Staff.⁶⁸² The Chamber does not know until what date Bruno Stojić remained a member of the Crisis Staff. On 27 March 1992, Bruno Stojić held the post of assistant commander for logistics in the HVO

⁶⁷⁸ Para. 17.2 of the Indictment.

⁶⁷⁹ *The Prosecutor v. Bruno Stojić*, Case No. IT-04-74-I, "Warrant of Arrest and Order for Surrender", under seal, 4 March 2004; p. 2; T(F), p. 2.

⁶⁸⁰ Tomislav Krešić, T(E), p. 38729.

⁶⁸¹ Milivoj Gagro, T(F), p. 2862; Tomislav Krešić, T(F), pp. 38729 and 38730; Josip Manolić, T(F), pp. 4387-4389; P 00134, p. 105; Davor Korac, T(F), pp. 38824, 38827 and 38851. Based on the available evidence, the Chamber cannot establish who appointed Bruno Stojić to the post of Assistant Minister of the Interior or the exact date when he took up his duties.

⁶⁸² The Chamber discussed the establishment and role of the HDZ-BiH Crisis Staff in the part relating to the context of the establishment of Herceg-Bosna.

Main Staff.⁶⁸³ Furthermore, on 16 April 1992, Janko Bobetko, the HV commander of the southern front at the time,⁶⁸⁴ appointed Bruno Stojić as a member of the Grude Forward Command Post on the southern front.⁶⁸⁵ The Chamber does not know until what date Bruno Stojić remained at that post. On 3 July 1992, through a decision signed by Mate Boban, President of the HVO HZ H-B, the Presidency of the HZ H-B promoted Bruno Stojić to the post of Head of the Department of Defence of the HVO HZ H-B.⁶⁸⁶ Bruno Stojić exercised these functions until 15 November 1993.⁶⁸⁷ From 10 November 1993 to 27 April 1995,⁶⁸⁸ Bruno Stojić was head of the HR H-B department for the production of military equipment.⁶⁸⁹

B. Bruno Stojić's Powers

294. In its Final Trial Brief, the Prosecution argues that Bruno Stojić, as Head of the Department of Defence, exercised both *de jure* and *de facto* power, effective control and substantial influence over all aspects of the HVO's defence and military operations.⁶⁹⁰ As one of the most important members of the Government of the HZ H-B, Bruno Stojić participated in most HVO sessions and working meetings, and provided regular reports to its President, Jadranko Prlić, on the military situation on the ground.⁶⁹¹ Bruno Stojić was hierarchically superior to the Chief of the HVO Main Staff⁶⁹² and had a power of command over the HVO armed forces. He had the authority to appoint military commanders up to at least the level of deputy brigade commanders, to create and dissolve HVO units and to control the VOS and the SIS.⁶⁹³ Moreover, Bruno Stojić issued orders directly to the HVO armed forces to implement the policies of the Government of the HZ H-B. For example, he forwarded the 15 January 1993 ultimatum of the Government of the HZ HB to the HVO armed

⁶⁸³ 2D 03001; Slobodan Božić, T(F), pp. 36204 and 36205; 2D 01006; 2D 02000, para. 74; 2D 01356; Milivoj Petković, T(F), pp. 49336, 49337 and 49776; Tihomir Majić, T(E), pp. 37814-37816, 37825 and 37826; 2D 01024.

⁶⁸⁴ P 00156.

⁶⁸⁵ P 00162; Davor Korac, T(F), p. 38859.

⁶⁸⁶ See "Role and Office of the Head of the Department of Defence and the Minister of Defence" in the Chamber's factual findings with regard to the political and administrative structure of the HZ(R) H-B. P 00308/P 00297 (identical documents); P 09545, p. 16; Witness BH, T(F), p. 17498, closed session; P 10217 under seal, para. 27, p. 5; P 10270 under seal, p. 2; Miroslav Rupčić, T(F), p. 23327; P 10275. Concerning the organisational chart, see Miroslav Rupčić, T(F), pp. 23331-23333.

⁶⁸⁷ See "Role and Office of the Head of the Department of Defence and the Minister of Defence" in the Chamber's factual findings with regard to the political and administrative structure of the HZ(R) H-B. At the recommendation of the President of the Government, Jadranko Prlić, the President of the HR H-B, Mate Boban, appointed Perica Jukić as Bruno Stojić's successor at the helm of the Department of Defence by a statement dated 10 November 1993: P 06583. However, the official transfer of duties between Bruno Stojić and Perica Jukić took place on 15 November 1993: 2D 00416.

⁶⁸⁸ The evidence differs as to the exact date that Bruno Stojić assumed the post; Exhibit 2D 03001 indicates that he did that on 10 November 1993, while Slobodan Praljak stated in court that the date was 13 December 1993.

⁶⁸⁹ 2D 03001; Slobodan Praljak, T(F), p. 41666. Based on the available evidence, the Chamber cannot establish who appointed Bruno Stojić to the post of Head of the Department for the Production of Military Equipment and Weapons.

⁶⁹⁰ Prosecution Final Trial Brief, paras 532-534.

⁶⁹¹ Prosecution Final Trial Brief, para. 535.

⁶⁹² Prosecution Final Trial Brief, paras 536-538.

forces. Furthermore, on 30 June 1993 Bruno Stojić and Jadranko Prlić issued a joint proclamation and, implementing the proclamation, Milivoj Petković issued several orders to HVO commanders to get their troops ready for combat.⁶⁹⁴

295. The Stojić Defence submits that, as Head of the Department of Defence, Bruno Stojić dealt only with administrative and logistic matters such as the internal organisation of the department, mobilisation, the management of the department's health sector, the care and treatment of the wounded, the administrative management of the IPD as well as the administration of the welfare sector and the procurement and production sector.⁶⁹⁵ He played a purely administrative role in that he forwarded reports within the Department of Defence and to the Main Staff, and confined himself to compiling the reports received and sending them to the HVO and its President.⁶⁹⁶ The Stojić Defence further contends that Bruno Stojić did not have the power to issue military orders.⁶⁹⁷

296. Taking into account the allegations in the Indictment and the arguments of the parties, the Chamber will now analyse the evidence relating to Bruno Stojić's *de jure* and *de facto* powers during the time relevant to the Indictment. It will thus analyse (1) Bruno Stojić's participation in the meetings of the HVO/Government of the HZ(R) H-B, his power of command over (2) the armed forces of the HZ(R) H-B and (3) the Military Police, (4) his role as the HZ(R) H-B representative at peace negotiations and (5) the end of his functions.

1. Bruno Stojić's Participation in Critical Meetings of the HVO/Government of the HZ(R) H-B

297. The evidence shows that between September 1992 and November 1993, Bruno Stojić participated in about forty HVO sessions and working meetings. At those meetings, the leaders of the HZ H-B adopted HZ H-B legislation such as the decision on the status of refugees and displaced persons from the HZ H-B during a state of war or an imminent threat of war,⁶⁹⁸ the amended decree on the HZ H-B armed forces, which was sent to the Presidency of the HZ H-B for approval,⁶⁹⁹ and the decree imposing the war tax in the territory of the HZ H-B.⁷⁰⁰ During the meetings, the HVO leaders, including Bruno Stojić, also discussed and took decisions on matters relating to the defence of the HZ(R) H-B such as the military situation on the ground,⁷⁰¹ the mobilisation of the HVO

⁶⁹³ Prosecution Final Trial Brief, paras 542-545.

⁶⁹⁴ Prosecution Final Trial Brief, paras 539 and 540.

⁶⁹⁵ Stojić Defence Final Trial Brief, paras 248, 249 and 255-314.

⁶⁹⁶ Stojić Defence Final Trial Brief, para. 315.

⁶⁹⁷ Stojić Defence Final Trial Brief, paras 430 and 431.

⁶⁹⁸ P 00559, p. 7.

⁶⁹⁹ P 00578, p. 5.

⁷⁰⁰ P 00672, p. 3.

⁷⁰¹ 1D 01666; 1D 02179.

forces⁷⁰² and the situation in the HVO detention centres.⁷⁰³ For example, at the 38th session of the HVO on 17 May 1993, attended among others, by Jadranko Prlić and Bruno Stojić, the situation in Mostar was discussed and the HVO expressed its support for the relocation of civilians to the Heliodrom.⁷⁰⁴

298. The Chamber holds that this evidence shows that, as a member of the HVO/Government of the HZ(R) H-B, Bruno Stojić participated in many meetings and in that context took part in formulating the defence policy of the HZ(R) H-B.

2. Bruno Stojić Controlled the HZ(R) H-B Armed Forces

299. Bruno Stojić first played a fundamental role in the establishment and organisation of the HZ H-B armed forces. Accordingly, on 24 October 1992, he prepared the operations programme of the Department of Defence until the end of 1992 and submitted it to the HVO; in the programme, he explained the structure of the various components of the armed forces, including the Military Police, and set the objectives and the work plan for each of them.⁷⁰⁵

300. Bruno Stojić was also informed about the military operations of the HZ(R) H-B armed forces. He received reports on the situation in BiH, in particular the military situation, sent by the Main Staff.⁷⁰⁶ Bruno Stojić, in turn, informed the HVO – both through reports and during HVO sessions – about the military and security situation on the ground and made proposals about defence which were then adopted by the HVO.⁷⁰⁷ On 19 January 1993, Bruno Stojić informed the HVO about the effects of the decision of 15 January 1993 whereby all the ABiH units in provinces 3, 8 and 10, declared Croatian provinces under the Vance-Owen Plan, were instructed to subordinate themselves to the HVO.⁷⁰⁸ He explained that in order to implement the decision, the HVO forces which had been ordered not to engage in combat, managed to repel an ABiH offensive against Gornji Vakuf which, according to him, had been mounted contrary to the Vance-Owen accord.⁷⁰⁹ Likewise, during a meeting on 4 November 1993, Bruno Stojić informed the Government of the HR H-B about the military situation in the Vareš area. He said that the ABiH was continuing to violate the ceasefire declarations, to provoke fighting and to terrorise the "civilians". He also said that the

⁷⁰² P 01097; P 05955.

⁷⁰³ P 05373; P 04841.

⁷⁰⁴ 1D 01666.

⁷⁰⁵ P 00646.

⁷⁰⁶ Slobodan Božić, T(F), pp. 36461 and 36464. See, for example, P 01114; P 00653.

⁷⁰⁷ P 01197, p. 4; P 01227, pp. 1 and 2; 1D 01609, p. 2; 1D 01667, p. 2; 1D 01610, pp. 1 and 2; 1D 01608, pp. 1 and 2; 4D 00508, p. 1; P 05799/P 05769 (identical documents), p. 2; 1D 02179, pp. 1 and 2; 2D 00851, p. 1; P 00518.

⁷⁰⁸ P 01146.

⁷⁰⁹ P 01227.

Muslims were carrying out "ethnic cleansing".⁷¹⁰ Following that information, the Government of the HR H-B decided that the ODPB would take care of the receipt and accommodation of the Croatian "refugees" from the Vareš area and that UNPROFOR would be asked to provide humanitarian aid to the areas of Vitez, Busovača, Kiseljak and Kreševo as a matter of priority.⁷¹¹

301. As for the VOS, which was an integral part of the Main Staff and which *de jure* was not within the hierarchy of the Head of the Department of Defence, the Chamber established however that its chief, Žarko Keža, sent daily reports to Bruno Stojić.⁷¹²

302. The SIS was under the direct authority of the Assistant Head of the Department of Defence responsible for security and, consequently, under the direct authority of Bruno Stojić as Head of the Department of Defence.⁷¹³ However, based on the evidence, the Chamber could not observe that Bruno Stojić regularly received reports from the SIS.⁷¹⁴ Nonetheless, according to *Ivan Bandić*,⁷¹⁵ when an SIS agent in an HVO battalion compiled a report on an important security issue such as the exchange of prisoners of war, it was customary for him to send the report to Bruno Stojić, Ivica Lučić and Milivoj Petković.⁷¹⁶

303. As regards his power to make appointments within the armed forces, the Chamber recalls that the Head of the Department of Defence had the authority to appoint officers in HVO brigades up to the level of deputy brigade commander and assistant commanders for security in the OZs at the proposal of the Assistant Head of the Department of Defence responsible for security.⁷¹⁷

304. As regards Bruno Stojić's role within the military chain of command, the Chamber recalls that as Head of the Department of Defence, Bruno Stojić forwarded the decisions of the Government of the HZ H-B to the HVO Main Staff which then forwarded them to the commanders of the units deployed on the ground to implement them. This is attested to by the HVO decision of 15 January 1993, signed by Jadranko Prlić as President of the HVO, whereby all the ABiH units in provinces 3, 8 and 10, declared Croatian provinces under the Vance-Owen Plan, were instructed to subordinate

⁷¹⁰ 1D 02179.

⁷¹¹ 1D 02179.

⁷¹² See "Means to Ensure the Return Flow of Information to the Main Staff and its Chief" in the Chamber's factual findings with regard to the military structure of the HZ(R) H-B.

⁷¹³ See "The SIS's Place within the HVO Hierarchy" in the Chamber's factual findings with regard to the political and administrative structure of the HZ(R) H-B.

⁷¹⁴ See "The SIS's Place within the HVO Hierarchy" in the Chamber's factual findings with regard to the political and administrative structure of the HZ(R) H-B.

⁷¹⁵ A member of the HVO Military Police from April to July 1992 employed in the SIS Administration from July 1992 to the autumn of 1994; Ivan Bandić, T(F), pp. 37992-37995.

⁷¹⁶ Ivan Bandić, T(F), pp. 38079 and 38080; P 06555.

themselves to the HVO within five days. By this decision, the HVO declared that Bruno Stojić was responsible for its implementation.⁷¹⁸ Pursuant to the decision, Bruno Stojić ordered the HVO Main Staff and the Military Police Administration to carry out Jadranko Prlić's decision.⁷¹⁹ Milivoj Petković, Chief of the HVO Main Staff, then forwarded Bruno Stojić's order to the commanders of the HVO operative zones.⁷²⁰

305. Likewise, the Chamber notes that following Jadranko Prlić and Bruno Stojić's joint proclamation of 30 June 1993 instructing the Croatian people in BiH to defend itself against the Muslim aggression following the ABiH attack on the HVO positions, Bruno Stojić, as Head of the Department of Defence, ordered the mobilisation of all Croatian conscripts and imposed a curfew in the HZ H-B.⁷²¹ Pursuant to the order, on 1 July 1993, the Chief of the Military Police Administration, Valentin Ćorić, ordered the mobilisation of the conscripts and imposed a curfew in the HZ H-B.⁷²² At the same time, also in response to the ABiH attack on the HVO, on 2 July 1993, Bruno Stojić and Milivoj Petković co-signed an order to all the HVO units in the South-East OZ to "eliminate" the Muslim troops in the area.⁷²³

306. The Chamber established that the HVO Main Staff was an integral part of the Department of Defence.⁷²⁴ The evidence showed that even though the Head of the Department of Defence was not *de jure* part of the military chain of command, Bruno Stojić, as head of that department, did issue orders directly to the HZ(R) H-B armed forces, particularly with regard to the ceasefires, the detention centres, the troop movements, the reorganisation of the military units, the assignment of the troops as reinforcements for other units, freedom of movement of humanitarian or international organisations and the mobilisation of HVO troops.⁷²⁵ Furthermore, on at least two occasions, the commander of the forward command post of the South-East OZ requested instructions from both

⁷¹⁷ See "Powers of the Head of the Department of Defence and the Minister of Defence over Appointments within the Armed Forces" in the Chamber's factual findings with regard to the political and administrative structure of the HZ(R) H-B.

⁷¹⁸ P 01146; P 09545, pp. 77 and 78.

⁷¹⁹ P 01140; Bruno Pinjuh, T(F), pp. 37341-34344.

⁷²⁰ P 01139 and P 01156, p. 1.

⁷²¹ P 03038.

⁷²² P 03077.

⁷²³ P 03128.

⁷²⁴ See "Powers of the HVO and the Government of the HR H-B in Military Matters" in the Chamber's factual findings with regard to the political and administrative structure of the HZ(R) H-B.

⁷²⁵ See "Hierarchical Nexus between the Head of the Department of Defence and the Minister of Defence with the Armed Forces" in the Chamber's factual findings with regard to the political and administrative structure of the HZ(R) H-B; Milivoj Petković, T(F), pp. 50089, 50814 and 50815; P 00588, Article 30; Milivoj Petković, T(F), pp. 50817-50819; P 00610; P 00619; P 05232; P 05235; 4D 00461; P 00582.

Bruno Stojić and Milivoj Petković about the conduct of the military operations in central Bosnia and Herzegovina.⁷²⁶

307. As regards Bruno Stojić's relations with the ATGs, the Chamber also established that there were structural and operational ties between Bruno Stojić and Mladen Naletilić and his ATGs. However, the Chamber does not have any order issued by Bruno Stojić as Head of the Department of Defence to Mladen Naletilić, the KB or its ATGs. It also has no evidence supporting a finding that the Department of Defence exercised a power of command over the KB and its ATGs under Mladen Naletilić's command.⁷²⁷

308. As to the management and control of the human, financial and logistical resources of the armed forces, the Chamber recalls *Milivoj Petković's* testimony that Bruno Stojić was to contact the Government of the HZ H-B for material and financial resources for the HVO armed forces.⁷²⁸ Nevertheless, the evidence shows that Bruno Stojić directly controlled the human and financial resources of the HVO armed forces as well as all the logistical aspects. In fact, Bruno Stojić had to see to the logistical needs, in materiel and weapons, of the HVO armed forces.⁷²⁹ To do so, he was authorised to make payments from HVO accounts and to send requests for materiel and weapons directly to the HV.⁷³⁰ On behalf of the HVO, he also organised the purchase of weapons from the VRS.⁷³¹ Moreover, in 1992 and 1993, Bruno Stojić supplied MTSS to the ABiH in several areas where it was fighting the VRS alongside the HVO, for example in Sarajevo, Srebrenica and Tuzla.⁷³²

309. The evidence further shows that Bruno Stojić was responsible for the finances of the armed forces of the HZ(R) H-B. He prepared the budget of the Department of Defence⁷³³ and was responsible for the payment of salaries to the members of the armed forces as he was authorised to withdraw funds from the HVO bank accounts.⁷³⁴ Bruno Stojić contacted the Department of Defence

⁷²⁶ P 02292; P 03026.

⁷²⁷ See "Organisation of the KB and the ATGs" in the Chamber's factual findings with regard to the military structure of the HZ(R) H-B.

⁷²⁸ Milivoj Petković, T(F), pp. 50344 and 50345.

⁷²⁹ 2D 01443, p. 2; P 04399, p. 3; Davor Korac, T(F), pp. 38830 and 38831; 2D 01246; Stipo Buljan, T(F), p. 36754; P 06807; P 00970, p. 7; Christopher Beese, T(F), pp. 5385-5387; P 02620, p. 3; P 02627, p. 2; Witness BF, T(F), p. 25835, closed session.

⁷³⁰ Miroslav Rupčić, T(F), p. 23338; P 00098; 2D 00809; P 01164, pp. 1 and 2; P 03998.

⁷³¹ P 02934; Radmilo Jasak, T(F), pp. 49024 and 49025, and P 02966; P 09820; P 03403; P 06364; P 09967.

⁷³² Hamid Bahto, T(F), p. 37900; Nedžad Čengiđ, T(F), pp. 37945 and 37951; Andjelko Makar, T(F), pp. 38456-38458; 2D 01101; 2D 01041; Andjelko Makar, T(F), p. 38430; 2D 01103; 2D 01102; 2D 01105; 2D 01111; P 06006, p. 15.

⁷³³ 2D 02000, para. 94.

⁷³⁴ P 01521.

of Croatia for money to pay the salaries.⁷³⁵ As the person in charge of the finances of the Department of Defence, Bruno Stojić could authorise other people to withdraw funds from the HVO bank accounts.⁷³⁶

310. Concerning the management of the human resources of the HZ(R) H-B armed forces, Bruno Stojić was responsible for ensuring the financing of the training centres and the mobilisation of the members of the HZ(R) H-B armed forces.⁷³⁷

311. Finally, the evidence shows that Bruno Stojić had the authority to designate the people to represent the HZ(R) H-B armed forces in ceasefire negotiations, more specifically, he designated Milivoj Petković.⁷³⁸

312. In view of the foregoing, the Chamber finds, by a majority, with Judge Antonetti dissenting, that throughout the performance of his duties at the head of the Department of Defence of the HZ(R) H-B from 3 July 1992 to 15 November 1993, Bruno Stojić played a fundamental role in the establishment and organisation of the armed forces; that he was regularly informed of the military operations conducted by the armed forces; that he was the member of the government in charge of informing it of the military operations; that he had the authority to send military-related government decisions through the military chain of command and used that authority; that he had the authority to issue orders directly to the armed forces and to ensure they were carried out and used that authority; that he was informed by the VOS on a daily basis; that he was responsible for all the logistical and financial aspects and for the human resources of the armed forces and had the authority to designate members of the armed forces to represent them in peace negotiations. Consequently, the Chamber by a majority, with Judge Antonetti dissenting, is satisfied beyond reasonable doubt that Bruno Stojić commanded and had effective control over the HVO armed forces during that period.

3. Bruno Stojić Controlled the Military Police

313. As for Bruno Stojić's power to make appointments within the Military Police, the Chamber noted that Bruno Stojić appointed the people who would hold the most senior posts within the units and the Military Police Administration, except for the Chief of the Military Police Administration

⁷³⁵ P 10290; Miroslav Rupčić, T(F), pp. 23367-23371; P 10291; Miroslav Rupčić, T(F), p. 23374; Davor Marijan, T(F), p. 35736; P 00098; 3D 01206, pp. 3 and 4; P 00910; Milivoj Petković, T(F), pp. 50513 and 50514.

⁷³⁶ P 10301; Miroslav Rupčić, T(F), pp. 23387 and 23389; 2D 01352, p. 3.

⁷³⁷ P 04074; 3D 01460, p. 1; Slobodan Praljak, T(F), pp. 40420-40422; 2D 01459; 2D 01350; P 00907; P 00965.

⁷³⁸ P 00811; P 03922.

himself who, for his part, had the authority to appoint the people to the "subordinate" posts, albeit with the consent of the Head of the Department of Defence.⁷³⁹

314. The Chamber also observed that, being hierarchically superior to the Chief of the Military Police Administration, the Head of the Department of Defence could give him orders regarding various areas such as the release of detainees, the freedom of movement of the convoys, including the humanitarian convoys, or of the people in the territory of the HZ H-B and the engagement of Military Police forces, as well as orders aimed at ensuring compliance with Military Police regulations.⁷⁴⁰

315. The evidence also shows that Bruno Stojić's orders were indeed sent out and then implemented by Military Police units on the ground.⁷⁴¹ Accordingly, on 28 July 1993, Bruno Stojić ordered all the Military Police units engaged in combat as part of units of the HVO armed forces to subordinate themselves to the commander of those units.⁷⁴² Implementing the order, the same day Valentin Ćorić ordered, *inter alia*, the 1st and the 2nd Military Police Light Assault Battalions to place themselves under the command of the HVO armed forces in their zone of responsibility.⁷⁴³ Moreover, on 29 September 1993, Valentin Ćorić requested of Bruno Stojić, Slobodan Praljak, Commander of the HVO Main Staff at that time, and Žarko Tole, Chief of the HVO Main Staff, that the Military Police units no longer be used on the front lines so that they could devote themselves to Military Police tasks.⁷⁴⁴

316. On 31 May 1993, Bruno Stojić sent a direct order to the units in charge of the Military Police checkpoints in Mostar, among other things, instructing them to check all vehicles leaving the town.⁷⁴⁵

317. Bruno Stojić was also in charge of seeing to the logistical and staffing needs of the Military Police, including the payment of salaries to its members and mobilisation.⁷⁴⁶

⁷³⁹ See "Head of the Department of Defence's Power of Appointment within the Military Police" in the Chamber's factual findings with regard to the military structure of the HZ(R) H-B.

⁷⁴⁰ See "Head of the Department of Defence as Hierarchical Superior of the Chief of the Military Police Administration in the Chamber's factual findings with regard to the military structure of the HZ(R) H-B.

⁷⁴¹ Safet Idrizović, T(F), p. 9600; P 09400, p. 4; P 01164, pp. 1 and 2; P 03778, Slobodan Praljak, T(F), p. 40986; Witness C, T(F), pp. 22530 and 22531, closed session; 5D 02002/2D 01367; Zdenko Andabak, T(F), pp. 50994 and 50995; P 01121, pp. 1, 2 and 4; P 01517; P 03327 under seal, p. 5; P 01868, p. 1; P 00875/P 00876.

⁷⁴² 5D 02002/2D 01367.

⁷⁴³ P 03778, Slobodan Praljak, T(F), p. 40986.

⁷⁴⁴ Witness C, T(F), pp. 22532 and 22534, closed session; 5D 00548, p. 2.

⁷⁴⁵ P 02578.

⁷⁴⁶ P 01707; P 03146; P 00968; P 01707; 2D 01349; P 00509.

318. Furthermore, Bruno Stojić regularly received reports about Military Police activities.⁷⁴⁷ Thus on 7 July 1993, Bruno Stojić ordered all heads of units in the Department of Defence, including the Military Police Administration, to submit reports to him on their activities so that he could inform the HVO HZ H-B accordingly.⁷⁴⁸ For example, on 16 August 1993, Bruno Stojić was informed that the Military Police had done nothing to punish the person who stole an ICRC vehicle.⁷⁴⁹

319. Finally, on 28 December 1992, Bruno Stojić issued instructions for the reorganisation of the Military Police units.⁷⁵⁰

320. In view of the foregoing, the Chamber finds by a majority, with Judge Antonetti dissenting, that Bruno Stojić had direct authority over the Military Police, as attested to by the following: he reorganised it; he had the authority to appoint its most senior officers and he used that authority; he was regularly informed about Military Police activities through the Chief of the Military Police Administration; he had the authority to issue orders – including those directly linked to operations on the ground, such as orders on resubordination – to the Chief of the Military Police Administration and to ensure they were carried out, and used that authority; and that he was responsible for all the aspects of Military Police logistics and staffing. Consequently, the Chamber by a majority, with Judge Antonetti dissenting, is satisfied beyond reasonable doubt that Bruno Stojić, as Head of the Department of Defence, commanded and had effective control over the HVO Military Police.

4. Bruno Stojić Represented the HVO in Peace Negotiations

321. The Chamber recalls that on 25 March 1993, Bruno Stojić and Milivoj Petković participated in a meeting with senior representatives of the ABiH, the HDZ and the SDA aimed at resolving the conflicts between the HVO armed forces and the ABiH in the municipalities of Konjic and Jablanica.⁷⁵¹

322. Likewise, on 18 April 1993, a meeting was held at the hospital in West Mostar.⁷⁵² It was attended by the Chief of the Mostar Crisis Staff and the Zenica Regional Centre,⁷⁵³ Mr Ganić,

⁷⁴⁷ 2D 02000, para. 94; P 03274; P 01053; P 02863; P 00518; P 03314 under seal; P 01409.

⁷⁴⁸ P 03274, p. 1.

⁷⁴⁹ P 04224, p. 2.

⁷⁵⁰ Witness C, T(F), p. 22520, closed session; P 00957, p. 6; P 00960.

⁷⁵¹ 2D 00643, p. 1; Dragan Jurić, T(F), pp. 39308, 39309, 39343 and 39344; 2D 00643; 4D 00454.

⁷⁵² Klaus Johann Nissen, T(F), p. 20415.

⁷⁵³ Klaus Johann Nissen, T(F), p. 20416.

Deputy Prime Minister of BiH,⁷⁵⁴ General Halilović⁷⁵⁵ on behalf of the ABiH and Jadranko Prlić, Bruno Stojić and Milivoj Petković on behalf of the HVO.⁷⁵⁶ The meeting discussed a ceasefire, discipline and the withdrawal of troops, and free access to central Bosnia.⁷⁵⁷

323. On 2 June 1993, Mate Boban, Bruno Stojić and Milivoj Petković signed an agreement on setting up joint patrols comprising HVO and ABiH soldiers which were to patrol in Mostar under UNCIVPOL supervision.⁷⁵⁸ According to *Witness DZ*,⁷⁵⁹ the agreement was never implemented because Mate Boban and Jadranko Prlić did not want an international force in Mostar.⁷⁶⁰

324. This evidence supports a finding by the Chamber that Bruno Stojić was one of the HVO HZ H-B officials authorised to represent that body in peace negotiations at the highest level.

5. End of Bruno Stojić's Functions

325. According to *Slobodan Božić*, Deputy Head of the Department of Defence from mid-January 1993 to November 1993,⁷⁶¹ after Bruno Stojić's functions as head of the Department of Defence ended in November 1993, Bruno Stojić never again came to the Department of Defence.⁷⁶² In view of this testimony and the absence of other evidence, the Chamber finds by a majority, with Judge Antonetti dissenting, that Bruno Stojić no longer had any control over the armed forces and the Military Police as of 15 November 1993, the date that his term of office as head of the Department of Defence ended.

C. Bruno Stojić's Responsibility under JCE 1

326. The Chamber holds by a majority, with Judge Antonetti dissenting, that the evidence showed that Bruno Stojić had effective control over the activities of the components of the HZ(R) H-B armed forces – save the KB – and over the Military Police. The Chamber will now analyse to what extent Bruno Stojić contributed, or did not, to the perpetration of the crimes committed by the HVO armed forces and the Military Police in pursuit of the common criminal purpose.

⁷⁵⁴ Klaus Johann Nissen, T(F), p. 20416.

⁷⁵⁵ Klaus Johann Nissen, T(F), pp. 20416 and 20417.

⁷⁵⁶ Klaus Johann Nissen, T(F), p. 20416.

⁷⁵⁷ Klaus Johann Nissen, T(F), p. 20416.

⁷⁵⁸ P 10367 under seal, para. 58; P 02652, p. 2.

⁷⁵⁹ A member of an international organisation between 1 April 1993 and April 1994; *Witness DZ*, T(F), pp. 26472 and 26473, closed session; P 10367 under seal, paras 5 and 10.

⁷⁶⁰ *Witness DZ*, T(F), p. 26546, closed session; P 10367 under seal, para. 58.

⁷⁶¹ *Slobodan Božić*, T(F), pp. 36157 and 36158.

⁷⁶² *Slobodan Božić*, T(F), p. 36164.

327. To do so, the Chamber will analyse the evidence it has on Bruno Stojić's contribution to the HVO crimes committed in the municipalities of (1) Prozor, (2) Gornji Vakuf, (3) Jablanica, (4) Mostar, (5) Čapljina and (6) Vareš, as well as in (7) the detention centres of the HZ(R) H-B. The Chamber will then examine the allegations that (8) Bruno Stojić denied the crimes committed against the Muslims and failed to prevent them or punish them, and will conclude by discussing (9) Bruno Stojić's responsibility under JCE 1.

328. Inasmuch as Judge Antonetti disagrees with the majority of the Chamber as to the existence of a JCE,⁷⁶³ he dissents from all of the Chamber's observations and findings with regard to Bruno Stojić's participation in the JCE. Therefore, the reasoning that follows was adopted by a majority.

1. Municipality of Prozor

329. The Chamber notes that on 13 July 1993, Željko Šiljeg informed Milivoj Petković and Bruno Stojić that he had relocated detainees – mostly prisoners of war, but also some "civilians" – from the secondary school in Prozor to Ljubuški Prison.⁷⁶⁴ Bruno Stojić was thus informed that men who did not belong to any armed force were detained in Prozor in July 1993. Insofar as Bruno Stojić continued to exercise his functions in the HVO/Government of the HR H-B, the Chamber holds that the only inference it can reasonably draw is that Bruno Stojić accepted the detention of men not belonging to any armed force at Ljubuški Prison in July 1993.

2. Municipality of Gornji Vakuf

330. According to the report on the situation in Gornji Vakuf/Prozor between 13 and 22 January 1993 which Miro Andrić, a colonel in the HVO Main Staff,⁷⁶⁵ sent to Bruno Stojić on 22 January 1993 further to Bruno Stojić's verbal order of 12 January 1993, Miro Andrić went to Prozor on 13 January 1993 with an HVO delegation in order to calm down the situation in Gornji Vakuf.⁷⁶⁶ According to the same report, on 18 January 1993, the HVO forces in Gornji Vakuf were ordered to use force to make the ABiH honour the ceasefire agreement concluded on 13 January 1993 and to take the village of Uzričje so as to open a route to Gornji Vakuf.⁷⁶⁷ Following the operations of 18 January 1993, Colonel Miro Andrić recommenced negotiations on a ceasefire in accordance with the instructions of the Government of the HZ H-B that the ABiH forces were to subordinate

⁷⁶³ See "Existence of a Common Criminal Plan" in the Chamber's findings with regard to the common criminal purpose.

⁷⁶⁴ P 03418, p. 4. See also "Arrivals, Removals and Releases of Detainees from the Prozor Secondary School" in the Chamber's factual findings with regard to the Municipality of Prozor.

⁷⁶⁵ Fahrudin Agić, T(F), pp. 9285-9288; Witness DV, T(F), p. 23037; Slobodan Praljak, T(F), pp. 40689 and 40690.

⁷⁶⁶ 4D 00348/3D 03065.

⁷⁶⁷ 4D 00348/3D 03065.

themselves to the HVO or leave the "Croatian" provinces.⁷⁶⁸ In his report, Miro Andrić said that he had used force on orders from his "superiors".⁷⁶⁹ He also said that on 22 January 1993, the HVO captured all the hills overlooking Gornji Vakuf.⁷⁷⁰

331. Furthermore, Željko Šiljeg, Commander of the North-West OZ, sent several reports to the HVO HZ H-B about the situation in Gornji Vakuf. In his report of 19 January 1993, he said that the HVO had captured the villages of Uzričje and Duša and some key facilities in the town of Gornji Vakuf, and that several buildings in the town and the villages were "on fire".⁷⁷¹ The Chamber recalls that it established that following the HVO attack on the town of Gornji Vakuf on 18 January 1993, the Muslim part of the town was severely damaged and that several houses in the villages of Duša and Uzričje were damaged or destroyed by the HVO forces. The Chamber established that, when the villages were captured following the attack on 18 January 1993, buildings belonging to the inhabitants of the villages of Duša and Uzričje – including houses – were burned down by HVO soldiers.⁷⁷²

332. In a report dated 23 January 1993, Željko Šiljeg said that most buildings in Donja Hrasnica had been burned down or demolished and that there was no longer any "civilian population" in Gornja Hrasnica and Donja Hrasnica.⁷⁷³ The Chamber recalls that it established that following the attack on the village of Hrasnica on 18 January 1993, the HVO forcibly removed women, children and elderly people from the village, detained people from the village of Hrasnica who did not belong to any armed force, and destroyed property of the Muslim inhabitants of that village.

333. On 29 January 1993, Željko Šiljeg sent a detailed report to the HVO Government indicating the number of torched Muslim houses and items stolen in the villages of Uzričje, Duša and Trnovača, as well as the names of seven Muslim "civilians" killed during the HVO shelling of Duša.⁷⁷⁴ The Chamber established that on the morning of 18 January 1993, the HVO fired several shells on the village of Duša and, among others, on Enver Šljivo's house, killing seven occupants

⁷⁶⁸ 4D 00348/3D 03065.

⁷⁶⁹ 4D 00348/3D 03065.

⁷⁷⁰ 4D 00348/3D 03065.

⁷⁷¹ P 01206, p. 1.

⁷⁷² See "Allegations of Burned Houses and Theft of Muslim Property in the Village of Duša", "Allegations of Burned Houses and Theft of Muslim Property in the Village of Hrasnica", "Allegations of Burned Houses and Theft of Muslim Property in the Village of Uzričje" and "Burned Houses, Thefts of Muslim Property in the Village of Ždrimci and Burning of the *Mekteb*" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

⁷⁷³ P 01357, p. 6 ("[...] most buildings in Donja Hrasnica have been burned down or demolished. There is no civilian population left in Gornja Hrasnica and Donja Hrasnica.")

⁷⁷⁴ P 01351.

who had taken refuge there ⁷⁷⁵ – the seven "civilians" mentioned in Željko Šiljeg's report of 28 January 1993.⁷⁷⁶

334. In the part relating to the structure of the Municipality of Gornji Vakuf, the Chamber noted that it was Bruno Stojić who had sent Colonel Miro Andrić to Gornji Vakuf and that Andrić then sent him the aforementioned report of 22 January 1993 about all the events related to the capture of that sector. Insofar as it was Bruno Stojić who sent Colonel Andrić to Gornji Vakuf and since, according to the colonel's report, his "superiors" had ordered him to use force to recapture the sector, the Chamber holds by a majority, with Judge Antonetti dissenting, that the only possible inference is that Bruno Stojić was one of Miro Andrić's superiors who ordered him to capture the Gornji Vakuf area by force.

335. Moreover, the Chamber finds that, having sent Miro Andrić to Gornji Vakuf and having then been informed by him about the results of the military operations and the negotiations with the ABiH, Bruno Stojić facilitated and closely followed all HVO operations in the area.

336. The Chamber further holds that, in view of Bruno Stojić's involvement in those operations and insofar as he was the member of the HVO HZ H-B responsible for the armed forces, the only inference it can reasonably draw is that Bruno Stojić was aware of the aforementioned reports sent by Željko Šiljeg to the HVO and, consequently, of the destruction of Muslim houses, the murder and detention of Muslims who did not belong to any armed force and the removal of the inhabitants of the area by the HVO.

337. The Chamber holds that, inasmuch as Bruno Stojić planned and facilitated the HVO military operations in Gornji Vakuf in January 1993 and was informed of the crimes committed during the operations, he intended to commit those crimes.

3. Municipality of Jablanica (Sovići and Doljani)

338. The Chamber found that on 17 April 1993, the HVO launched an attack on the Jablanica area, shelling the villages of Sovići and Doljani and then taking control of the two localities once the ABiH had surrendered. The HVO detained the Muslims of Sovići and Doljani, both ABiH

⁷⁷⁵ See "Attack on the Village of Duša" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

⁷⁷⁶ P 01351, p. 4.

members and people who did not belong to any armed force. On orders from "superior commanders", the HVO then set fire to all the Muslim houses and two mosques.⁷⁷⁷

339. According to a report dated 23 April 1993 sent by Ivica Primorac, Assistant Chief of the HVO Main Staff, to Bruno Stojić and to Milivoj Petković on 17 April 1993, the KB and the *Baja Kraljević* ATG seized Sovići and Doljani on 17 April 1993. Moreover, according to the report, the "cleansing" of Doljani took place on 19 April 1993.⁷⁷⁸

340. On 20 April 1993, the ICRC informed Bruno Stojić that since 15 April 1993, people had been killed and "civilian" houses regularly torched in the areas under HVO control, including Jablanica. The ICRC reported that the security situation was so difficult that the ICRC delegates had to be evacuated from that municipality.⁷⁷⁹ On 23 April 1993, Bruno Stojić and Milivoj Petković sent an order to the commanders of all OZs instructing them to treat the civilians and detainees in accordance with international law.⁷⁸⁰

341. The Chamber holds that the HVO operations in the Municipality of Jablanica followed a systematic course of action – which the Chamber described above – and could only, therefore, be the result of a preconceived plan. This is confirmed by Ivica Primorac's report of 23 April 1993, which indicated that the houses and mosques had been destroyed pursuant to an order by superior HVO officials. The Chamber holds that inasmuch as Bruno Stojić was informed of the military operations in Jablanica by Ivica Primorac's report of 23 April 1993 and that the HVO operations in that municipality followed a preconceived plan, Bruno Stojić must have been informed of that plan. Furthermore, since the ICRC informed Bruno Stojić of the crimes committed by the HVO armed forces in those locations, he must have been aware of the crimes committed by the HVO soldiers in Sovići and Doljani during the operations, that is, the destruction of buildings, including mosques, and the arrests of people who did not belong to any armed force. Bruno Stojić must have been aware of the crimes committed by the HVO troops in Sovići and Doljani especially as he then ordered the commanders of all the OZs to respect international law.

342. The evidence, however, indicates that the order was not implemented since the HVO continued to destroy Muslim property in that municipality and to detain people not belonging to any armed force at the Sovići School. Inasmuch as Bruno Stojić knew about the crimes and continued to

⁷⁷⁷ See "HVO Attacks on the Villages of Sovići and Doljani and Arrests of Men, Women, Children and Elderly People from 17 to 23 April 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani). Regarding the destruction of mosques pursuant to orders from "superior commanders", see also P 02063.

⁷⁷⁸ 4D 01034.

⁷⁷⁹ P 01989.

⁷⁸⁰ P 02050.

exercise his functions in the HVO/Government of the HR H-B, making no apparent efforts to ensure that the order he jointly issued with Milivoj Petković on 23 April 1993 was respected, the Chamber holds that he accepted the crimes linked to the military operations aimed at expelling the Muslims from Sovići and Doljani, that is, the destruction of property, including the mosques, as well as the arrests of people who did not belong to any armed force. Since the Chamber held that the crime of destruction of institutions dedicated to religion or education committed before June 1993 was not part of the common criminal purpose, it will examine Bruno Stojić's possible responsibility for the destruction of the mosques in that municipality within the framework of JCE 3.

4. Municipality of Mostar

343. The Chamber will analyse the evidence on Bruno Stojić's contribution to the crimes in Mostar by examining his role in (a) the operations of 9 May 1993, (b) the removal of the Muslim population from West Mostar as of June 1993 and (c) the crimes linked to the siege of East Mostar.

a) Bruno Stojić's Role in the Operations of 9 May 1993

344. On 14 April 1993, the HVO implemented a plan aimed at intensifying the control of the town of Mostar and placed all police forces, both military and civilian, as well as several HVO battalions on alert. Bruno Stojić was informed of this.⁷⁸¹ According to *Milivoj Petković*, on the morning of 9 May 1993, Bruno Stojić was in Čitluk.⁷⁸² Moreover, during an interview with a BBC journalist after 9 May 1993, Bruno Stojić, over a map of Mostar showing the positions of the various forces, explained that the HVO could clear its part of the town in several hours.⁷⁸³

345. Having seen a video-recording of the interview with the BBC journalist in court, *Davor Marijan*, an expert on military organisation⁷⁸⁴ presented by the Stojić Defence, explained that, in his view, Bruno Stojić's recorded statements did not prove that he was in charge of the operations around 9 May 1993 in Mostar. *Davor Marijan* based his claim on the fact that the map Bruno Stojić showed in the video was not really a military map, but a rough sketch prepared for a press conference, and that in the office where the interview was conducted, there were no military maps on the walls or devices for communication with the field, both of which are usually seen in the office of military commanders. According to *Davor Marijan*, this showed that Bruno Stojić was not

⁷⁸¹ Witness A, T(F), p. 14009, closed session; P 01868; see also 4D 00082, p. 1.

⁷⁸² Milivoj Petković, T(F), pp. 49572 and 49573.

⁷⁸³ P 04238, 44:22 to 44:52.

⁷⁸⁴ "Decision on Submission of the Expert Report of Davor Marijan pursuant to Rule 94 bis (A) and (B) and on Motions for Additional Time to Cross-Examine Davor Marijan", public, 11 December 2008.

a military chief. He stated that if Bruno Stojić had directed the HVO operations in Mostar, there should have been more documentary evidence to that effect. He further claimed that Bruno Stojić used wrong terminology in all of his communications with the HVO armed forces, because the documents should have been called "requests" and not "orders". According to *Davor Marijan*, this error proved that Bruno Stojić was outside the HVO military structure. Finally, he stated that even though Bruno Stojić was a civilian, he was wearing a military uniform at the time because everybody was wearing uniforms.⁷⁸⁵

346. Having heard *Davor Marijan's* entire testimony, the Chamber held that he had a bias in favour of Bruno Stojić and the HVO. In fact, *Davor Marijan* is a former HVO soldier and throughout his testimony and in his expert report, instead of providing objective answers as an expert, he sought to exonerate Bruno Stojić. More specifically, regarding his evaluation of the aforementioned video-recording, the Chamber holds that *Davor Marijan's* answers – in particular with regard to the absence of military documents and communication devices – are unconvincing since the witness, who was not in the office at the time of the interview, merely offered hypotheses uncorroborated by the evidence. In the Chamber's view, the video speaks for itself. In it, Bruno Stojić presents himself as an HVO military chief who had control over West Mostar in May 1993.

347. The Chamber recalls that during the days that followed the attack of 9 May 1993, the HVO engaged in a campaign aimed at evicting the Muslims of West Mostar from their flats, gathering them at several locations in the town and then detaining them for several days at the Heliodrom. During the arrest campaign, the HVO members, and in particular the *Benko Penavić* ATG, physically abused the Muslims.⁷⁸⁶ The operations were conducted in waves and in an orchestrated manner by the HVO as part of a campaign that led to the detention at the Heliodrom of between 1,500 and 2,500 Muslims from West Mostar.⁷⁸⁷ The Chamber holds by a majority, with Judge Antonetti dissenting, that the recurrence and scale of the acts of violence against the Muslims during the campaign indicate that they were part of a preconceived plan and were in no way the acts of a few undisciplined individuals.

348. The Chamber holds by a majority, with Judge Antonetti dissenting, that the aforementioned evidence supports a finding beyond reasonable doubt that, even if he was not physically in Mostar on the day when the HVO operations were launched, Bruno Stojić participated in the preparation of

⁷⁸⁵ *Davor Marijan*, T(F), pp. 35958-35960.

⁷⁸⁶ See "Violence and Thefts Committed against Muslims Arrested, Evicted from Their Flats, Placed in Detention and Displaced in May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

⁷⁸⁷ See "Arrivals of Detainees Following Waves of Muslim Arrests on 9 and 10 May 1993" in the Chamber's factual findings with regard to the Heliodrom.

the HVO troops in Mostar in the days preceding the attack of 9 May 1993. Furthermore, the BBC video shows that he knew of the troops' plans, of their ability and of their plan of action which, as stated above, corresponded to an orchestrated plan. The only inference the Chamber can draw from all these circumstances is that Bruno Stojić participated in planning the HVO military operations in Mostar that began on 9 May 1993.

349. The Chamber holds by a majority, with Judge Antonetti dissenting, that inasmuch as Bruno Stojić participated in planning the HVO military operations that began on 9 May 1993, he also participated in planning the acts of violence which accompanied the operations and were part of an orchestrated and organised plan, that is, the arrests and detention of Muslims and the confiscations and violence that occurred in Mostar on 9 May 1993 and the following days.

b) Bruno Stojić's Participation in Transfers of the Muslim Population of West Mostar Beginning in June 1993

350. As of 16 June 1993, the representatives of the international community alerted Valentin Ćorić, Berislav Pušić, Bruno Stojić and Jadranko Prlić to the evictions of Muslims from West Mostar to East Mostar. All four of them gave the same reply: the evictions were carried out by criminals not under HVO control.⁷⁸⁸

351. Moreover, according to Dragan Ćurčić's report dated 2 June 1993, further to their request, information on the occupancy of vacant flats in Čapljina and Mostar assigned to members of the *Ludvig Pavlović* PPN and members of their families was sent to the HVO Department of Defence and, more specifically, to Bruno Stojić in his capacity as head of that department.⁷⁸⁹ On 14 June 1993, Bruno Stojić and Milivoj Petković received a report from the HVO Electronic Operations Centre informing them that about 90 Muslims had been evicted from their homes the day before and that during the eviction operations, women were raped in front of eyewitnesses and many people beaten up. According to the report, there were indications of murders of civilians. According to the report, the crimes were perpetrated by the following members of the *Vinko Škrobo* ATG: Vinko Martinović alias "*Štela*", Bobo Perić, Damir Perić, Ernest Takać and Nino Pehar alias "*Žiga*".⁷⁹⁰

⁷⁸⁸ Antoon van der Grinten, T(F), pp. 21046 and 21048; P 02806 under seal, p. 2; Witness BA, T(F), pp. 7201, 7202, 7206 and 7207, closed session; P 09712 under seal, para. 66; P 03804 under seal, para. 6.

⁷⁸⁹ Dragan Ćurčić, T(F), p. 457852; P 02608.

⁷⁹⁰ P 02770.

352. Following the attack of 30 June 1993, HVO soldiers and military police relocated Muslim families from West Mostar to East Mostar on foot or by bus.⁷⁹¹ On 5 July 1993, Stojan Vrlić, President of the Mostar municipal HVO, sent to Bruno Stojić personally a list of Muslim families from the Zahum neighbourhood, including members of the ABiH Stojan Vrlić calls "*balija* units" providing their addresses and indicating that a raid would be carried out in the evening.⁷⁹² The Chamber construes this information as indicating that the eviction operations in the Zahum neighbourhood were organised and carried out building by building in the same manner as in May and June 1993.⁷⁹³

353. On 17 July 1993, various international representatives attended a dinner at Bruno Stojić's house. Slobodan Božić was also there.⁷⁹⁴ On that occasion, Bruno Stojić told the invitees that the loss of territory in some areas was part of a preconceived strategy of the HVO whose objective was to exert maximum pressure on the southern part of the town of Mostar.⁷⁹⁵ Bruno Stojić also expressed his "concern" for the Muslim civilians living in the ABiH-controlled areas in East Mostar. He suggested that the largest possible number of these civilians be evacuated and offered his assistance.⁷⁹⁶ Bruno Stojić estimated that the conflict between the Muslims and Croats in Mostar would be resolved in twenty days.⁷⁹⁷

354. Furthermore, Vladislav Pogarčić told *Witness DZ* that Bruno Stojić was in charge of implementing the plan to cleanse the town of Mostar.⁷⁹⁸ *Witness DZ* also heard HVO members say that Bruno Stojić had ordered that "people" be evicted from their homes and their houses burned.⁷⁹⁹

355. In view of the foregoing, the Chamber is in a position to find by a majority, with Judge Antonetti dissenting, that Bruno Stojić was not only informed of the evictions of Muslims from West Mostar as of June 1993 but was also actively involved in organising and conducting the eviction campaigns.

⁷⁹¹ Witness BB, T(F), pp. 17197, 17230, 25420 and 25421, closed session; P 09847 under seal, p. 2; P 09502 under seal, point 8.

⁷⁹² P 03181. The Chamber further notes the following remark on p. 3: "Kavazbašina Street has not been cleaned of Muslims"; Antoon van der Grinten, T(F), pp. 21079 and 21080.

⁷⁹³ See "Municipality of Mostar" in the Chamber's legal findings with regard to Count 8 (inhumane acts (forcible transfer), a crime against humanity). See also Witness BB, T(F), pp. 17198, 17199, 17219, 17220, 25420 and 25421, closed session; P 09678 under seal, para. 1; P 09502 under seal, p. 2.

⁷⁹⁴ Witness DV, T(F), pp. 22895, 22896 and 22899, closed session; P 10217 under seal, paras 122-124; P 03532 under seal, p. 2; P 03547, p. 3.

⁷⁹⁵ Witness DV, T(F), pp. 22895, 22996 and 22899, closed session; P 10217 under seal, paras 122-124; P 03532 under seal, p. 2; P 03547, p. 3.

⁷⁹⁶ Witness DV, T(F), pp. 22895 and 22896; P 10217 under seal, para. 124; P 03545 under seal, p. 9.

⁷⁹⁷ P 10217 under seal, para. 125; P 10367 under seal, para. 74; P 03532/P 03530 under seal, pp. 2 and 5; Witness DZ, T(F), pp. 26584 and 26586, closed session. See also P 03545 under seal, p. 8.

⁷⁹⁸ P 10367 under seal, para. 69.

⁷⁹⁹ P 10367 under seal, para. 33.

356. The Chamber further recalls that the campaigns to evict Muslims from West Mostar were carried out in the summer of 1993 in a systematic and organised manner according to a preconceived plan. The HVO thus expelled the Muslims living in the western part of the town and forcibly moved them to the other bank of the Neretva. During the operations, the HVO systematically committed acts of violence against the Muslims, beating them, intimidating them, threatening them and stealing their valuables.

357. Consequently, insofar as Bruno Stojić participated in planning the operations to evict the Muslims from West Mostar and given that the acts of violence against the Muslims during the campaigns were part of a preconceived plan, the Chamber holds that the only inference it can reasonably draw is that Bruno Stojić intended to have the acts of violence linked to the eviction campaigns committed, that is, the mistreatment.

358. Moreover, the Chamber held that the other crimes committed during the operations to evict the Muslims from West Mostar, the sexual abuse and the thefts, were not part of the common criminal purpose. The Chamber will further analyse Bruno Stojić's responsibility with regard to these crimes within the framework of JCE 3.

c) Bruno Stojić's Role in the Siege of East Mostar

i. Bruno Stojić's Knowledge of the Crimes in East Mostar

359. The evidence shows that from at least May 1993 until the end of his functions as the head of the Department of Defence of the HZ(R) H-B in November 1993,⁸⁰⁰ Bruno Stojić was kept informed by the representatives of the international community about the crimes committed by HVO members in Mostar, such as the shelling and the incidents when representatives of the international community were targeted by the HVO.⁸⁰¹

360. On 21 August 1993, Branko Kvesić, Head of the Department of the Interior of the HZ H-B, also informed Bruno Stojić that there was no water or electricity in East Mostar and that there was

⁸⁰⁰ Witness DZ was deployed in BiH between April 1993 and April 1994; Witness DZ, T(F), pp. 26472 and 26473, closed session; P 10367 under seal, paras 5 and 10; Antoon van der Grinten was deployed in BiH from May to August 1993; Antoon van der Grinten, T(F), pp. 20999 and 21001; Witness DW was deployed in BiH from September 1993 to 24 April 1994; P 10287 under seal, para. 9; Witness DW, T(F), p. 23087.

⁸⁰¹ Witness DZ, T(F), pp. 26484 and 26485, closed session; P 10367 under seal, paras 19 and 21; P 02806 under seal, p. 2; Antoon van der Grinten, T(F), p. 21046; P 10287 under seal, para. 30; Witness DW, T(F), p. 23087; Antoon van der Grinten, T(F), pp. 21186 and 21187; P 03162 under seal, p. 1; Antoon van der Grinten, T(F), pp. 21076-21078; P 03184 under seal, p. 2; P 02806 under seal; P 10367 under seal, para. 33.

less and less food and medical equipment there despite the fact that material could be delivered to the east bank of the Neretva via the Grabovica-Glogošnica-Lojpuri village route.⁸⁰²

361. According to a report by an international organisation, during a dinner on 17 July 1993, Bruno Stojić told members of that international organisation that the plan of action was to exert maximum pressure on the ABiH from the south of the town of Mostar while leaving one route open in the north in the direction of Jablanica in order to allow the ABiH to escape.⁸⁰³ Bruno Stojić also offered his assistance in organising the evacuation of the largest possible number of "civilians" from East Mostar.⁸⁰⁴ According to the analysis of the situation that the members of the international organisation made at the time of the events following Bruno Stojić's statements, the HVO military pressure from the south as well as the shelling and isolation of East Mostar would cause food shortages and drive the inhabitants of East Mostar to leave the town by the northern route and the ABiH would then also leave the town.⁸⁰⁵ The analysis also indicated that Bruno Stojić seemed convinced of his troops' ability to achieve a definitive military solution to what the HVO considered the "Muslim problem" in the town of Mostar.⁸⁰⁶

362. In view of this evidence, the Chamber finds that Bruno Stojić knew of the shelling of East Mostar, the attacks on the representatives of international organisations deployed in that part of the town and the shortages of food and water suffered by the Muslim population. On 17 July 1993, Bruno Stojić told the international representatives that the HVO's plan of action was to put pressure on East Mostar in order to force the ABiH to leave the sector. Inasmuch as the Muslim population of East Mostar was under siege in that part of the town, the plan of action to which Bruno Stojić referred was necessarily directed against the entire population of East Mostar and not only against the ABiH.

363. The Chamber thus finds that Bruno Stojić knew of the HVO's plan of action and the impact it had on the civilian population of East Mostar. Inasmuch as he continued to exercise his functions in the HVO/Government of the HR H-B, the Chamber holds that he accepted the crimes directly linked to the HVO military operations against East Mostar, that is, the murders and the destruction of property, including mosques, related to the shelling and the harsh living conditions of the population of that part of the town caused by the lack of food and water.

⁸⁰² P 04403.

⁸⁰³ P 03545 under seal, p. 9.

⁸⁰⁴ P 03545 under seal, p. 9.

⁸⁰⁵ P 03545 under seal, p. 9.

⁸⁰⁶ P 03545 under seal, p. 8.

ii. Bruno Stojić's Role in the Attacks on Members of the International Organisations and the Civilian Population of East Mostar

364. Based on the investigations conducted by UNPROFOR and UNCIVPOL, the Chamber found by a majority, with Judge Antonetti dissenting, that Francisco Aguilar Fernández, a Spabat lieutenant, was shot dead on 11 June 1993 by an HVO sniper positioned in West Mostar.⁸⁰⁷ However, on 14 June 1993, Bruno Stojić sent a letter to the Spanish Minister of Defence in which he expressed his concern over the fact that Spain had accused the HVO of the lieutenant's death, indicating that the bullet which killed the lieutenant had come from ABiH positions and submitting in particular that the site where Lieutenant Aguilar Fernández had been hit was not visible from the HVO sniper position at Hotel Bristol.⁸⁰⁸ Speaking before the Chamber, *Witness DV*⁸⁰⁹ stated that Bruno Stojić's letter did not correspond to reality.⁸¹⁰ It repeated the content of a letter from Ivica Lucić, Assistant Minister of Defence of the HVO sent the same day, which said that a joint HVO/UNPROFOR investigation had concluded, among other things, that the site where Lieutenant Aguilar Fernández had been hit was not visible from Hotel Bristol, as proven by the Spanish video recording.⁸¹¹ *Witness DV* explained that for security reasons, at the time of the events Spabat provided Ivica Lucić with inaccurate information, on the basis of which he drafted his letter. *Witness DV* explained to the Chamber that it was not true that the scene of the impact was not visible from Hotel Bristol. *Witness DV* also stated that in the glass-walled bank building, Spabat found empty casings that corresponded to the calibre of the bullet which had killed Lieutenant Aguilar.⁸¹² The Chamber, therefore, finds that the purpose of the letter sent by Bruno Stojić on 14 June 1993 was not to conceal the HVO's responsibility for Lieutenant Aguilar Fernández's death inasmuch as it was based on incorrect information provided to him by Spabat.

365. The Chamber observes however that in referring to the death of the Spabat lieutenant killed in East Mostar in June 1993, Bruno Stojić told *Antoon van der Grinten* that the snipers at the glass-walled bank building and the secondary school in Mostar were under his control and that he could affirm that they had not fired on the day the lieutenant died.⁸¹³ The Stojić Defence alleges that witness *Antoon van der Grinten* was not credible, but failed to further develop its argument.⁸¹⁴

⁸⁰⁷ See "Targeting Members of International Organisations" in the Chamber's factual findings with regard to the Municipality of Mostar.

⁸⁰⁸ 2D 00116; *Antoon van der Grinten*, T(F), p. 21210.

⁸⁰⁹ A Spabat member stationed in BiH from April to October 1993; *Witness DV*, T(F), p. 22871; P 10270 under seal, p. 2; *Witness DV*, T(F), p. 22872; P 10217 under seal, para. 8.

⁸¹⁰ *Witness DV*, T(F), pp. 22986 and 22987, closed session.

⁸¹¹ 2D 00117; *Antoon van der Grinten*, T(F), p. 21211.

⁸¹² *Witness DV*, T(F), pp. 22987 and 22988, closed session.

⁸¹³ *Antoon van der Grinten*, T(F), pp. 21046-21048, 21051, 21052 and 21248; P 02806 under seal, p. 2.

⁸¹⁴ Stojić Defence Closing Arguments, T(F), p. 52379.

After hearing *Antoon van der Grinten's* whole testimony, the Chamber found that he was indeed credible and that his statements were supported by the documentary evidence - more specifically, ECMM reports - introduced through him.

366. The Chamber recalls that it found by a majority, with Judge Antonetti dissenting, that from June 1993 to March 1994, the Muslim inhabitants of East Mostar, including women, children and elderly people as well as fire-fighters working in East Mostar, were regularly targeted by HVO snipers while they were going about their day-to-day activities which had no link to any combat operations, such as fetching water.⁸¹⁵

367. The members of the international organisations were also regularly targeted by the HVO snipers during the siege of Mostar. On several occasions, representatives of these organisations met with officials of the HVO/Government of the HR H-B, including Bruno Stojić, to inform them about those incidents. The Chamber noted that, except for a short truce around 16 September 1993, the complaints did not lead to a cessation of the attacks on the representatives of the international organisations.⁸¹⁶

368. Bruno Stojić admitted that he controlled the snipers positioned in the glass-walled bank and the "secondary school" in Mostar.⁸¹⁷ The Chamber holds that although he was referring specifically to the snipers, this was because at the time of the statement, he was discussing the allegations that the shots which killed the Spabat lieutenant had come from the glass-walled bank building. The Chamber nevertheless holds that inasmuch as Bruno Stojić controlled most of the HVO armed forces and as all the sniping in West Mostar had the same targets and followed the same *modus operandi*, the only inference it can reasonably draw is that Bruno Stojić controlled all the snipers in West Mostar and not only those positioned in the glass-walled bank building or the "secondary school".

369. In view of the foregoing, the Chamber cannot find that Bruno Stojić attempted to conceal the responsibility of the HVO snipers for the murder of the Spanish lieutenant since the information provided to him by Spabat was incorrect. However, insofar as he controlled all the snipers in West Mostar and as their actions always followed the same pattern, the Chamber holds by a majority,

⁸¹⁵ See "The 12 Sniping Incidents Specifically Described in the Confidential Annex to the Indictment" in the Chamber's factual findings with regard to the Municipality of Mostar.

⁸¹⁶ See "Targeting Members of International Organisations" in the Chamber's factual findings with regard to the Municipality of Mostar.

⁸¹⁷ See "Evidence Regarding Positions of HVO Snipers in Mostar" and "Targeting Members of International Organisations" in the Chamber's factual findings with regard to the Municipality of Mostar.

with Judge Antonetti dissenting, that Bruno Stojić must have known that the snipers in West Mostar were targeting civilians and members of international organisations in East Mostar.

370. By continuing to exercise his functions, Bruno Stojić accepted the murders and wounding of Muslim civilians in East Mostar during the siege of that part of the town.

iii. Bruno Stojić's Role in Restricting Humanitarian Convoys

371. The Stojić Defence submitted that Bruno Stojić did not participate in regulating the flow of humanitarian aid and that he did not take any decisions in that respect.⁸¹⁸

372. The Chamber found, for its part, that the HVO impeded the regular delivery of humanitarian aid to East Mostar between June and December 1993. The HVO in fact restricted access to East Mostar for international organisations in particular through administrative restrictions and by completely blocking the access of the humanitarian convoys for almost two months in the summer of 1993 and in December 1993. The sporadic aid provided by the HVO, which was dependent on certain counter-favours, was not such as to bring into question the finding that the HVO impeded the delivery of humanitarian aid to East Mostar. Contrary to the submission of the Stojić Defence, Bruno Stojić was one of the people who had the power to grant access to East Mostar to the international organisations. Bruno Stojić justified the blocking of passage by citing security considerations, but representatives of the international organisations refuted that claim.⁸¹⁹ The Chamber, therefore, finds that, inasmuch as Bruno Stojić did nothing to remove the obstacles hindering access of humanitarian aid to East Mostar even though he had the power and the obligation to do so, he in fact facilitated them.

5. Municipality of Čapljina

373. On 30 June 1993, Milivoj Petković sent an order to the South-East OZ according to which (1) all Muslims in the HVO were to be disarmed and placed in isolation and (2) all Muslim men of military age living in the zone of responsibility of the South-East OZ were also to be placed in isolation.⁸²⁰ The Chamber found that between 30 June 1993 and mid-July 1993, members of the 1st *Knez Domagoj* Brigade, the 3rd Company of the 3rd Military Police Battalion and the Čapljina MUP arrested Muslim men from the municipality, some of whom were not members of any armed forces,

⁸¹⁸ Stojić Defence Final Trial Brief, para. 447.

⁸¹⁹ See "Blocking of International Organisations and Humanitarian Aid" in the Chamber's factual findings with regard to the Municipality of Mostar and "Relations with International and Humanitarian Organisations" in the Chamber's factual findings with regard to the political and administrative structure of the HZ(R) H-B.

⁸²⁰ P 03019.

and detained them at the prisons in Dretelj and Gabela, as well as at the Heliodrom. On 3 July 1993, Bruno Stojić issued an order transferring the management of the detention of the Muslim men of military age arrested in the Municipality of Čapljina from the 1st *Knez Domagoj* Brigade to the local HVO.⁸²¹

374. The Chamber found that between 30 June and mid-July 1993, HVO members arrested Muslim men from the Municipality of Čapljina, some of whom did not belong to any armed force, and detained them at the prisons in Gabela and Dretelj, as well as at the Heliodrom.⁸²²

375. Based on the foregoing, the Chamber finds that Bruno Stojić knew of and facilitated the detention of men who did not belong to any armed force, in Čapljina in July 1993. Since he continued to exercise his functions in the HVO/Government of the HR H-B, the Chamber infers that he accepted this.

376. According to the minutes of the 47th session of the HVO held on 20 July 1993 and attended among others, by Jadranko Prlić and Bruno Stojić,⁸²³ a working group which included *inter alia* Berislav Pušić visited the Municipality of Čapljina and assessed the level of care provided to the refugees and the displaced persons.⁸²⁴ During the session, the working group established that the media reports about the alleged "expulsion" of the Muslims from the Municipality of Čapljina were not true, given that more than 2,000 Muslims from eastern Bosnia were being accommodated at the Čapljina Student Centre and in holiday homes in Počitelj Polje, Ševač Polje, Bivolje Brdo and Višići.⁸²⁵

377. The Chamber recalls that in the summer of 1993, the HVO conducted a campaign to evict the Muslim population from the Municipality of Čapljina. As the Chamber found earlier, further to an order of Neđeljko Obradović⁸²⁶ dated 3 July 1993 to group the Muslim population in order to "secure" it,⁸²⁷ in July and August 1993 the HVO launched a campaign to expel from their homes, arrest and detain the women, children and elderly people from the town of Čapljina and the villages of Bivolje Brdo and Domanovići. It expelled the women, children and elderly people from Počitelj and moved them to ABiH territory. After taking control of the municipality, the HVO also

⁸²¹ 4D 00461; *see also* "Arrest and Incarceration of Muslim Men in the Municipality of Čapljina in July 1993" in the Chamber's factual findings with regard to the Municipality of Čapljina.

⁸²² *See* "Arrest and Incarceration of Muslim Men in the Municipality of Čapljina in July 1993" in the Chamber's factual findings with regard to the Municipality of Čapljina.

⁸²³ P 03573, p. 1.

⁸²⁴ P 03573, p. 1.

⁸²⁵ P 03573.

⁸²⁶ Commander of the 1st *Knez Domagoj* Brigade of the HVO.

⁸²⁷ P 03063.

destroyed the mosque in Višići and Muslim houses in Bivolje Brdo.⁸²⁸ The Chamber holds, by a majority, with Judge Antonetti dissenting, that these waves of eviction were part of an HVO-orchestrated and organised campaign to expel the Muslim population from the Municipality of Čapljina. The Chamber holds, by a majority, with Judge Antonetti dissenting, that the destruction of mosques and Muslim houses in Čapljina also reflects the *modus operandi* the HVO used in the eviction campaigns in several municipalities in Herceg-Bosna such as Gornji Vakuf, Prozor, Stolac and Ljubuški and was clearly part of a preconceived plan of evictions.

378. Bruno Stojić was informed about the allegations of the evictions of the Muslim population of Čapljina from at least 20 July 1993. Furthermore, the operations were carried out according to a preconceived plan. The Chamber holds, by a majority, with Judge Antonetti dissenting, that insofar as Bruno Stojić had effective control over most of the HVO armed forces and the Military Police who carried out the evictions in Čapljina and since he himself contributed to planning the evictions following the same plan as in West Mostar, it can only find that he was also informed about the evictions in Čapljina and the manner in which they were carried out. Therefore, the only inference the Chamber can reasonably draw by a majority, with Judge Antonetti dissenting, is that in contributing to facilitating the eviction of Muslims from that municipality he also intended to have Muslim property, including the mosques, destroyed.

6. Municipality of Vareš

379. The Stojić Defence alleges that the Prosecution did not prove beyond reasonable doubt that Bruno Stojić knew of Ivica Rajić's responsibility for the crimes in Stupni Do.⁸²⁹

380. The evidence shows that on 29 October 1993, Ivica Rajić informed Bruno Stojić, Slobodan Praljak and Milivoj Petković that, contrary to the agreement between Generals Petković and Milanović, the Serbian forces were not allowing the troops under Ivica Rajić's command through to Vareš.⁸³⁰ The following day, Bruno Stojić informed Ivica Rajić that an agreement had been reached with the VRS for the passage of an HVO convoy along the Berkovići-Nevesinje-Borci-Konjic route and ordered him to send the relevant "documents" to "Minister Kovačević".⁸³¹ Finally, on 31 October 1993, Ivica Rajić confirmed to Bruno Stojić that the VRS was implementing the

⁸²⁸ See "Eviction of Women, Children and Elderly People, Their Removal and Subsequent Alleged Crimes in the Municipality of Čapljina from July to September 1993" in the Chamber's factual findings with regard to the Municipality of Čapljina.

⁸²⁹ Stojić Defence Closing Arguments, T(F), p. 52386.

⁸³⁰ P 06219.

⁸³¹ P 06267.

agreement between Generals Petković and Milanović.⁸³² The Chamber holds that this evidence shows that Bruno Stojić facilitated the HVO military operations in Vareš in October 1993.

381. On 1 November 1993, Bruno Stojić asked the President of the HR H-B to promote Ivica Rajić to the rank of HVO colonel and Mate Boban granted the request the same day.⁸³³ The Chamber holds that these facts prove that Bruno Stojić, who facilitated the operations of Ivica Rajić's troops in Vareš, considered that the operations had been carried out satisfactorily, justifying the promotion.

382. Furthermore, the Chamber notes that on 4 November 1993, the key members of the Government of the HR H-B, including Jadranko Prlić, Slobodan Praljak and Mate Boban, were present at a meeting, attended also by Franjo Tuđman and other Croatian officials, which analysed, among other things, the possible ramifications of the events in Stupni Do and the involvement of Ivica Rajić and HVO troops in those events, which had become public knowledge.⁸³⁴ At the meeting, Milivoj Petković⁸³⁵ said that on 25 October 1993, he had received an HVO report that the HVO troops had killed about 80 people, including 47 members of the ABiH, and torched practically everything in the village and that he had requested an investigation.⁸³⁶

383. In view of the fact that the officials of the Government of the HR H-B, Mate Boban and Jadranko Prlić, and the people in charge of the HVO Main Staff, Slobodan Praljak and Milivoj Petković, knew about the murders and destruction committed by Ivica Rajić's troops in Stupni Do, that Bruno Stojić was the government member in charge of the armed forces, that he facilitated the operations of Rajić's troops in Vareš and that he considered that the operations had been carried out satisfactorily, the Chamber holds that the only reasonable inference it can draw is that Bruno Stojić was also informed of the deaths of Muslims, both members of the ABiH and non-members, and of the destruction of their property as of 4 November 1993. Moreover, insofar as he continued to exercise his functions in the Government of the HR H-B while knowing about those crimes and requested and obtained Ivica Rajić's promotion, the Chamber holds that the only reasonable inference it can draw is that Bruno Stojić accepted the murders and the destruction.

⁸³² P 06307.

⁸³³ P 06328; P 06339; P 06362.

⁸³⁴ P 06454, pp. 57-60, 72 and 73.

⁸³⁵ The Chamber notes that pages 58 ff. of transcript P 06454 attribute these words to a certain Pratković. The Chamber, however, deems that this is an error and that the speaker is in fact Milivoj Petković since the activities he mentions correspond exactly to those of Milivoj Petković for the period 23 to 25 October 1993.

⁸³⁶ P 06454, p. 59.

7. Detention Centres

384. On 6 August 1993, Bruno Stojić ordered that the procedures for interrogation and release of detainees in the HZ H-B detention centres be better organised.⁸³⁷

385. During a working meeting on 6 September 1993 in which Bruno Stojić participated, the Government of the HR H-B took several decisions to bring the detention facilities for "prisoners of war" in line with the standards of international law.⁸³⁸ The departments of defence, justice and administration were tasked with overseeing the implementation of the decisions.⁸³⁹ At the same time, Mate Boban ordered the Department of Defence and the Main Staff to comply with international law in combat and the treatment of prisoners.⁸⁴⁰

386. The regulations promulgated by Bruno Stojić on 11 February 1993 for the treatment of prisoners of war imprisoned in the detention centres were still in force in November 1993.⁸⁴¹ These instructions regulated the receipt of "military prisoners of war", the sanitary and dietary conditions that were to be provided for them as well as their work and the issues of discipline in the detention centres to which they would be assigned.⁸⁴²

387. Based on this evidence, the Chamber infers that Bruno Stojić was informed of the detention of Muslims by the HVO and that the detention was not in conformity with international law. Even if he did seek to improve the detention conditions and the treatment of detainees - as the Chamber found in the parts relating to the various detention centres - the conditions and treatment remained poor until the day the centres were closed down.⁸⁴³ The Chamber will now analyse in greater detail the evidence relating to Bruno Stojić's participation in the crimes committed at (a) the Heliodrom, (b) Ljubuški Prison and (c) the prisons at Gabela and Dretelj.

a) The Heliodrom

388. On 14 August 1993, Stanko Božić, warden of the Heliodrom, submitted a report to Bruno Stojić informing him that following the attack on the Northern Camp, combat-aged Muslim men were being arrested and detained at the Heliodrom and that the vast influx of detainees was causing

⁸³⁷ P 04002, p. 1.

⁸³⁸ P 04841.

⁸³⁹ P 04841.

⁸⁴⁰ P 05104.

⁸⁴¹ Marijan Biškić, T(F), p. 15084; P 01474.

⁸⁴² P 01474.

⁸⁴³ See "Conditions of Confinement" in the Chamber's factual findings with regard to the Heliodrom; "Conditions of Confinement and the Death of a Detainee" in the Chamber's factual findings with regard to Dretelj Prison and "Conditions of Confinement at Gabela Prison" in the Chamber's factual findings with regard to Gabela Prison.

logistical problems. Stanko Božić asked him to find a solution.⁸⁴⁴ The Chamber found that between 9 May 1993 and 18 or 19 April 1994, the HVO detained at the Heliodrom, among others, members of the ABiH and men who did not belong to any armed force.⁸⁴⁵

389. In view of this evidence, the Chamber finds that from at least August 1993, Bruno Stojić knew that men not belonging to any armed force were being detained at the Heliodrom. Inasmuch as he continued to exercise his functions in the HVO/Government of the HR H-B without making the slightest effort to rectify the situation, the Chamber holds that Bruno Stojić accepted this crime.

390. In a letter of 20 August 1993, Stanko Božić informed Bruno Stojić that according to an ICRC representative who visited the Heliodrom in early August 1993, the detention conditions in the isolation cells contravened the Geneva Conventions.⁸⁴⁶ The Chamber indeed found that the detention conditions in the isolation cells were extremely harsh.⁸⁴⁷

391. In August and October 1993, Stanko Božić and Josip Praljak notified Bruno Stojić that some Heliodrom detainees taken to the front line to perform work had been wounded and died.⁸⁴⁸

392. Furthermore, on 30 September 1993, the health sector of the Department of Defence sent a report to Bruno Stojić personally. It described many problems that had been found at the Heliodrom such as the insufficient number of guards, the overcrowding of the facilities where the detainees were being accommodated, the non-separation of sick and wounded detainees and disastrous hygienic conditions which could lead to an outbreak of intestinal and respiratory diseases.⁸⁴⁹

393. *Josip Praljak*⁸⁵⁰ testified that during 1993, Bruno Stojić never came to the Heliodrom.⁸⁵¹ Moreover, no HVO authorities ever held Josip Praljak accountable for the poor running of the Heliodrom or for the forced labour, and no punitive measures were ever taken against him.⁸⁵²

⁸⁴⁴ P 04186.

⁸⁴⁵ See "Arrivals of Detainees following Waves of Arrests after 30 June 1993" in the Chamber's factual findings with regard to the Heliodrom.

⁸⁴⁶ P 04352, p. 1.

⁸⁴⁷ See "Overcrowding at the Camp", "Lack of Beds and Blankets", "Access to Food and Water", "Lack of Hygiene", "Medical Treatment of Detainees" and "Conditions of Confinement in Isolation Cells" in the Chamber's factual findings with regard to the Heliodrom.

⁸⁴⁸ P 04352, p. 2; P 05812.

⁸⁴⁹ P 05503.

⁸⁵⁰ The *de facto* deputy warden of the Heliodrom from 21 September 1992 to 10 December 1993 and the co-warden of the Heliodrom from 10 December 1993 to 1 July 1994; Josip Praljak, T(F), pp. 14639 and 14641.

⁸⁵¹ Josip Praljak, T(F), p. 14803.

⁸⁵² Josip Praljak, T(F), p. 15011.

Likewise, no HVO soldiers, military policemen or officers were ever punished for making the detainees from the Heliodrom perform illegal work.⁸⁵³

394. The Chamber recalls that it noted that the detention conditions at the Heliodrom were very harsh,⁸⁵⁴ that the HVO took Heliodrom detainees to the front line in the Municipality of Mostar to perform work such as repairing fortifications or collecting the bodies of soldiers,⁸⁵⁵ and that several dozen detainees, exposed to the military confrontations, were killed or wounded by both HVO and ABiH fire.⁸⁵⁶

395. The above evidence shows that HVO officials informed Bruno Stojić on several occasions about the bad detention conditions at the Heliodrom and the detainees' work on the front line that caused the death and wounding of some of them. Since he received continuous reports on the situation in this detention centre at least from August to September 1993, the Chamber holds that Bruno Stojić took no measures to rectify it. He did not go to the Heliodrom despite the fact that he was aware of the difficulties there in 1993. Inasmuch as he continued to exercise his functions in the HVO/Government of the HR H-B, the Chamber holds that Bruno Stojić accepted the bad detention conditions at the Heliodrom and the use of detainees for work on the front line which caused the wounding and death of some of them.

b) Ljubuški Prison

396. The Chamber notes that on 13 July 1993, Željko Šiljeg informed Milivoj Petković and Bruno Stojić that he had relocated detainees – mostly prisoners of war but also some "civilians" – from the secondary school in Prozor to Ljubuški Prison.⁸⁵⁷ Bruno Stojić was thus informed that some men who did not belong to any armed force were being detained in Ljubuški in July 1993. Since Bruno Stojić continued to exercise his functions in the HVO/Government of the HR H-B, the Chamber holds that the only inference it can reasonably draw is that Bruno Stojić accepted the detention of men not belonging to any armed force at Ljubuški Prison in July 1993.

⁸⁵³ Josip Praljak, T(F), pp. 15011 and 15012.

⁸⁵⁴ See "Overcrowding at the Camp", "Lack of Beds and Blankets", "Access to Food and Water", "Lack of Hygiene", "Medical Treatment of Detainees" and "Conditions of Confinement in Isolation Cells" in the Chamber's factual findings with regard to the Heliodrom.

⁸⁵⁵ See "Use of Heliodrom Detainees for Work" in the Chamber's factual findings with regard to the Heliodrom.

⁸⁵⁶ See "Use of Heliodrom Detainees for Work" and "Detainees Killed or Wounded during Forced Labour" in the Chamber's factual findings with regard to the Heliodrom.

⁸⁵⁷ P 03418, p. 4. See also "Arrival and Transfer of Detainees of Ljubuški Prison" in the Chamber's factual findings with regard to Ljubuški Prison.

c) Prisons at Dretelj and Gabela

397. According to the minutes of a meeting of the heads of sectors at the Department of Defence dated 2 September 1993, Bruno Stojić said he did not consider the prisons at Dretelj and Gabela as military prisons and that he was, consequently, not responsible for these detention centres.⁸⁵⁸ The Chamber, nevertheless, recalls that according to the order Milivoj Petković sent to the South-East OZ on 30 June 1993, the military authorities were responsible for isolating the combat-aged Muslim men in their zone of responsibility.⁸⁵⁹ Since the prisons at Dretelj and Gabela were within the remit of the South-East OZ and since in the factual findings relating to those two prisons the Chamber observed that combat-aged Muslim men were indeed detained there, the Chamber finds that the prisons at Dretelj and Gabela were effectively military prisons.

398. Furthermore, at a Department of Defence meeting on 2 September 1993, it was decided that the SIS, the Military Police Administration and the health sector of the Department of Defence should submit reports to Bruno Stojić on the prisons at Dretelj and Gabela by 8 September 1993 at the latest.⁸⁶⁰

399. In view of the foregoing, the Chamber finds that the prisons at Dretelj and Gabela fell within Bruno Stojić's responsibility.

400. Bruno Stojić also had knowledge of the problems in those two detention centres.

401. During a session of the HVO HZ H-B on 20 July 1993, chaired by Jadranko Prlić and attended among others, by Bruno Stojić,⁸⁶¹ a proposal was made to find new detention facilities in order to take some of the detainees to Čapljina and to resolve the problem of overcrowding in the prisons at Dretelj and Gabela.⁸⁶²

402. The minutes of a working meeting of the Government of the HR H-B on 6 September 1993 and attended among others, by Jadranko Prlić and Bruno Stojić show that the conditions of detention of people belonging to "enemy forces and [people] preparing a [...] rebellion" were bad and could harm the interests of the HR H-B. The minutes also indicated that the situation was not considered to fall under the Government's responsibility.⁸⁶³

⁸⁵⁸ P 04756, p. 4.

⁸⁵⁹ Andrew Pringle, T(F), pp. 24144 and 24145; P 03019.

⁸⁶⁰ P 04756.

⁸⁶¹ "K. Zubak", "N. Tomić" and Zoran Buntić were also at that meeting.

⁸⁶² P 03573; Zoran Buntić, T(F), p. 30585.

⁸⁶³ Andrew Pringle, T(F), pp. 24145-24151 and 24155; P 04841, pp. 1 and 2.

403. During a meeting on 20 September 1993 attended, among others, by Jadranko Prlić, Bruno Stojić and Berislav Pušić, an ICRC representative said he had seen about 20 detainees at Dretelj Prison who were showing signs of malnutrition.⁸⁶⁴ However, the minutes show that although the government denied any form of responsibility for the arrests, it did take measures to try to improve the detention conditions and to bring them in line with international humanitarian law.⁸⁶⁵

404. Moreover, according to a report sent to Bruno Stojić on 29 September 1993 by the head of the infectious diseases service of the Department of Defence, the number of detainees at Gabela Prison significantly exceeded the prison's capacities, because of which there was a high risk of epidemics.⁸⁶⁶ According to the same report, several detainees were malnourished.⁸⁶⁷

405. Lastly, on 27 October 1993, the head of the health sector of the Department of Defence informed Bruno Stojić that the preventive measures the sector had recommended for Gabela Prison had not been implemented.⁸⁶⁸

406. In view of the foregoing, the Chamber holds that Bruno Stojić was informed about the detention of Muslims, some of whom did not belong to the ABiH, in extremely precarious conditions in the prisons at Dretelj and Gabela and that the detainees were being mistreated there. The Chamber holds that even if Bruno Stojić considered that the detention of Muslims not belonging to any armed force was justified by security reasons, insofar as he knew that they were being detained in very harsh conditions, he had to have known that the HVO could no longer use that justification. Moreover, Bruno Stojić attempted to deny his responsibility for the two detention centres claiming that they were not military prisons, a claim the Chamber rejected.

407. Furthermore, the Chamber observes that although, as described above, at meetings in which Bruno Stojić participated, the HVO/Government of the HR H-B decided to take measures to improve the detention conditions and the treatment of the detainees, the decisions were not followed by any real improvements. Nonetheless, Bruno Stojić continued to exercise his functions in the HVO/Government of the HR H-B and was kept informed about the bad detention conditions and the mistreatment of the detainees in those prisons. The Chamber, therefore, finds that Bruno Stojić accepted the extremely precarious conditions and the mistreatment in the prisons at Dretelj and Gabela, as well as the fact that Muslims not belonging to any armed force were being detained there.

⁸⁶⁴ P 05219 under seal.

⁸⁶⁵ P 04841, pp. 2 and 3.

⁸⁶⁶ P 05485, pp. 2 and 3.

8. Bruno Stojić Denied the Crimes against Muslims, Did not Prevent them and Failed to Punish them

408. The Chamber will now analyse (a) the evidence attesting, or not, to Bruno Stojić's efforts to prevent or punish the HVO crimes against the Muslims; it will also examine (b) Bruno Stojić's attitude towards the actions of Mladen Naletilić alias "Tuta" and his troops, and (c) the fact that he attempted to deny the existence of the HVO crimes.

a) Bruno Stojić's Power to Prevent and/or Punish the HVO Crimes against the Muslims in the HZ(R) H-B

409. The Stojić Defence alleges that since Bruno Stojić could not issue operative orders to members of the armed forces and the Military Police, he was not in a position to prevent or punish the crimes committed by them. His inaction did not mean that he turned a blind eye to those crimes or that he condoned them. On the contrary, that is explained by his unawareness of the crimes and his lack of authority.⁸⁶⁹ The Stojić Defence submits that pursuant to the Decree on District Military Courts in the Territory of the HZ H-B during a State of War or an Imminent Threat of War of 17 October 1992 and the Decree on the Armed Forces of the HZ H-B of the same date, the Military Police units within the armed forces were responsible for ensuring order and discipline and for eliminating criminal elements in the armed forces, while the commanders of military units were responsible for ensuring the criminal prosecution of crimes.⁸⁷⁰

410. The Chamber already found that Bruno Stojić had the power to issue orders directly to the armed forces of the HZ(R) H-B and the Military Police. The Chamber will therefore analyse the measures he could have taken by virtue of that power to prevent and/or punish the crimes committed by the members of those armed forces and the Military Police.

411. According to a directive from September 1992 - which was signed by Bruno Stojić in his capacity as the Head of the HVO Department of Defence and which applied the provisions in force in the Former Yugoslavia - refusal to carry out an order was punishable by a prison sentence of between three months and ten years.⁸⁷¹ According to *Slobodan Praljak*, the directive demonstrated Bruno Stojić's wish to punish offences committed by the members of the HVO armed forces, but it

⁸⁶⁷ P 05485, p. 2.

⁸⁶⁸ P 06167, p. 2.

⁸⁶⁹ Stojić Defence Final Trial Brief, para. 404.

⁸⁷⁰ Stojić Defence Final Trial Brief, para. 405, and Stojić Defence Closing Arguments, T(F), p. 52401.

⁸⁷¹ Slobodan Praljak, T(F), p. 42575; P 00309, p. 1, Slobodan Praljak, T(F), p. 42575.

could not be applied in practice because of the situation in BiH at that time.⁸⁷² During an HVO meeting on 28 December 1992, Bruno Stojić stressed that the military courts were still not functioning and that 1,000 Military Police reports were not followed up on.⁸⁷³ At the meeting, Bruno Stojić also raised the problem of people who were under investigation and had been detained by the HVO without a ruling by a competent court.⁸⁷⁴ He said that the dysfunction of the military courts was preventing Military Police forces from accomplishing their tasks and that he would release the prisoners if the military courts did not begin to function within a very brief period of time.⁸⁷⁵

412. On 6 February 1993, Ivan Bagarić, Assistant Head of the Department of Defence, and Bruno Stojić ordered all brigades in the North-West OZ to conduct an autopsy whenever there was a suspicion that a war crime had been committed.⁸⁷⁶

413. In view of the foregoing, the Chamber holds that although the evidence shows that Bruno Stojić had the power to issue instructions about matters of discipline in the HVO armed forces, it nevertheless does not support a finding that Bruno Stojić had the *de jure* obligation to apply those instructions to punish the members of the HVO armed forces and the Military Police who had committed a crime.

414. However, the Chamber previously found, by a majority, with Judge Antonetti dissenting, that Bruno Stojić had the power to issue operative orders to those units as well as the power to have his orders forwarded through the chain of command of the HVO armed forces, including the Military Police. In fact, on 6 February 1993, Bruno Stojić ordered the brigades of the North-West OZ to conduct autopsies whenever there were suspicions that a war crime had been committed. On 23 April 1993, Bruno Stojić and Milivoj Petković issued a joint order instructing the commanders of the HVO OZs to respect international humanitarian law.

415. The Chamber finds, by a majority, with Judge Antonetti dissenting, that, inasmuch as Bruno Stojić had the power to issue orders to the HVO armed forces and to have them forwarded down the chain of command, if he did not issue orders to prevent or punish crimes or if those orders were not obeyed, it was because he knowingly did not want to take those measures.

⁸⁷² Slobodan Praljak, T(F), pp. 42575-42578.

⁸⁷³ P 00950, p. 3; Marijan Biškić, T(F), p. 15276.

⁸⁷⁴ Marijan Biškić, T(F), pp. 15276 and 15277; P 00950, p. 3; *see also* P 03651, p. 2.

⁸⁷⁵ Marijan Biškić, T(F), p. 15277; P 00950, p. 4.

⁸⁷⁶ P 01428.

b) Bruno Stojić's Attitude towards the Actions of Mladen Naletilić alias "Tuta" and his Troops

416. On 14 June 1993, Bruno Stojić and Milivoj Petković received a report from the CED informing them that about 90 Muslims had been evicted from their houses the day before and that during the eviction operations, women were raped in front of eyewitnesses and many people were beaten up. According to the report, there were indications of the murder of civilians. The report said that the crimes had been perpetrated by Vinko Martinović alias "Štela", Bobo Perić, Damir Perić, Ernest Takać and Nino Pehar alias "Žiga", members of the *Vinko Škrobo* ATG.⁸⁷⁷ According to a report sent by the Prozor Military Police, among others, to Bruno Stojić and Valentin Ćorić on 20 June 1993, Slobodan Praljak and Željko Šiljeg had to intervene personally to put an end to the actions of "Tuta" and his men against the HVO Military Police in Prozor.⁸⁷⁸

417. In about mid-June 1993, HVO soldiers, including members of the KB under "Tuta"'s command, expelled Muslims from West Mostar. The Muslims were subjected to intimidation, threats and blows. The HVO soldiers confiscated their property and forced them across the confrontation line into East Mostar. Some Muslims had to sign statements they were leaving West Mostar voluntarily. HVO soldiers and members of the Military Police then moved into their flats. The Chamber notes that Valentin Ćorić, Berislav Pušić, Bruno Stojić and Jadranko Prlić were informed of these events as of 16 June 1993.⁸⁷⁹

418. On 20 August 1993, Bruno Stojić told a Spabat representative that he had confidence in the *Ludvig Pavlović* and *Bruno Bušić* units and in "Tuta", who were fighting in Mostar, because they had been well trained.⁸⁸⁰ On 23 September 1993, Bruno Stojić commended the KB, its commander, "Tuta", and the commander of the Mostar Military District, General Miljenko Lasić, for the conduct of their troops during the operations in Mostar.⁸⁸¹

419. On 29 September 1993, in a report by Zvonko Vidović, Bruno Stojić was again informed of severe discipline problems on the part of "Tuta" and his men. In his report, Zvonko Vidović explained that "Tuta"'s men, who had an order from "Tuta," had released Croatian men held at the Heliostrom who had been accused of committing crimes and used them in the HVO to fight in Raštani. Zvonko Vidović asked Bruno Stojić to use his authority and influence to put an end to the

⁸⁷⁷ P 02770.

⁸⁷⁸ P 02863.

⁸⁷⁹ See "Crimes Allegedly Committed in June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

⁸⁸⁰ P 04401 under seal, pp. 4 and 5.

⁸⁸¹ P 05303.

situation.⁸⁸² However, no evidence in the record supports a finding that Bruno Stojić took any measures in that regard.

420. The evidence shows that from at least June 1993, Bruno Stojić was informed that "Tuta"'s men were committing crimes and having serious problems with discipline. He nevertheless allowed them to continue to take part in the HVO military operations and, what is more, commended them on several occasions. The Chamber holds that although he had the power to do so, not only did Bruno Stojić have no intention of preventing or punishing the crimes by "Tuta"'s men, but by praising them, also accepted and encouraged them.

c) Bruno Stojić Denied the Crimes against Muslims in the HZ(R) H-B

421. On 8 May 1993, ECMM representatives met with members of the HVO, including Mate Boban, Jadranko Prlić, Bruno Stojić and Stanko Božić, to understand the position of the HVO representatives about the existing situation in BiH.⁸⁸³ The ECMM representatives deplored the level of violence in general, to which Mate Boban replied that the violence was generally unilateral and the result of Muslim aggression.⁸⁸⁴ Stanko Božić and Bruno Stojić supported Mate Boban, giving examples of Muslim aggression in Čelebići and the Turija pocket to the south of Konjic, and referring to the Croatian enclaves to the east of Jablanica and in Kostajnica.⁸⁸⁵ Bruno Stojić added that the Muslims were responsible for a great many deaths and that the HVO needed to protect their people from that aggression.⁸⁸⁶

422. At an HVO session on 2 June 1993, Bruno Stojić informed the HVO of the measures taken to prevent thefts in flats. The HVO endorsed the measures.⁸⁸⁷ However, when on 16 June 1993 the representatives of the international community began alerting Valentin Ćorić, Berislav Pušić, Bruno Stojić and Jadranko Prlić to the evictions of Muslims from West Mostar to East Mostar, all four of them gave the same reply, that is, that the evictions were being carried out by criminals who were not under HVO control.⁸⁸⁸ In the Chamber's opinion, this proves that the HVO authorities did not genuinely intend to prevent the crimes against the Muslims.

⁸⁸² P 05477.

⁸⁸³ Christopher Beese, T(F), pp. 3150 and 3151.

⁸⁸⁴ Christopher Beese, T(F), p. 3151.

⁸⁸⁵ Christopher Beese, T(F), p. 3152.

⁸⁸⁶ Christopher Beese, T(F), p. 3152.

⁸⁸⁷ P 02606, p. 2.

⁸⁸⁸ Antoon van der Grinten, T(F), pp. 21046 and 21048; P 02806 under seal, p. 2; Witness BA, T(F), pp. 7201, 7202, 7206 and 7207, closed session; P 09712 under seal, para. 66; P 03804 under seal, para. 6.

423. The above-cited evidence and the fact that members of the HVO continued to commit crimes throughout the time relevant to the Indictment - as the Chamber's factual and legal findings for each municipality and detention centre show - prove beyond reasonable doubt that Bruno Stojić made no serious effort to prevent or punish the crimes by the HVO armed forces and the Military Police even though he exercised effective control over them. Moreover, he encouraged the commission of the crimes by Mladen Naletilić's troops. The Chamber is therefore satisfied beyond reasonable doubt that Bruno Stojić did not intend to prevent or punish the crimes by the HVO armed forces, including the Military Police, whereas he had the *de facto* power to do so.

424. The evidence does not allow the Chamber to make a finding as to Bruno Stojić's responsibility regarding the other crimes in the municipalities and the detention centres included in the Indictment.

9. The Chamber's Findings with regard to Bruno Stojić's Responsibility under JCE 1

425. In view of these findings, the Chamber, by a majority, with Judge Antonetti dissenting, is satisfied beyond reasonable doubt that from 3 July 1992 to 15 November 1993, Bruno Stojić, as Head of the Department of Defence and member of the HVO/Government of the HR H-B, had significant *de jure* and *de facto* powers over most of the components of the HZ(R) H-B armed forces and the Military Police and that he exercised these powers. As the evidence shows, Bruno Stojić took decisions related to military operations and had them implemented through the armed forces' chain of command, forwarded HVO decisions down the chain of command and made proposals to the HVO about military matters which were then approved by that collective body. He was thus the link between the civilian government of the HZ(R) H-B and the HVO military component.

426. As it established above, the Chamber notes that Bruno Stojić was informed of the crimes committed by members of the HZ(R) H-B armed forces, both by the international representatives and through the channels of communication within the HVO. Although aware of this, he continued to exercise effective control over the armed forces and the Military Police until the end of his functions as head of the Department of Defence. The Chamber holds that the only inference it can reasonably draw from the fact that he participated in planning the HVO military operations in Mostar on 9 May 1993 and the following days as well as in the campaigns to evict Muslims in West Mostar in the summer of 1993, that he participated in the HVO military operations in Vareš in October 1993 and that he continued to exercise control over the armed forces knowing that its members were committing crimes in other municipalities in BiH is that Bruno Stojić intended to have those crimes committed.

427. Moreover, despite his power over the armed forces and the Military Police, Bruno Stojić made no serious effort to stop the commission of crimes by their members, as the above mentioned evidence shows. Quite the opposite, he sought to deny his own responsibility when speaking to the international representatives and even to the HVO. Furthermore, he commended Mladen Naletilić and requested and obtained the promotion of Ivica Rajjić, although he knew that they had committed crimes.

428. In view of all the evidence analysed above, the Chamber holds, by a majority, with Judge Antonetti dissenting, that the only possible inference it can reasonably draw is that Bruno Stojić intended to expel the Muslim population from the HZ(R) H-B. As the Chamber will subsequently make clear, Bruno Stojić shared that intention with other members of the JCE, notably the other members of the HVO/Government of the HZ(R) H-B and the chiefs and commanders of the HVO Main Staff.

429. As to his contribution to the implementation of the common criminal purpose, the Chamber holds, by a majority, with Judge Antonetti dissenting, that the evidence shows beyond reasonable doubt that it was significant. Since he controlled the HVO armed forces and the Military Police and was the link between them and the government, Bruno Stojić was in fact one of the most important members of the JCE. As a member of that JCE, he used the armed forces and the Military Police to commit crimes that were part of the common criminal purpose, and the actions of the members of the armed forces and the Military Police are attributable to him. The Chamber further holds, by a majority, with Judge Antonetti dissenting, that all the evidence analysed above proves that Bruno Stojić knew that crimes were being committed against the Muslims with the sole purpose of forcing them to leave the territory of BiH. The Chamber holds, by a majority, with Judge Antonetti dissenting, that by participating in the JCE, Bruno Stojić intended to discriminate against the Muslims in order to facilitate their eviction from those territories.

430. Regarding Bruno Stojić's knowledge of the factual circumstances that allowed the Chamber to find by a majority, with Judge Antonetti dissenting, that there was an international armed conflict between the HVO/HV and the ABiH, the evidence indicates that Bruno Stojić was not only informed of the HVO military operations against the ABiH but that he also participated in planning some of them, notably those in Mostar. Bruno Stojić, therefore, knew that an armed conflict was taking place between the HVO and the ABiH during the time he held the post of Head of the Department of Defence. Moreover, the evidence indicates that Bruno Stojić had knowledge of Croatia's participation in the conflict between the HVO and the ABiH in BiH, and facilitated it. The

Chamber, therefore, holds, by a majority, with Judge Antonetti dissenting, that he knew that the conflict was international in character.

431. In view of the foregoing and pursuant to the counts it declared admissible in respect of the acts described above, the Chamber is satisfied beyond reasonable doubt that Bruno Stojić is guilty – by participating in a JCE⁸⁸⁹ – of having committed the following crimes:

Prozor Municipality:

Count 1: persecutions on political, racial and religious grounds, under Article 5 of the Statute.

Count 10: imprisonment, under Article 5 of the Statute.

Count 11: unlawful confinement of a civilian, under Article 2 of the Statute.

Gornji Vakuf Municipality:

Count 1: persecutions on political, racial and religious grounds, under Article 5 of the Statute.

Count 2: murder, under Article 5 of the Statute.

Count 3: wilful killing, under Article 2 of the Statute.

Count 8: inhumane acts (forcible transfer), under Article 5 of the Statute.

Count 9: unlawful transfer of a civilian, under Article 2 of the Statute.

Count 10: imprisonment, under Article 5 of the Statute.

Count 11: unlawful confinement of a civilian, under Article 2 of the Statute.

Count 15: inhumane acts, under Article 5 of the Statute.

Count 16: inhuman treatment, under Article 2 of the Statute.

Count 17: cruel treatment, under Article 3 of the Statute.

Count 19: extensive destruction of property, not justified by military necessity, under Article 2 of the Statute.

⁸⁸⁹ Judge Antonetti dissents as to the mode of responsibility – participation in a JCE – accepted by the majority of the Chamber. Nevertheless, he deems that the evidence supports a finding that Bruno Stojić was responsible for the crimes

Count 20: wanton destruction of cities, towns or villages, or devastation not justified by military necessity, under Article 3 of the Statute.

Jablanica Municipality:

Count 1: persecutions on political, racial and religious grounds, under Article 5 of the Statute.

Count 10: imprisonment, under Article 5 of the Statute.

Count 11: unlawful confinement of a civilian, under Article 2 of the Statute.

Count 19: extensive destruction of property, not justified by military necessity, under Article 2 of the Statute.

Count 20: wanton destruction of cities, towns or villages, or devastation not justified by military necessity, under Article 3 of the Statute.

Mostar Municipality:

Count 1: persecutions on political, racial and religious grounds, under Article 5 of the Statute.

Count 2: murder, under Article 5 of the Statute.

Count 3: wilful killing, under Article 2 of the Statute.

Count 6: deportation, under Article 5 of the Statute.

Count 7: unlawful deportation of a civilian, under Article 2 of the Statute.

Count 8: inhumane acts (forcible transfer), under Article 5 of the Statute.

Count 9: unlawful transfer of a civilian, under Article 2 of the Statute.

Count 10: imprisonment, under Article 5 of the Statute.

Count 11: unlawful confinement of a civilian, under Article 2 of the Statute.

Count 15: inhumane acts, under Article 5 of the Statute.

Count 16: inhuman treatment, under Article 2 of the Statute.

under the counts listed in this paragraph by virtue of other modes of responsibility provided for in the Statute, as he explains in his dissenting opinion annexed to this Judgement.

Count 17: cruel treatment, under Article 3 of the Statute.

Count 20: wanton destruction of cities, towns or villages, or devastation not justified by military necessity, under Article 3 of the Statute.

Count 21: destruction or wilful damage done to institutions dedicated to religion or education, under Article 3 of the Statute.

Count 24: unlawful attack on civilians, under Article 3 of the Statute.

Count 25: unlawful infliction of terror on civilians (Mostar), under Article 3 of the Statute.

Čapljina Municipality:

Count 1: persecutions on political, racial and religious grounds, under Article 5 of the Statute.

Count 6: deportation, under Article 5 of the Statute.

Count 7: unlawful deportation of a civilian, under Article 2 of the Statute.

Count 8: inhumane acts (forcible transfer), under Article 5 of the Statute.

Count 9: unlawful transfer of a civilian, under Article 2 of the Statute.

Count 10: imprisonment, under Article 5 of the Statute.

Count 11: unlawful confinement of a civilian, under Article 2 of the Statute.

Count 19: extensive destruction of property, not justified by military necessity, under Article 2 of the Statute.

Count 20: wanton destruction of cities, towns or villages, or devastation not justified by military necessity, under Article 3 of the Statute.

Count 21: destruction or wilful damage done to institutions dedicated to religion or education, under Article 3 of the Statute.

Vareš Municipality:

Count 1: persecutions on political, racial and religious grounds, under Article 5 of the Statute.

Count 2: murder, under Article 5 of the Statute.

Count 3: wilful killing, under Article 2 of the Statute.

Count 19: extensive destruction of property, not justified by military necessity, under Article 2 of the Statute.

Count 20: wanton destruction of cities, towns or villages, or devastation not justified by military necessity, under Article 3 of the Statute.

The Heliodrom:

Count 1: persecutions on political, racial and religious grounds, under Article 5 of the Statute.

Count 2: murder, under Article 5 of the Statute.

Count 3: wilful killing, under Article 2 of the Statute.

Count 10: imprisonment, under Article 5 of the Statute.

Count 11: unlawful confinement of a civilian, under Article 2 of the Statute.

Count 12: inhumane acts (conditions of confinement), under Article 5 of the Statute.

Count 13: inhuman treatment (conditions of confinement), under Article 2 of the Statute.

Count 14: cruel treatment (conditions of confinement), under Article 3 of the Statute.

Count 15: inhumane acts, under Article 5 of the Statute.

Count 16: inhuman treatment, under Article 2 of the Statute.

Count 17: cruel treatment, under Article 3 of the Statute.

Count 18: unlawful labour, under Article 3 of the Statute.

Ljubuški Prison:

Count 1: persecutions on political, racial and religious grounds, under Article 5 of the Statute.

Count 10: imprisonment, under Article 5 of the Statute.

Count 11: unlawful confinement of a civilian, under Article 2 of the Statute.

Dretelj and Gabela Prisons:

Count 1: persecutions on political, racial and religious grounds, under Article 5 of the Statute.

Count 10: imprisonment, under Article 5 of the Statute.

Count 11: unlawful confinement of a civilian, under Article 2 of the Statute.

Count 12: inhumane acts (conditions of confinement), under Article 5 of the Statute.

Count 13: inhuman treatment (conditions of confinement), under Article 2 of the Statute.

Count 14: cruel treatment (conditions of confinement), under Article 3 of the Statute.

Count 15: inhumane acts, under Article 5 of the Statute.

Count 16: inhuman treatment, under Article 2 of the Statute.

Count 17: cruel treatment, under Article 3 of the Statute.

432. Inasmuch as Bruno Stojić committed these crimes in order to pursue the common criminal purpose, he is held responsible not only for the aforementioned crimes, but also for all of the crimes that were part of the common criminal plan.

D. Bruno Stojić's Responsibility under JCE 3

433. The Chamber established that the crimes of murder and sexual abuse committed during the eviction operations and the detentions, as well as the thefts in and the destruction of institutions dedicated to religion or education committed before June 1993 were not part of the common criminal purpose. Consequently, although these crimes fell outside the scope of this purpose, the Chamber will analyse whether Bruno Stojić could reasonably have foreseen that they would be committed and took that risk. To do so, it will first address Bruno Stojić's responsibility with regard to (1) the sexual abuse during the eviction operations and will then analyse the evidence relating to his responsibility with regard to (2) the thefts committed during the evictions and (3) the destruction of property institutions dedicated to religion committed before June 1993.

1. Sexual Abuse during the Eviction Operations

434. The Chamber established that members of the HVO, including soldiers of the *Vinko Škrobo* ATG, sexually abused the Muslim women during the operations aimed at expelling the Muslims from West Mostar in June,⁸⁹⁰ July⁸⁹¹ and September 1993.⁸⁹²

435. It also established that Bruno Stojić participated in planning the operations to evict the Muslims from West Mostar beginning in May 1993.⁸⁹³ Therefore, he knew that the eviction operations were taking place in a climate of extreme violence.

436. Furthermore, the evidence shows that on 14 June 1993, the CED notified Bruno Stojić that members of the *Vinko Škrobo* ATG attached to the KB commanded by "Tuta," including "Štela" himself, had raped and perhaps also killed "civilians" during the eviction operations in West Mostar. Moreover, as the Chamber has just observed, Bruno Stojić not only refused to prevent or punish the crimes committed by "Tuta"'s units but even encouraged them.⁸⁹⁴

437. The Chamber holds that by refusing to act to punish the sexual abuse he was aware of on 14 June 1993, Bruno Stojić accepted it. The Chamber further holds that Bruno Stojić could reasonably have foreseen that HVO members would also commit sexual abuse during the operations to evict the Muslims from West Mostar. Since he continued to exercise his functions in the HVO/Government of the HR H-B, the Chamber holds that Bruno Stojić knowingly accepted this risk.

2. Thefts during Eviction Operations

438. As for the acts of theft, the Chamber recalls that Bruno Stojić facilitated the HVO military operations in Gornji Vakuf in January 1993 and was informed of some of the crimes committed by the HVO during those operations. Moreover, the Chamber also observed that members of the HVO committed acts of theft after the operations in Hrasnica, Uzričje and Ždrimci.⁸⁹⁵

⁸⁹⁰ See "Crimes Allegedly Committed in June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

⁸⁹¹ See "Rapes, Sexual Assaults, Thefts, Threats and Intimidation of Muslims during the Eviction Operations in West Mostar in July and August 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

⁸⁹² See "Crimes Allegedly Committed from September 1993 to April 1994" in the Chamber's factual findings with regard to the Municipality of Mostar.

⁸⁹³ See "Bruno Stojić's Participation Transfers of the Muslim Population of West Mostar Beginning in June 1993" in the Chamber's findings with regard to Bruno Stojić's responsibility under the JCE.

⁸⁹⁴ See "Bruno Stojić's Attitude towards the Actions of Mladen Naletilić alias 'Tuta' and his Troops" in the Chamber's findings with regard to Bruno Stojić's responsibility under the JCE.

⁸⁹⁵ See "Allegations of Burned Houses and Theft of Muslim Property in the Village of Hrasnica", "Allegations of Burned Houses and Theft of Muslim Property in the Village of Uzričje" and "Burned Houses, Thefts of Muslim

439. Insofar as the military operations and the capture of those localities by the HVO took place in a climate of extreme violence and as Bruno Stojić was one of the HVO officials who had ordered that the area be captured by force, the only inference that the Chamber can reasonably draw is that Bruno Stojić could have foreseen that soldiers would commit acts of theft in those localities. Since he continued to exercise his functions in the HVO/Government of the HR H-B, the Chamber infers that Bruno Stojić knowingly took the risk that these crimes might be committed.

440. The Chamber also established that Bruno Stojić accepted the HVO's crimes in Jablanica in April 1993 of which he was informed on 23 April 1993. The Chamber found that the HVO stole property, in particular all the vehicles of the Muslims held at the Sovići School, and livestock.⁸⁹⁶ Furthermore, in a decision of 13 May 1993, the Head of the Jablanica HVO Defence Office set forth that all the movable and immovable property belonging to the Muslims in those two villages who had "emigrated" was to be considered spoils of war and became the property of the HVO HZ H-B.⁸⁹⁷

441. The Chamber established that Bruno Stojić was informed of the HVO operations in Jablanica on 23 April 1993, that is, after they had taken place on 17 April 1993. Consequently, the Chamber cannot find that he could reasonably have foreseen that HVO soldiers would commit acts of theft during these operations.

442. The Chamber also found that during the arrests of the Muslim men on 23 October 1993 by HVO soldiers, some of whom belonged to the *Maturice* special unit, in the town of Vareš, soldiers stole property and money from the Muslim inhabitants of the town.⁸⁹⁸ Finally, the Chamber also established that on 23 October 1993, during and after the attack on the village of Stupni Do, members of the *Maturice* and/or *Apostoli* special units systematically stole property from the houses in the villages and confiscated livestock, money, jewellery and other valuables.⁸⁹⁹

443. The Chamber established that Bruno Stojić was involved in the HVO military operations in the Municipality of Vareš beginning on 29 October 1993 and that he had knowledge of the crimes committed by the HVO members in Stupni Do as of 4 November 1993. Consequently, the Chamber

Property in the Village of Ždrimci and Burning of the *Mekteb*" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

⁸⁹⁶ See "Thefts of Muslim Property in Sovići and Doljani between 17 April and 4 May 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

⁸⁹⁷ See "Thefts of Muslim Property in Sovići and Doljani between 17 April and 4 May 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

⁸⁹⁸ See "Arrest of Muslim Men and Crimes Allegedly Committed during Arrests" in the Chamber's factual findings with regard to the Municipality of Vareš.

cannot find beyond reasonable doubt that Bruno Stojić could have foreseen that members of the HVO would commit acts of theft in the town of Vareš and in Stupni Do on 23 October 1993.

444. Regarding the thefts in the Municipality of Mostar, the Chamber established that in May and June 1993 and from August 1993 to February 1994, during the operations in which the Muslims from West Mostar were evicted from their flats, the HVO soldiers took all the valuables the Muslims from West Mostar had on them and appropriated property in the flats from which the Muslims had been evicted.⁹⁰⁰ Following these evictions operations, the flats of the Muslims who were expelled were allocated to HVO soldiers, members of the Military Police and sometimes even to Croatian families.⁹⁰¹

445. The Chamber established that Bruno Stojić intended to have the acts of violence committed against the Muslims during the arrest campaigns that followed the HVO operations of 9 May 1993. Insofar as the arrest campaigns took place in a climate of extreme violence, the Chamber holds that Bruno Stojić could reasonably have foreseen that the HVO troops conducting these campaigns would also commit acts of theft.

446. In the preamble of an order dated 31 May 1993, Bruno Stojić and Branko Kvesić, Head of the Department of the Interior, noted that there had been an increased number of thefts of both private and public property in the town of Mostar. In order to combat these thefts, they ordered that, starting on 31 May 1993, checks of vehicles at the exit of the town were to be stepped up and the curfew between 2100 and 0700 hours in the town was to be strictly observed.⁹⁰² Bruno Stojić therefore knew perfectly well that thefts were being committed in Mostar in May 1993. Moreover, Bruno Stojić was involved in organising and carrying out the campaigns to evict the Muslims from West Mostar as of June 1993 during which members of the HVO systematically committed acts of violence against the Muslims by beating them, intimidating them and stealing their valuables. The Chamber holds that by having contributed to organising and carrying out the eviction campaigns, Bruno Stojić knew that they were being conducted in a climate of extreme violence and,

⁸⁹⁹ See "Thefts, Burning and Destruction of Muslim Property and Houses in the Village of Stupni Do" in the Chamber's factual findings with regard to the Municipality of Vareš.

⁹⁰⁰ See "Violence and Thefts Committed against Muslims Arrested, Evicted from their Flats, Placed in Detention and Displaced in May 1993", "Crimes Allegedly Committed in June 1993", "Rapes, Sexual Assaults, Thefts, Threats and Intimidation of Muslims during Eviction Operations in West Mostar in July and August 1993" and "Crimes Alleged to Have Been Committed from September 1993 to April 1994" in the Chamber's factual findings with regard to the Municipality of Mostar.

⁹⁰¹ See "Violence and Thefts Committed against Muslims Arrested, Evicted from their Flats, Placed in Detention and Displaced in May 1993", "Crimes Allegedly Committed in June 1993", "Rapes, Sexual Assaults, Theft, Threats and Intimidation of Muslims during Eviction Operations in West Mostar in July and August 1993" and "Crimes Alleged to Have Been Committed from September 1993 to April 1994" in the Chamber's factual findings with regard to the Municipality of Mostar.

consequently, he could reasonably have foreseen that members of the HVO would commit acts of theft during those campaigns.

447. Inasmuch as Bruno Stojić continued to exercise his functions in the HVO/Government of the HR H-B, the Chamber holds that he knowingly accepted the risk that members of the HVO would commit acts of theft during the campaigns to evict Muslims from West Mostar beginning in May 1993.

448. The Chamber also found that Bruno Stojić learned of the operations to evict Muslims from the Municipality of Čapljina on 20 July 1993, that is, after they had taken place. The Chamber, therefore, cannot find that Bruno Stojić could have predicted that members of the HVO would commit acts of theft during those operations.

3. Destruction of Institutions Dedicated to Religion before June 1993

449. Lastly, the Chamber recalls that insofar as Bruno Stojić had learned of the HVO operations in the Municipality of Jablanica after they had taken place, it cannot establish that he could reasonably have foreseen that the members of the HVO would destroy religious institutions during those operations.

450. In view of the foregoing, the Chamber, by a majority, with Judge Antonetti dissenting, is satisfied beyond reasonable doubt that Bruno Stojić is guilty – by participating in a JCE 3 – of having committed the following crimes:

Gornji Vakuf Municipality:

Count 22: extensive appropriation of property, not justified by military necessity and carried out unlawfully and wantonly, under Article 2 of the Statute.

Count 23: plunder of public or private property, under Article 3 of the Statute.

Mostar Municipality:

Count 4: rape, under Article 5 of the Statute.

Count 5: inhuman treatment (sexual assault), under Article 2 of the Statute.

⁹⁰² P 02578, p. 1.

Count 22: extensive appropriation of property, not justified by military necessity and carried out unlawfully and wantonly, under Article 2 of the Statute.

Count 23: plunder of public or private property, under Article 3 of the Statute.

The Heliodrom:

Count 2: murder, under Article 5 of the Statute.

Count 3: wilful killing, under Article 2 of the Statute.

III. Slobodan Praljak

451. The Prosecution alleges that Slobodan Praljak, acting individually and through his positions and powers, and in concert with other members of the JCE, participated as a leader in the joint criminal enterprise.⁹⁰³

452. The Prosecution alleges more specifically in paragraph 17.3 of the Indictment, and in particular in its Final Trial Brief, that Slobodan Praljak participated in and furthered the alleged JCE.⁹⁰⁴ It alleges that in exercising his various functions within the HV, the Croatian Ministry of Defence and the HVO,⁹⁰⁵ Slobodan Praljak thus contributed to the JCE by directing, operating and commanding the HVO armed forces, including the HVO Military Police;⁹⁰⁶ by serving as a conduit between Croatia and the HVO government;⁹⁰⁷ by approving and facilitating the commission of crimes against Muslims in BiH, notably through a network of detention centres and a system designed to drive numerous Muslims out of BiH;⁹⁰⁸ by obstructing the distribution of humanitarian aid, notably to East Mostar,⁹⁰⁹ and, lastly, by failing to prevent and punish these crimes.⁹¹⁰

453. The Praljak Defence refutes all of these allegations and argues that Slobodan Praljak did not commit any crimes and did not participate in the JCE.⁹¹¹ According to the Praljak Defence, nothing proves that Slobodan Praljak planned, instigated, ordered, committed or otherwise aided and abetted any of the crimes alleged for the simple reason that Slobodan Praljak's only relationship to

⁹⁰³ Indictment, para. 17.

⁹⁰⁴ Indictment, para. 17.3; Prosecution Final Trial Brief, paras 659-860.

⁹⁰⁵ Indictment, paras 6-8.

⁹⁰⁶ Indictment, para. 17.3 (a), (e), (f), (g) and (k); Prosecution Final Trial Brief, paras 664-690.

⁹⁰⁷ Indictment, para. 17.3 (b), (c) and (d); Prosecution Final Trial Brief, paras 691-717.

⁹⁰⁸ Indictment, para. 17.3 (h), (j), (l) and (m); Prosecution Final Trial Brief, paras 718-757.

⁹⁰⁹ Indictment, para. 17.3 (i); Prosecution Final Trial Brief, paras 758-766.

⁹¹⁰ Indictment, para. 17.3 (n); Prosecution Final Trial Brief, paras 718-757.

⁹¹¹ Praljak Defence Final Trial Brief, paras 2-5.

the crimes committed during the conflict was to strive with all of his efforts to prevent and stop these crimes.⁹¹²

454. As a preliminary matter, the Chamber notes that it will address only those events for which it has evidence that may be relevant to its analysis of Slobodan Praljak's responsibility.

455. In order to determine whether Slobodan Praljak significantly contributed to the JCE, the Chamber will first (A) analyse the relevant evidence concerning Slobodan Praljak's functions within the HV, the Croatian Ministry of Defence and the HVO. Secondly, it will (B) analyse the evidence regarding his powers and (C) the evidence regarding his potential responsibility under the JCE 1 and to (D) JCE 3. At a later point, the Chamber will analyse his potential responsibility under the other modes of responsibility provided for in the Statute.

A. Slobodan Praljak's Functions

456. Slobodan Praljak, also called "Brada", son of Mirko, was born on 2 January 1945 in Čapljina in the RSBiH.⁹¹³

457. The evidence indicates that from approximately March 1992 to 15 June 1993, Slobodan Praljak was the Assistant Minister of Defence of Croatia and then the Deputy Minister of Defence of Croatia, first at the rank of brigadier and then as major-general of the HV.⁹¹⁴ Amongst his responsibilities as Deputy Minister of Defence, Slobodan Praljak was in charge of the IPD, in particular as the head of IPD administration at the Croatian Ministry of Defence,⁹¹⁵ in charge of the political affairs of the ministry and the spokesperson of the Ministry of Defence and the Main Staff of the HV.⁹¹⁶

458. From approximately September 1992 to 15 June 1993, he was also a member of the VONS.⁹¹⁷

459. With regard to his functions in the HVO, between early April 1992 and mid-May 1992, Slobodan Praljak was the commander of the South-Eastern Herzegovina operations group.⁹¹⁸ The

⁹¹² Praljak Defence Final Trial Brief, para. 3.

⁹¹³ *The Prosecutor v. Slobodan Praljak*, Case No. IT-04-74-I, "Warrant of Arrest and Order for Surrender", under seal, 4 March 2004, p. 2; T(F), p. 2; P 03516; Slobodan Praljak T(F), pp. 39486, 43772 and 43773.

⁹¹⁴ Slobodan Praljak, T(F), p. 43822; P 00136; P 00465; Josip Jurčević, T(F), pp. 44726, 44730 and 44731; P 00570; 3D 03085; P 01458; P 01889; D 3D 00278; 3D 00482, p. 3; P 04573, p. 4.

⁹¹⁵ 3D 02884, p. 2; 3D 03266, p. 1; P 04573, pp. 1 and 4.

⁹¹⁶ 3D 02890; Witness DV, T(F), p. 23024; P 01859.

⁹¹⁷ P 00465; 3D 00278; Slobodan Praljak, T(F), p. 43693.

⁹¹⁸ P 00191; P 00345; 3D 03216, pp. 1 and 2; Milivoj Petković, T(F), pp. 49780, 49781, 50186 and 50187; Slobodan Praljak, T(F), pp. 39868-39869; P 00927, p. 1.

Chamber has no evidence establishing that Slobodan Praljak held official functions in the HVO between mid-May 1992 and 24 July 1993. He was subsequently the commander of the Main Staff from 24 July 1993 until 9 November 1993, the date he was replaced by Ante Roso.⁹¹⁹ Slobodan Praljak then returned to Croatia as a major-general⁹²⁰ and was appointed advisor to the Croatian Minister of Defence for the ministry's archive facilities.⁹²¹

B. Slobodan Praljak's Powers

460. It is alleged that Slobodan Praljak directed, administered and commanded, *de jure* and/or *de facto*, the Herceg-Bosna/HVO armed forces, including the Military Police, and that he was closely involved in all aspects of Herceg-Bosna/HVO military planning and operations by being responsible for the activities and actions of the armed forces, thereby furthering the JCE.⁹²² Moreover, Slobodan Praljak had the power to arrange and facilitate logistical support from the Croatian armed forces to the HVO forces.⁹²³

461. In its Final Trial Brief, the Prosecution specifies that in the months that preceded his appointment as commander of the Main Staff on 24 July 1993, Slobodan Praljak exercised *de facto* command and control over the HVO armed forces;⁹²⁴ that a number of orders and communications issued by Slobodan Praljak between October 1992 and July 1993 confirm that, without having been officially appointed by the HVO, he had issued orders as a superior;⁹²⁵ and that Slobodan Praljak's *de facto* command was well recognised within the HVO, particularly since official HVO communications acknowledge his central HVO command role prior to 24 July 1993.⁹²⁶

462. The Prosecution argues that on 24 July 1993, Slobodan Praljak's command authority changed from *de facto* to *de jure* following his appointment to commander of the HVO Main Staff.⁹²⁷

463. The Prosecution further submits that Slobodan Praljak exerted *de facto* and *de jure* authority over the Military Police forces between September 1992 and 9 November 1993, both for combat operations and general command over the units of the Military Police.⁹²⁸

⁹¹⁹ See "Slobodan Praljak, Commander of the Main Staff from 24 July 1993 to 9 November 1993" in the Chamber's factual findings with regard to the military structure of the HZ(R) H-B.

⁹²⁰ *General-bojnik* in BCS.

⁹²¹ Slobodan Praljak, T(F), pp. 39673 and 41694; P 07074.

⁹²² Indictment, paras 8 and 17.3 (a), (e), (f), (g) and (k).

⁹²³ Indictment, paras 7 and 17.3 (d).

⁹²⁴ Prosecution Final Trial Brief, para. 664.

⁹²⁵ Prosecution Final Trial Brief, para. 665.

⁹²⁶ Prosecution Final Trial Brief, paras 666-669.

⁹²⁷ Prosecution Final Trial Brief, paras 676-678.

464. Lastly, the Prosecution argues that as of at least October 1992, Slobodan Praljak had the power to authorise and facilitate the supply of weapons and logistical support from Croatia to BiH.⁹²⁹

465. In its Final Trial Brief, the Praljak Defence acknowledged that Slobodan Praljak exercised *de jure* command for two periods, namely from 10 April to 15 May 1992 and from 24 July to 9 November 1993; that Slobodan Praljak played a limited, positive role within the HZ(R) H-B during the period when he was not *de jure* commander, more precisely, that his role consisted of preventing as much as possible the conflicts between the ABiH and the HVO and of strengthening the alliance between these two defence forces in order to win the war against Serbian aggression.⁹³⁰

466. The Praljak Defence also argues that during the period that Slobodan Praljak was *de jure* commander, he did not exercise effective control over HVO subordinate troops;⁹³¹ that as commander of the Main Staff, it was his duty to direct military operations and actions, provided that they were legitimate;⁹³² and that, with regard to the Military Police, such units were temporarily re-subordinated to the zone or brigade commanders, who were themselves subordinated to Slobodan Praljak for a short period of time in the summer of 1993.⁹³³

467. Moreover, the Praljak Defence acknowledged that Slobodan Praljak had the power to request, arrange and facilitate logistical support from Croatia to BiH but argues that this was equally for the benefit of the ABiH as for the HVO.⁹³⁴

468. The Chamber will (1) address Slobodan Praljak's *de facto* authority over the HVO armed forces before 24 July 1993; (2) address his authority and powers as commander of the HVO Main Staff between 24 July and 9 November 1993; (3) analyse his powers concerning logistical and weapon support by Croatia for the HVO armed forces.

1. Slobodan Praljak's Command Authority Over the HVO Armed Forces from Autumn 1992 to 24 July 1993

469. The Chamber notes as a preliminary matter that although *Slobodan Praljak* acknowledged his *de facto* authority in BiH before being appointed commander of the Main Staff, he nevertheless

⁹²⁸ Prosecution Final Trial Brief, paras, 659, 684-686.

⁹²⁹ Prosecution Final Trial Brief, paras 701-702, 716.

⁹³⁰ Praljak Defence Final Trial Brief, para. 45.

⁹³¹ Praljak Defence Final Trial Brief, para. 46.

⁹³² Praljak Defence Final Trial Brief, para. 80.

⁹³³ Praljak Defence Final Trial Brief, para. 81.

⁹³⁴ Praljak Defence Final Trial Brief, para. 64.

stated that he did not have command authority but rather authority and power limited to providing advice and assistance.⁹³⁵

470. The Chamber notes that Slobodan Praljak was present in BiH alongside the HVO, more specifically in the South-East OZ, for long periods prior to 24 July 1993. Not only was Slobodan Praljak the commander of the South-Eastern Herzegovina operations group between early April 1992 and mid-May 1992,⁹³⁶ and was present in particular in the municipalities of Stolac, Čapljina and Mostar during this time,⁹³⁷ but also regularly present in the South-East OZ and the Municipality of Prozor between October and December 1992.⁹³⁸ Subsequently, between January and June 1993, Slobodan Praljak was present in BiH, particularly in the municipalities of Gornji Vakuf, Ljubuški, Prozor, Jablanica and Mostar.⁹³⁹

471. As he was present in BiH alongside the HVO for extended periods of time before 24 July 1993, the Chamber will analyse (a) the evidence regarding Slobodan Praljak's command authority over HVO armed forces and (b) his role as mediator within the HVO armed forces.

a) Slobodan Praljak's Command Authority Over the HVO Armed Forces Before 24 July 1993

472. In May 1992, Slobodan Praljak commanded the HVO troops deployed on the front line with Serbian forces, between Čapljina and the north of the town of Mostar.⁹⁴⁰ Moreover, he issued orders to the HVO military units in October 1992 and February 1993, authorising free movement of people in the zones controlled by the HVO,⁹⁴¹ and issued orders to the HVO troops deployed in the field, notably to Željko Šiljeg, the commander of the North-West OZ, regarding the conduct of the HVO operations in Gornji Vakuf in January 1993.⁹⁴² On 26 May 1993, Milivoj Petković, chief of the HVO Main Staff, ordered the deployment of brigade troops from Ljubuški to Prozor and their on-site subordination to Slobodan Praljak.⁹⁴³ The Chamber also notes that as the "Major-General",

⁹³⁵ Slobodan Praljak, T(F), pp. 43933-43935.

⁹³⁶ P 00191; P 00345; 3D 03216, pp. 1 and 2; Milivoj Petković, T(F), pp. 49780, 49781, 50186 and 50187; Slobodan Praljak, T(F), pp. 39868 and 39869; P 00927, p. 1.

⁹³⁷ Slobodan Praljak, T(F), pp. 40400-40403; Ratko Pejanović, T(F), pp. 1432-1435.

⁹³⁸ P 09204 under seal p. 23; Milivoj Petković, T(F), pp. 49783 and 49784; P 09702, under seal, pp. 11 and 12; 3D 02186; P 00874.

⁹³⁹ Zdenko Andabak, T(F), pp. 50966 and 51007-51011; P 01350; 2D 01492; P 01739, p. 26; P 01827, p. 4; Slobodan Praljak, T(F), pp. 41519, 41602-41604, 43454-43455, 43932 and 43933; P 02526; P 03026.

⁹⁴⁰ Milivoj Gagro, T(F), p. 2750.

⁹⁴¹ 2D 01335; 2D 00195.

⁹⁴² P 01172; P 01202; P 01162, p. 3; P 01277; Slobodan Praljak, T(F), pp. 41881, 44102 and 44103.

⁹⁴³ P 02526; *see also* Slobodan Praljak, T(F), p. 43933.

Slobodan Praljak was part of the operational command of the HVO's *Bokševica* operation in the Prozor area in early July 1993.⁹⁴⁴

473. Furthermore, on 13 April 1993, Slobodan Praljak received a report from Tihomir Blaškić regarding the visit of a group of HV officers to inspect the HVO troops in the Central Bosnia OZ.⁹⁴⁵

474. In November 1992 and January 1993, on behalf of the HVO, Slobodan Praljak as the "Major-General", issued several orders to the members of the HVO and the ABiH aimed at setting up a joint command for the two armed forces in BiH. The mission of this joint command was notably to put in place joint patrols and joint checkpoints, consisting of HVO and ABiH members, on roads linking, for example, Konjic to Jablanica, Jablanica to Prozor, Prozor to Gornji Vakuf and Jablanica to Mostar.⁹⁴⁶ *Slobodan Praljak* stated that, in light of the chaotic situation and because he enjoyed respect of both the HVO and the ABiH, he took over setting up the HVO-ABiH joint command at that time.⁹⁴⁷

475. The Chamber recalls that on 15 January 1993, the HVO demanded the subordination of the ABiH troops present in provinces 3, 8 and 10 of the Vance-Owen Plan within five days and that this order went through the chain of command of the HVO armed forces via successive orders from Bruno Stojić and Milivoj Petković also on 15 January 1993.⁹⁴⁸ According to *Slobodan Praljak*, the text of the "ultimatum" was drafted on 13 and 14 January 1993 at Hotel Esplanade in Zagreb, in the presence of Alija Izetbegović.⁹⁴⁹ *Slobodan Praljak* stated that he personally took part in drafting this text and that Gojko Šušak, Mate Boban, Lord Owen and Cyrus Vance were also involved in its design.⁹⁵⁰ Furthermore, he explained that he had handed over the text of the "ultimatum" to Jadranko Prlić, Bruno Stojić and Milivoj Petković on 15 January 1993 while on his way to Mostar so that they could make it public.⁹⁵¹

476. Slobodan Praljak also had command authority over the HVO Military Police units. Accordingly, in April 1992, Slobodan Praljak appointed Vladimir Primorac as commander of the

⁹⁴⁴ P 03246: the *Bokševica* operation took place in the Bokševica area, in the Municipality of Prozor, around 9 July 1993. Pursuant to the order of Milivoj Petković, the operation included the use of artillery and tank fire on Bokševica.

⁹⁴⁵ P 01864.

⁹⁴⁶ P 00708/3D 00419, pp. 1 and 2; Witness BM, T(F), p. 7067; 3D 00418, p. 2; Safet Idrizović, T(F), pp. 9872, 9907 and 9908; Slobodan Praljak T(F), pp. 40466-40475; P 00720; P 00727; P 00776.

⁹⁴⁷ Slobodan Praljak, T(F), pp. 40469-40473.

⁹⁴⁸ See "Subsequent History of the Vance-Owen Plan; Attempts to Implement the Principles of this Plan in the Field (January 1993 – August 1993)" in the Chamber's factual findings with regard to the Principal Events Following the Creation of Herceg-Bosna; see also P 01146/P 01155.

⁹⁴⁹ Slobodan Praljak, T(F), p. 40569.

⁹⁵⁰ Slobodan Praljak, T(F), pp. 40569 and 40571.

⁹⁵¹ Josip Praljak, T(F), pp. 40571, 40572 and 44054.

HVO Military Police within the South-Eastern Herzegovina operations group.⁹⁵² On 14 November 1992, in the Municipality of Prozor, Slobodan Praljak and Valentin Ćorić issued an order, notably to Zdenko Andabak, for all the vehicles "taken away" by the Military Police to be returned to their owners.⁹⁵³ The Chamber notes that some of these "stolen" or "confiscated" vehicles were indeed returned to their owners.⁹⁵⁴ In an order co-signed by Slobodan Praljak,⁹⁵⁵ Bruno Stojić and Valentin Ćorić dated 7 December 1992, instructions were issued to the members of the HVO Military Police regarding the procedure to be followed when inspecting convoys at checkpoints.⁹⁵⁶

477. On 29 January 1993, Slobodan Praljak took part in a meeting with Valentin Ćorić and the commanders of the Military Police deployed in the Gornji Vakuf zone during which the activities of the Military Police in this area were discussed.⁹⁵⁷

b) Slobodan Praljak's Role as Mediator Within the HVO Armed Forces Before 24 July 1993

478. *Slobodan Praljak* stated that he was a simple soldier at the time, without a specific rank, but that he had moral authority and power limited to providing advice and assistance.⁹⁵⁸

479. Some evidence shows that Slobodan Praljak did in fact intervene to handle tense situations or offset a lack of coordination between the various components of the HVO armed forces, notably by serving as mediator.⁹⁵⁹

480. For example, on 11 May 1993, Slobodan Praljak intervened when an HVO unit blocked the passage of an UNPROFOR convoy that had an authorisation for passage issued by Bruno Stojić and was transporting an injured Spabat member from the Spabat base to Dračevo.⁹⁶⁰ *Witness DV*, who was in this convoy, confirmed that the soldiers immediately obeyed Slobodan Praljak's orders when he requested that they allow the convoy to pass through.⁹⁶¹

481. Furthermore, a report issued by Valentin Ćorić on 20 June 1993 indicates that, following public law and order disturbances by "Tuta's men" in the Municipality of Prozor on 17 and 18 June

⁹⁵² P 00345; P 00927; p 1.

⁹⁵³ 3D 00424.

⁹⁵⁴ *Witness BM*, T(F), p. 7069.

⁹⁵⁵ The Chamber notes that Slobodan Praljak signed this order as a "general".

⁹⁵⁶ Bruno Pinjuh, T(F), pp. 37338-37341; P 00875/P 00876.

⁹⁵⁷ P 01350.

⁹⁵⁸ *Slobodan Praljak*, T(F), pp. 41603, 43933-43935, 43454 and 43455.

⁹⁵⁹ *Witness DV*, T(F), pp. 22903 and 22907; P 02419 under seal, p. 2; P 02863, p. 3; *Slobodan Praljak*, T(F), p. 43933.

⁹⁶⁰ *Witness DV*, T(F), pp. 22903, 22907 and 22929; P 02419 under seal, pp. 1 and 2; P 02461 under seal, p. 7.

⁹⁶¹ *Witness DV*, T(F), p. 23029.

1993, and the offences committed by these men, the situation finally "calmed down" with the intervention of Slobodan Praljak and Željko Šiljeg.⁹⁶²

482. In light of all the evidence analysed above, the Chamber finds that Slobodan Praljak directed the HVO armed forces by taking command over certain operations, by issuing orders to the units and receiving reports from commanders in the field, by representing the HVO in the efforts to set up a joint command with the ABiH, and by commanding certain HVO Military Police units. He also played the role of mediator to calm the tension between the various components of the HVO armed forces. Moreover, he played an important role in drafting the subordination order of 15 January 1993. Consequently, the Chamber is satisfied beyond reasonable doubt that Slobodan Praljak had *de facto* command authority from autumn 1992 to 24 July 1993.

2. Slobodan Praljak's Command Authority Over the HZ(R) H-B Armed Forces from 24 July to 9 November 1993

483. The Chamber recalls that the primary mission of the Main Staff was to command the armed forces and direct military operations to protect the territory of the HZ(R) H-B.⁹⁶³ Milivoj Petković testified that command over military operations came solely under the authority of the HVO Main Staff.⁹⁶⁴

484. Consequently, Slobodan Praljak, as the commander of the HVO Main Staff from 24 July to 9 November 1993, (a) commanded all the HVO armed forces and did so (b) by way of broad authority, including commanding the HVO military operations.

a) Units Under the Command of Slobodan Praljak

485. The Chamber will successively analyse (i) the OZ and the brigades, (ii) the Military Police and (iii) the other units of the HZ(R) H-B armed forces.

i. The OZ and the Brigades

486. The Chamber established that although, as of 24 July 1993, Slobodan Praljak distributed tasks on a geographical basis between Žarko Tole, the Chief of the Main Staff in charge of Mostar, Milivoj Petković, the deputy commander of the Main Staff in charge of Kiseljak, Vareš and Central Bosnia, and himself, in charge of the North-West OZ and mainly of Prozor and Gornji Vakuf, in

⁹⁶² P 02863, p. 3.

⁹⁶³ See "Command and Control of the Armed Forces by the Main Staff" in the Chamber's factual findings with regard to the military structure of the HZ(R) H-B. See also P 07236, p. 5, article 13; P 00289, p. 11, article 2 and P 00588.

practice Slobodan Praljak issued orders to the four OZs during the period when he was commander of the Main Staff.⁹⁶⁵ Moreover, an order issued by Slobodan Praljak, dated 12 August 1993, shows that the Main Staff, which was subordinate to the Supreme Command, had direct authority over the four OZs.⁹⁶⁶

487. The Chamber also recalls that the shift from OZ to ZP did not alter the military structure of the HVO of the HZ(R) H-B as such insofar as the Main Staff still had authority over each of the four ZPs.⁹⁶⁷

488. *Slobodan Praljak* stated in his testimony that the Main Staff of the HVO commanded the OZs but not the brigades directly.⁹⁶⁸ Although it is true that the customary routing of an order via the military chain of command went from the Chief of the Main Staff to the OZs, and from the commanders of the OZs to the brigade commanders and to the lower echelons, the Chamber notes that the Chief of the Main Staff occasionally gave orders directly to various echelons – at the brigade, regimental or battalion levels – without those orders necessarily passing through every echelon in the chain of command.⁹⁶⁹ Likewise, the brigades could send situation reports directly to the commander of the Main Staff.⁹⁷⁰

489. The Chamber recalls that although in some instances the orders issued by Slobodan Praljak were not followed up, or even that there were certain coordination problems - as evidenced, for example, by the fact that Slobodan Praljak's orders dated 25 July 1993 for reinforcement troops to be sent to Prozor were not implemented⁹⁷¹ – the evidence shows that these operational difficulties were not of the sort to affect the proper functioning of the military chain of command between the Main Staff, the OZs, the brigades and the subordinate units.⁹⁷² Furthermore, the Chamber notes that Slobodan Praljak was very present in the field to ensure the proper functioning of the chain of command and to assert his authority as the commander of HVO armed forces.⁹⁷³

⁹⁶⁴ Milivoj Petković, T(F), p. 49769.

⁹⁶⁵ See "Slobodan Praljak, Commander of the Main Staff from 24 July 1993 to 9 November 1993" in the Chamber's factual findings with regard to the military structure of the HZ(R) H-B. See also P05188; P03698.

⁹⁶⁶ See "Command and Control of the Armed Forces by the Main Staff" in the Chamber's factual findings with regard to the military structure of the HZ(R) H-B.

⁹⁶⁷ See "Operative Zones and the Brigades" in the Chamber's factual findings with regard to the military structure of the HZ(R) H-B". See also P 09324

⁹⁶⁸ Slobodan Praljak, T(F), pp. 41579-41581; P 04131.

⁹⁶⁹ P 03698, pp. 04260; P 04829; P 04804, P 06269.

⁹⁷⁰ P 04594; 3D 02400.

⁹⁷¹ 3D 00640; 3D 01097; 3D 01101; 5D 00546; P 03706.

⁹⁷² See "Chain of Command and Control in the Armed Forces" in the Chamber's findings with regard to the military structure of the HZ(R) H-B. See also P 05188; 3D 01144.

⁹⁷³ P 04399, pp. 1 and 2; 3D 02788.

ii. The Military Police

490. The Chamber also established that inasmuch as the HVO brigades were subordinated to the Commander of the Main Staff via the OZs, Slobodan Praljak as commander of the Main Staff likewise had command authority over the Military Police platoons embedded in those brigades.⁹⁷⁴ The evidence also shows that Milivoj Petković sometimes issued orders directly to these platoons or to units of the Military Police other than the platoons embedded in the brigades.⁹⁷⁵ By way of example, the Chamber notes that in a memorandum addressed to Valentin Ćorić on 31 July 1993, Slobodan Praljak stated that the Military Police platoon commanded by Perica Turalija was subject to his orders.⁹⁷⁶ Likewise, on 4 August 1993, Slobodan Praljak issued an order to all the Military Police units present in the municipalities of Prozor and Gornji Vakuf regarding unit relief and combat activities.⁹⁷⁷

491. Furthermore, whenever the situation on the ground was too "serious", the Military Police units could be directly re-subordinated by the commander of the HVO Main Staff. Thus on 12 August 1993, Slobodan Praljak ordered the mobilisation of all resources available in the zones of Čapljina, Mostar, Buna and Žitomislići – including "Military Police forces [and] hunting clubs" – in order to deal with "Muslim terrorist groups".⁹⁷⁸ The troops concerned were to place themselves under the command of Neđeljko Obradović, commander of the 1st sector of the South-East OZ.⁹⁷⁹

492. With regard more specifically to the light assault battalions of the Military Police, on 28 July 1993, Valentin Ćorić ordered the re-subordination of the 2nd Light Assault Battalion to Slobodan Praljak.⁹⁸⁰ The Chamber notes that on this date, even the 1st light assault battalion, normally under the command of the head of the Military Police Administration, came under the command of Slobodan Praljak or an OZ commander, as specifically authorised by Slobodan Praljak.⁹⁸¹ The Chamber notes that *Slobodan Praljak* claimed that he initiated this change because during his testimony he asserted that when he took up the post of commander of the Main Staff in

⁹⁷⁴ See "Command and Control Authority of the OZ Commanding Officers and HVO Brigade Commanders Over the Military Police Units" in the Chamber's factual findings with regard to the military structure of the HZ(R) H-B. See also P 05188; Marijan Biškić, T(F), pp. 15233 and 15235.

⁹⁷⁵ 5D 04394; P 03934; Slobodan Praljak, T(E), pp. 43991 and 43997; P 05376.

⁹⁷⁶ 5D 04394.

⁹⁷⁷ P 03934.

⁹⁷⁸ P 04125.

⁹⁷⁹ P 04125.

⁹⁸⁰ P 03778/P 03763; P 03762; 5D 02002. See "Authority of the Chief of the Military Police Administration to Re-subordinate Military Police Units" in the Chamber's factual findings with regard to the military structure of the HZ(R) HB.

⁹⁸¹ P 03778/P 03763.

July 1993, he asked Mate Boban to authorise the use of the Military Police units to carry out combat operations without the Main Staff having to secure approval from Valentin Ćorić.⁹⁸²

iii. The Other Units of the HZ(R) H-B Armed Forces

493. The Chamber recalls that from at least 12 August 1993, Slobodan Praljak had direct command authority over the HVO air forces,⁹⁸³ the *Bruno Bušić* regiment,⁹⁸⁴ the *Ludvig Pavlović* PPN,⁹⁸⁵ the KB,⁹⁸⁶ the ATGs⁹⁸⁷ and the mixed artillery and rocket launcher regiment of the South-East OZ.⁹⁸⁸

b) Slobodan Praljak's Various Areas of Authority as Commander of the HVO Main Staff

494. Slobodan Praljak had (i) broad authority over the administration and control of the HVO armed forces and (ii) command and control authority over the activities of the HVO armed forces in the field.

i. Broad Authority Over the Administration and Control of the HVO Armed Forces

495. Slobodan Praljak had *de jure* and *de facto* broad authority over the administration and control of the HVO armed forces, in particular authority over the general organisation of the armed forces,⁹⁸⁹ control and discipline of the HVO armed forces,⁹⁹⁰ communication within the HVO armed forces – such as, notably, providing means of communication, specifically "Motorolas", to various units⁹⁹¹ and the training of the HVO soldiers.⁹⁹²

⁹⁸² At that time Valentin Ćorić was the head of the Military Police Administration. The Chamber recalls that it found in this respect that, other than the testimony of *Slobodan Praljak*, it did not have evidence showing that Valentin Ćorić acted on orders from Mate Boban, *See* "Authority of the Chief of the Military Police Administration to Re-subordinate Military Police Units" in the Chamber's factual findings with regard to the military structure of the HZ(R) HB.

⁹⁸³ *See* "Artillery and the Air Forces Group" in the Chamber's factual findings with regard to the military structure of the HZ(R) HB. *See also* Slobodan Praljak, T(F), p. 43567.

⁹⁸⁴ *See* "The *Bruno Bušić* Regiment and the *Ludvig Pavlović* PPN" in the Chamber's factual findings with regard to the military structure of the HZ(R) HB. *See also* Slobodan Praljak, T(F), p. 43567.

⁹⁸⁵ *See* "The *Bruno Bušić* Regiment and the *Ludvig Pavlović* PPN" in the Chamber's factual findings with regard to the military structure of the HZ(R) HB. *See also* Slobodan Praljak, T(F), p. 43567.

⁹⁸⁶ *See* "Placement of the KB and Its ATGs within the Military Chain of Command " in the Chamber's factual findings with regard to the military structure of the HZ(R) HB. *See also* Slobodan Praljak, T(F), pp. 43433-43434 and 43567.

⁹⁸⁷ *See* "Placement of the KB and Its ATGs within the Military Chain of Command " in the Chamber's factual findings with regard to the military structure of the HZ(R) HB. *See also* Slobodan Praljak, T(F), pp. 43433-43434 and 43567.

⁹⁸⁸ *See* "Artillery and the Air Forces Group" in the Chamber's factual findings with regard to the military structure of the HZ(R) HB.

⁹⁸⁹ *See* "Orders Given by the Main Staff to the Armed Forces" in the Chamber's factual findings with regard to the military structure of the HZ(R) HB. *See also* 4D 01708; 3D 01160; P 05468; P 06118; P 07034.

⁹⁹⁰ P 03706; P 03829; P 04207; P 04640; 3D 02756; P 06224; 3D 02793; P 06269; 3D 02772.

⁹⁹¹ 3D 02759; D 3D 02756; P 06224; 3D 02772.

⁹⁹² P 04076; P 04091.

496. For example, with regard to Slobodan Praljak's authority in managing discipline within the HVO armed forces, on 30 August 1993, Slobodan Praljak ordered the commander of the *Klis* Battalion to file a report to him regarding an order of the Main Staff, dated 21 August 1993, punishing HVO soldiers with disciplinary measures because this order had not been implemented.⁹⁹³ On 22 September 1993, he took measures to organise the system of military justice in the HVO to resolve disciplinary problems within the HVO armed forces. On that same day, he issued an order to all the OZs and all the units subordinated to the Main Staff stating that Dretelj Prison was to become the HVO military prison, where personnel of the HVO armed forces would serve their disciplinary sentences.⁹⁹⁴ On 27 September 1993, he repeated this order to the OZs and units subordinated to the Main Staff.⁹⁹⁵

497. The Prosecution alleges that Slobodan Praljak should have ensured that HVO armed forces were conducting themselves in accordance with the Geneva Conventions and international humanitarian law.⁹⁹⁶ The Praljak Defence argues that there is ample evidence showing that under the command of Slobodan Praljak, the HVO took steps to train officers and soldiers to respect their obligations under the Geneva Conventions.⁹⁹⁷

498. In this respect, the Chamber found that Slobodan Praljak organised at least one conference on international humanitarian law and distributed pamphlets on this subject to the HVO armed forces but could not find that there was real institutionalised training of the armed forces in this subject.⁹⁹⁸

499. *Slobodan Praljak* testified that the general training programme for HVO soldiers, which he himself had approved on 12 August 1993, included sections that dealt with issues of international humanitarian law⁹⁹⁹ and that seminars specifically dealing with these issues had also been organised by the Main Staff.¹⁰⁰⁰ *Slobodan Praljak* specified that booklets summarising the basic legal rules on this subject had been distributed to the HVO soldiers.¹⁰⁰¹

⁹⁹³ P 04640.

⁹⁹⁴ P 05279/P 05283; *See also* Slobodan Praljak, T(F), pp. 41109-41117.

⁹⁹⁵ P 05412.

⁹⁹⁶ para. 17.3 (m) of the Indictment.

⁹⁹⁷ Praljak Defence Final Trial Brief, para. 97.

⁹⁹⁸ *See* "Responsibility of the Main Staff in Training the Armed Forces in International Humanitarian Law" in the Chamber's factual findings with regard to the military structure of the HZ(R) HB. *See also* 3D 00915; P 05104/1D 01638.

⁹⁹⁹ Slobodan Praljak, T(F), pp. 43676 and 43677; P 04142, p. 24.

¹⁰⁰⁰ Slobodan Praljak, T(F), pp. 43678, 43680-43682, 43684 and 43685. The witness commented on the basis of P 04142; Bruno Pinjuh, T(F), p. 37263; P 04091.

¹⁰⁰¹ Slobodan Praljak, T(F), pp. 43684 and 43685.

500. The Chamber also noted that on 21 September 1993, the ICRC proposed to Slobodan Praljak that a series of conferences on international humanitarian law be held for HVO officers, which he accepted on 26 September 1993 and that following this agreement between Slobodan Praljak and the ICRC, on 14 October 1993, Milivoj Petković issued an order to the North-West OZ and the South-East OZ that a conference was to be held by the ICRC on international humanitarian law for the benefit of HVO officers.¹⁰⁰²

501. Moreover, pursuant to an order from Mate Boban dated 15 September 1993, Slobodan Praljak was to ensure that HVO armed forces adhered to the Geneva Conventions, including in the prisons. Slobodan Praljak circulated this order to the OZs, to the units subordinated to the Main Staff and to the chief of the Military Police on 19 September 1993.¹⁰⁰³

502. Slobodan Praljak thus had the power and authority to ensure that the HVO armed forces were trained in international humanitarian law and knew their obligations with regard to this.

ii. Command Authority and Direction of Activities of HVO Armed Forces in the Field

503. Slobodan Praljak ordered that units of the HVO armed forces be deployed in the field and prepared for combat,¹⁰⁰⁴ directly commanded military operations,¹⁰⁰⁵ ordered the cessation of hostilities,¹⁰⁰⁶ and ordered the HVO armed forces to allow the representatives of international organisations and humanitarian convoys to pass through.¹⁰⁰⁷

504. For example, the Chamber recalls that on 14 August 1993, the Prozor MUP, part of the HVO armed forces at the time,¹⁰⁰⁸ was mobilised for actions in the field under the command of Slobodan Praljak.¹⁰⁰⁹

505. Likewise, on 28 August 1993, the same day the HVO forces displaced the Muslims of Prozor to Kučani and then to ABiH territory, Slobodan Praljak ordered the commander of the *Rama* Brigade to deploy thirty soldiers to the Kučani zone between 28 and 31 August 1993.¹⁰¹⁰

¹⁰⁰² See "Responsibility of the Main Staff in Training the Armed Forces in International Humanitarian Law" in the Chamber's findings with regard to the military structure of the HZ(R) HB.

¹⁰⁰³ 3D 00915.

¹⁰⁰⁴ See "Orders Given by the Main Staff to the Armed Forces" in the part on the military structure of the HZ(R) HB. See also 3D 02059; 3D 02772.

¹⁰⁰⁵ Slobodan Praljak, T(F), pp. 42525-42526; P 05235; P 05365; P 10030, p. 7; P 09638; P 09506 under seal, p. 1; Peter Galbraith, T(F), pp. 6501-6502.

¹⁰⁰⁶ 3D 02793; 3D 02166.

¹⁰⁰⁷ See "Orders Given by the Main Staff to the Armed Forces" in the Chamber's factual findings with regard to the military structure of the HZ(R) HB. See also P 04529 ; 3D 00959 ; 3D 00915.

¹⁰⁰⁸ Slobodan Praljak, T(F), pp. 40985-40986; 3D 01527.

¹⁰⁰⁹ P 04177, p. 4. However, the Chamber has no information about the actions conducted.

506. In light of all the evidence discussed above, the Chamber finds that Slobodan Praljak, having broad authority over the administration and direction of the HVO armed forces and command authority over the activities of the various units within these armed forces, had command and control authority and effective control over all the components of the HVO armed forces between 24 July 1993 and 9 November 1993.

3. Slobodan Praljak's Authority to Provide Logistical and Weapons Support from Croatia to HVO Armed Forces

507. The Chamber recalls that it already established that Croatia provided logistical and financial support to the armed conflict in BiH which could be seen both by its financial support, the sending of weapons and materiel and training and expert assistance.¹⁰¹¹

508. An ECMM report dated 18 June 1993 states that Slobodan Praljak acknowledged that Croatia provided logistical support to the HVO around mid-June 1993.¹⁰¹² *Slobodan Praljak* stated that HV soldiers who were willing to fight as volunteers in BiH brought with them the equipment they were issued while serving as soldiers with the HV, as authorised by their superiors.¹⁰¹³ Other evidence confirms that Croatia provided logistical support to the HVO.¹⁰¹⁴

509. The Chamber notes, furthermore, that Slobodan Praljak was directly in charge of authorising the passage of weapons from Croatia to BiH, as evidenced by a report from Željko Šiljeg, commander of the HVO North-West OZ, sent on 9 September 1992 to various HVO municipalities, including Prozor, Gornji Vakuf and Jablanica – the Chamber notes that this same report mentions a plan to "eliminate the Muslim forces in Gornji Vakuf".¹⁰¹⁵

510. Evidence also shows that in 1992 and 1993, Slobodan Praljak sent requests directly to the Croatian government asking for military equipment for the HVO armed forces. The minutes of a meeting of the Croatian presidency held on 11 September 1992 show that Slobodan Praljak intervened during the discussion to inform President Tuđman that HVO commanders were expecting ammunition to be sent.¹⁰¹⁶ On 10 and 22 October 1993, Slobodan Praljak sent two requests to the Croatian Ministry of Defence asking for military equipment from Croatia and

¹⁰¹⁰ 3D 02448.

¹⁰¹¹ See "Existence of an Armed Conflict That Was International in Character" in the Chamber's examination of the general requirements for the application of Articles 2, 3 and 5 of the Statute.

¹⁰¹² P 02738.

¹⁰¹³ Slobodan Praljak, T(F), p. 43071; P 05174; P 00742.

¹⁰¹⁴ Witness BF, P 10365 under seal, *Kordić & Čerkez* Case, hearing of 8 December 1999, T(F), pp. 62 and 63, closed session; P 04061.

¹⁰¹⁵ P 00460, pp. 1 and 2; Slobodan Praljak, T(F), p. 39863.

indicating furthermore in his order of 22 October that a number of similar requests had been sent to the HV armed forces in the course of the previous year.¹⁰¹⁷

511. In light of this evidence, the Chamber finds that, at least in September 1992 and October 1993, Slobodan Praljak had the authority to facilitate securing logistical support from Croatia for the HVO armed forces.

C. Slobodan Praljak's Responsibility Under JCE 1

512. The Chamber will analyse Slobodan Praljak's contribution to the joint criminal purpose and the ensuing crimes in the various municipalities and detention centres relevant to the Indictment.

513. To do so, the Chamber will (1) examine the evidence it has regarding his role as a conduit between Croatia and the HVO government and (2) his contribution to the crimes committed by the HVO in the municipalities and detention centres relevant to the Indictment.

514. Insofar as Judge Antonetti disagrees with the majority of the Chamber regarding the existence of a JCE,¹⁰¹⁸ he dissents from all the Chamber's observations and findings regarding Slobodan Praljak's participation in the JCE. Consequently, the reasoning that follows has been adopted by the majority.

1. Slobodan Praljak as a Conduit Between Croatia and the Government of the HZ(R) H-B

515. Paragraphs 7 and 17.3 (c) and (d) of the Indictment allege that Slobodan Praljak participated in the JCE and facilitated its implementation by serving as a conduit between Croatia and the HVO government.¹⁰¹⁹ In its Final Trial Brief, the Prosecution submits that the political leadership and military support provided by Croatia to the HVO were vital for the implementation of the JCE of the HZ(R) H-B, and that Slobodan Praljak was an essential link in this respect.¹⁰²⁰

516. In its Final Trial Brief, the Prosecution points out that Slobodan Praljak implemented Croatian policy in BiH, by exercising firstly *de jure* authority as the Assistant Minister of Defence of Croatia and as Major General in the Croatian Army until 15 July 1993; that once he became commander of the HVO Main Staff on 24 July 1993, Slobodan Praljak acted in collusion with Croatia as a *de facto* organ of Croatia, consulting notably with Franjo Tuđman and Gojko Šušak in

¹⁰¹⁶ P 00466, p. 47; *see also* P 00466, p. 14.

¹⁰¹⁷ P 06009; P 05702.

¹⁰¹⁸ *See* "Existence of a Common Criminal Plan" in the Chamber's findings with regard to the JCE.

¹⁰¹⁹ Indictment, paras 7 and 17.3 (c) and (d). *See also* Prosecution Final Trial Brief, paras 673, 675 and 676; Prosecution Closing Arguments, T(F), p. 51962.

this respect to provide them with information about the conflict between the HVO and the ABiH, and to know their instructions concerning the JCE and its implementation.¹⁰²¹ The Prosecution notes, in particular, that Slobodan Praljak attended meetings between Croatian leaders in 1992 and 1993 during which they explained their political positions regarding Herceg-Bosna.¹⁰²² Slobodan Praljak was thus acquainted with the political positions of the Croatian leaders which he championed, and was also acquainted with policies determined by the leaders of the HZ(R) H-B that he could then disclose to the Croatian leaders.¹⁰²³

517. The Prosecution alleges next that Slobodan Praljak acted as a conduit for the transmission of orders and instructions from President Tuđman, Gojko Šušak and other Croatian leaders intended for the HVO government and armed forces; that, furthermore, he kept Croatia's senior leadership informed of developments in BiH;¹⁰²⁴ and lastly, that Slobodan Praljak played an important role in the efforts to secure military support from Croatia for the HVO armed forces.¹⁰²⁵

518. In its Final Trial Brief, the Praljak Defence argues that none of the evidence submitted by the Prosecution proves that Slobodan Praljak served as a conduit between Croatia and the HZ(R) H-B.¹⁰²⁶ The Praljak Defence argues that, on the contrary, as a citizen of both countries, he participated in defending the two republics and did nothing more than build a joint defence against the Serbs.¹⁰²⁷ Furthermore, although the Praljak Defence acknowledged that Slobodan Praljak requested, arranged and facilitated military support from Croatia, it argues that this was for the benefit of the ABiH as much as for the HVO, and that the purpose was to defend BiH.¹⁰²⁸ Lastly, with regard to the participation of Slobodan Praljak at meetings with the senior Croatian leadership, the Praljak Defence argues that the presidential transcripts lack probative value.¹⁰²⁹

519. The Chamber recalls first that, with regard to the presidential transcripts, it deems that they are reliable and have probative value since many witnesses confirmed their reliability and since the

¹⁰²⁰ Prosecution Final Trial Brief, para. 691.

¹⁰²¹ Prosecution Final Trial Brief, paras 76, 675 and 676. *See also* Prosecution Closing Arguments, T(F), p. 51962.

¹⁰²² Prosecution Final Trial Brief, paras 693-697.

¹⁰²³ Prosecution Final Trial Brief, paras 692-700 and 710-712.

¹⁰²⁴ Indictment, paras 7 and 17.3 (c). *See also* Prosecution Final Trial Brief, paras 675, 703-709 and 713.

¹⁰²⁵ Indictment, paras 7 and 17.3 (d). *See also* Prosecution Final Trial Brief, paras 701, 702 and 714-717.

¹⁰²⁶ Praljak Defence Final Trial Brief, para. 62.

¹⁰²⁷ Praljak Defence Final Trial Brief, paras 62 and 63. *See also* Closing Arguments by the Praljak Defence, T(F), pp. 52420-52421 which state that Slobodan Praljak intervened in the conflict as a volunteer and not as an agent of Croatia.

¹⁰²⁸ Praljak Defence Final Trial Brief, para. 64.

¹⁰²⁹ Praljak Defence Final Trial Brief, paras 51-55.

Defence teams had the opportunity to assess their content during the presentation of their case, and to introduce excerpts from these transcripts other than those put forth by the Prosecution.¹⁰³⁰

520. As an initial matter, with regard to the link between Slobodan Praljak and Croatia, the Chamber recalls that Slobodan Praljak received a salary from the Croatian Ministry of Defence while he was in Gornji Vakuf in January-February 1993, where he claims he went pursuant to a request from Franjo Tuđman and Alija Izetbegović,¹⁰³¹ and that he continued to be remunerated by the Croatian Ministry of Defence when he became the chief of the HVO Main Staff.¹⁰³²

521. The Chamber will first examine (a) Slobodan Praljak's participation in meetings of the senior Croatian leadership where the policy regarding the implementation of Croatian control over HZ(R) H-B territories was discussed with a view to furthering the criminal purpose of the JCE. The Chamber will then examine (b) Slobodan Praljak's role as a conduit between Croatia and the HZ(R) H-B, in particular his participation in the transmission of information, instructions, requests and policies. The Chamber will then examine (c) Slobodan Praljak's involvement in the efforts to secure reinforcement in military personnel from Croatia for the benefit of HVO armed forces.

a) Slobodan Praljak Participated in Meetings of the Senior Croatian Leadership within the Context of Implementing Croatian Control over HZ(R) H-B Territories to Further the Common Criminal Purpose

i. Slobodan Praljak Participated in Meetings of the Senior Croatian Leadership to Decide the Policy vis-à-vis Herceg-Bosna

522. From April 1992 to November 1993, Slobodan Praljak participated in meetings of the senior Croatian leadership at which Croatia's policy in BiH was discussed and defined with a view to furthering the common criminal purpose. The Chamber notes that during these meetings, Slobodan Praljak was not only informed of the policy championed by Croatia vis-à-vis Herceg-Bosna but also championed it himself and contributed to the discussions. Thus on 11 September 1992, during a meeting with the VONS concerning, notably, the issue of Croatia's involvement in BiH, which Slobodan Praljak attended, Franjo Tuđman recalled his territorial ambitions regarding the Croatian Banovina and stated that the area which previously constituted the Croatian Banovina was demographically and geopolitically part of Croatia¹⁰³³ and also called for "Croatia" to be

¹⁰³⁰ "Decision to Admit Presidential Transcript Evidence", public, 17 January 2008, pp. 6 and 7.

¹⁰³¹ Slobodan Praljak, T(F), pp. 42993-42994; P 01458.

¹⁰³² Slobodan Praljak, T(F), pp. 42994 and 42995.

¹⁰³³ P 00466, p. 54.

"cleansed".¹⁰³⁴ During this meeting Slobodan Praljak expressed his concerns resulting from the deportations provoked by the Serbian attacks about being faced with a situation in which the Croats would lose everything they had defended because of Muslims settling on the territories "liberated" by the Croats, and pointed out that the Croats were a minority everywhere except in western Herzegovina and urged President Tuđman to organise special talks and take political decisions regarding this issue.¹⁰³⁵ On 26 September 1992, Slobodan Praljak actively participated in another VONS meeting where the topic was the future of relations between BiH and BiH Croats and, in this respect, the need to secure "at any costs" the areas recently "liberated" by the Croats – the Croatian Banovina – which risked being "invaded" by the Muslims.¹⁰³⁶ During this meeting, in reference to the refugees now living in the territories inhabited by the Croats, Slobodan Praljak stated that "it would be difficult to make those people leave those parts in any way, and unless we evict those people from there, we will not have a majority there".¹⁰³⁷ Gojko Šušak supported Slobodan Praljak's statements by indicating that the Croats could not allow themselves to be in such a situation.¹⁰³⁸

523. In addition, during these meetings, Slobodan Praljak advised the Croatian leadership about Croatian policy and operations in BiH. Accordingly, on 6 April 1992, during a meeting of the Croatian presidency, Slobodan Praljak suggested that President Tuđman transfer Croats in positions of responsibility to Herceg-Bosna in order to remedy the "dysfunction" that, according to him, existed within the HVO.¹⁰³⁹ On 1 August 1992, during a meeting of the Croatian presidency at which, amongst others, the topic was raised of how to encourage the "volunteer" soldiers of the HV to engage in BiH, Slobodan Praljak suggested sending a few young officers to take the matter into their own hands and, moreover, for "a certain number of troops" to be prepared.¹⁰⁴⁰ Furthermore, Slobodan Praljak attended two other meetings of the Croatian presidency on 15 September 1993 and 5 November 1993 respectively where the representatives of the HR H-B were also present. During the first meeting he suggested that Croatia intervene by providing, for example, warm clothes to exhausted soldiers, and also recommended that territorial discontinuity in Herceg-Bosna not be allowed and for Muslim access to the sea to be denied – particularly because of the reaction by the Serbian military that would ensue.¹⁰⁴¹ During the meeting of 5 November 1993 which dealt among other things with the events in Herceg-Bosna and more particularly with the events in Stupni Do and their impact on the BiH Croats and Croatia, Slobodan Praljak said that the HR H-B

¹⁰³⁴ P 00466, p. 56.

¹⁰³⁵ P 00466, pp. 51-52.

¹⁰³⁶ P 00524, pp. 9-10.

¹⁰³⁷ P 00524, pp. 9-10.

¹⁰³⁸ P 00524, pp. 9-10.

¹⁰³⁹ P 00147, pp. 23-24.

¹⁰⁴⁰ P 00353, p. 29.

constituted a completely separate state and also called on Croatia to provide logistical support. He also made logistical recommendations for changes to be made in the HVO's various civilian and military departments – such as replacing three officers in the Main Staff.¹⁰⁴²

ii. Slobodan Praljak and Croatia Maintained Privileged and Continuous Ties Regarding BiH

a. Slobodan Praljak Presented and Supported the Croatian Position on the Subject of the HZ(R) H-B at International Meetings

524. According to the minutes of a meeting held on 13 January 1993 at the Croatian Ministry of Defence between a French delegation, led by General Quesnot, chief of the Main Staff of the Presidency of the Republic of France, and Croatian government representatives, Slobodan Praljak remarked that the territory claimed by the Croats corresponded to the borders of the 1939 Banovina and the ethnic distribution according to the 1981 census.¹⁰⁴³

525. The Chamber notes that Slobodan Praljak also took part in peace negotiations as a representative of Croatia, a role he used for implementing the common criminal purpose. The notebooks kept by Ratko Mladić, particularly those dated 5 and 26 October 1992, thus show that Slobodan Praljak, a Croatian government official at the time, participated alongside Jadranko Prlić and Milivoj Petković in a Croatian/HZ H-B delegation at talks between the BiH Croats and the Serbs regarding the partition of BiH in October 1992 and, on that occasion, he discussed the division of BiH.¹⁰⁴⁴ On 5 October 1992, Slobodan Praljak stated that "the goal [was] the Banovina of 1939" and said that if this does not happen "we'll continue the war". He also stated that the problem was how to control the Muslims at the Mostar border.¹⁰⁴⁵ On 26 October 1992, Slobodan Praljak stated that they "calmed" the front line near Mostar, that the BiH borders still had to be determined and defined, particularly the borders of Posavina, and that they would not give up the Posavina municipalities.¹⁰⁴⁶

¹⁰⁴¹ P 05080, pp. 18-20.

¹⁰⁴² P 06454, pp. 49-50; 55-57.

¹⁰⁴³ 3D 00482, p. 3.

¹⁰⁴⁴ P 11376; P 11380, pp. 1-7. *See also* "The Ultimate Purpose of the Alleged JCE: the Creation of a Croatian Entity Partly within the Borders of the Banovina of 1939" in the Chamber's findings with regard to the JCE.

¹⁰⁴⁵ P 11376, p. 4.

¹⁰⁴⁶ P 11380, p. 3.

526. The Chamber also notes that, as one of the representatives of the Croatian delegation, Slobodan Praljak participated in the meeting organised in Međugorje on 18 May 1993, on the implementation of the Vance-Owen Plan.¹⁰⁴⁷

527. The Chamber notes lastly that according to the very words used by *Slobodan Praljak*, he was implementing the "policy of the Croatian state" while he was in BiH, in particular before taking command of the HVO Main Staff.¹⁰⁴⁸

b. Slobodan Praljak had an Influential Position Amongst the Croatian Leadership on Issues Regarding BiH

528. The Chamber notes that, based on Slobodan Praljak's presence at meetings of the senior Croatian leadership, notably those on determining the policy regarding Herceg-Bosna in BiH, he had privileged and continuous ties with the Croatian authorities, notably between April 1992 and November 1993 while having command and control powers over the armed forces of the HZ(R) H-B. President Tuđman relied on Slobodan Praljak's advice and assessments to take decisions on the conflict in the HZ(R) H-B, in particular decisions regarding Croatia's involvement in BiH.¹⁰⁴⁹ For example, on 6 November 1993, during a meeting at the Croatian presidency, Gojko Šušak referred to Slobodan Praljak's assessment of the military situation in the field in BiH – that is, that the HVO military forces were admittedly able to take Gornji Vakuf "with what they have", but that without reinforcements they could not advance and link up with Vitez.¹⁰⁵⁰ Gojko Šušak referred to Slobodan Praljak's position in order to encourage Franjo Tuđman to allow this support, even after Franjo Tuđman explicitly stated at the beginning of the meeting that it was necessary "to make sure materially and in personnel to defend these areas", and that taking Gornji Vakuf was essential in order to link up with Travnik and Vitez.¹⁰⁵¹ The Chamber notes, furthermore, that the

¹⁰⁴⁷ Witness NA, 1D 02935 under seal, *Naletilić & Martinović* Case, T(F), pp. 9127-9128; P 02564, p. 5.

¹⁰⁴⁸ Slobodan Praljak, T(F), pp. 43001-43002.

¹⁰⁴⁹ P 06485, p. 24; P 01325, pp. 5 and 9. *See also* P 07198, p. 21.

¹⁰⁵⁰ P 06485, p. 24 and in particular pp. 2-6. *See also* P 03112, p. 54: during a meeting on 2 July 1993 at the Croatian presidency during which the need to provide military and political assistance to the BiH Croats was discussed, Franjo Tuđman encouraged his Minister of Defence Gojko Šušak and Chief of the HV Main Staff General Bobetko to meet with Slobodan Praljak to "discuss exactly what should be done", in particular, in order to protect "Croatian interests in the territorial sense".

¹⁰⁵¹ P 06485, p. 24 and in particular pp. 2-6. *See also* P 03112, p. 54: during a meeting on 2 July 1993 at the Croatian presidency during which the need to provide military and political assistance to the BiH Croats was discussed, Franjo Tuđman encouraged his Minister of Defence Gojko Šušak and Chief of the HV Main Staff General Bobetko to meet with Slobodan Praljak to "discuss exactly what should be done", in particular, in order to protect "Croatian interests in the territorial sense".

international organisations present at the scene considered Slobodan Praljak to be a part of the "Herzegovinian lobby" in Zagreb, in the same way as Gojko Šušak.¹⁰⁵²

529. The Chamber also notes the testimony of *Peter Galbraith*,¹⁰⁵³ according to whom Gojko Šušak asserted that he had effective influence over Slobodan Praljak.¹⁰⁵⁴ The Chamber notes in this regard that on 31 August 1993, Gojko Šušak promised Peter Galbraith¹⁰⁵⁵ that he would directly contact Slobodan Praljak to tell him to stop the heavy shelling of East Mostar launched by the HVO that same day.¹⁰⁵⁶

530. In light of the evidence, the Chamber is satisfied that through these meetings and talks, Slobodan Praljak was informed of the Croatian government's political positions regarding Hercegovina; that he championed Croatia's political positions in BiH and was involved in applying them on BiH territory through his *de facto* and *de jure* authority in the HVO. Moreover, he had privileged and continuous ties with the Croatian authorities on the issues relating to BiH.

b) By Virtue of his Functions, Slobodan Praljak Participated in Transmitting Information, Instructions, Orders, Requests and Policies from Croatia to the HZ(R) H-B and Vice-Versa

i. Slobodan Praljak Informed the HVO Armed Forces and Military Police of the Policies Implemented or Supported by Croatia in BiH

531. On 29 January 1993, during a meeting organised at the Military Police centre in Ljubuški in the presence of Slobodan Praljak, Valentin Ćorić and the heads of the 1st, 2nd and 3rd Military Police battalions of the HVO, Slobodan Praljak explained to the military police Zagreb's position regarding how military operations in Gornji Vakuf and Central Bosnia were unfolding and how they should be implemented in the field.¹⁰⁵⁷

532. The Chamber also notes that on 2 April 1993, Slobodan Praljak, then a general in the HV and the Assistant Minister of Defence of Croatia,¹⁰⁵⁸ chaired a meeting of brigade commanders and special units of the Central Bosnia OZ, during which he mentioned the importance of creating a

¹⁰⁵² P 02737, p. 1.

¹⁰⁵³ United States Ambassador to Croatia from 24 June 1993 to 3 January 1998: Peter Galbraith, T(F), p. 6424.

¹⁰⁵⁴ Peter Galbraith, T(F), p. 6469.

¹⁰⁵⁵ Peter Galbraith, T(F), pp. 6501-6502.

¹⁰⁵⁶ P 09506 under seal, p. 1; Peter Galbraith, T(F), pp. 6501-6502.

¹⁰⁵⁷ P 01350; p. 1; Slobodan Praljak, T(F), pp. 41601-41602.

¹⁰⁵⁸ Slobodan Praljak, T(F), pp. 43381 and 43382.

Croatian state within BiH and homogenising the Croatian population within the borders, all the while informing the attendees of the measures proposed under the Vance-Owen Plan.¹⁰⁵⁹

533. Lastly, the Chamber notes in this context that a Spabat report dated 27 August 1993 maintained that one of Slobodan Praljak's missions on BiH territory, notably as of 15 June 1993, was to "control" the political leadership of the HVO of the HZ-HB with whom Zagreb "did not agree".¹⁰⁶⁰ The report does not provide additional details on this matter.

- ii. As a Representative of the Croatian Government, Slobodan Praljak Served as a Conduit for Implementing Instructions from Croatia on BiH Territory, in Particular by Issuing Instructions to HVO Commanders

534. On 15 January 1993, Slobodan Praljak, at the time the Assistant Minister of Defence of Croatia and a general in the HV,¹⁰⁶¹ met with two HVO representatives in Prozor, Željko Šiljeg, the commander of the Northwest OZ, and Miro Andrić, a colonel of the HVO Main Staff,¹⁰⁶² before they took part in the said negotiations on 16 January 1993 to resolve the conflict in Gornji Vakuf.¹⁰⁶³ He gave them his consent to demand that the ABiH issue a denial about the HVO's involvement in several crimes based on statements made by Slobodan Praljak in his capacity as the envoy of President Tuđman and Alija Izetbegović.¹⁰⁶⁴

535. Additionally, according to *Peter Galbraith*, following pressure on 6 July and 20 August 1993 by the United States embassy on Franjo Tuđman to have the HVO cease committing violent acts, Slobodan Praljak – pursuant to a request from Croatia – issued an order granting the ZDF television station access to film inside Gabela Prison on 1 September 1993.¹⁰⁶⁵

536. The Chamber also notes that a report from the deputy commander for political affairs of the 1st HV motorised battalion, Mato Prc, dated 1 October 1993 and sent to the Croatian Minister of Defence, mentioned that he had suggested to Slobodan Praljak that he intervene more forcefully with the HVO units and the "Military Police of Herceg-Bosna" to prevent and stop certain unlawful activities by its members.¹⁰⁶⁶

¹⁰⁵⁹ P 01788; pp. 1-4; Slobodan Praljak, T(F), pp. 43381-43404.

¹⁰⁶⁰ P 04573, p. 5.

¹⁰⁶¹ Slobodan Praljak, T(F), pp. 44079-44080.

¹⁰⁶² Fahrudin Agić, T(F), pp. 9285-9288; Witness DV, T(F), p. 23037; Slobodan Praljak, T(F), pp. 40689-40690.

¹⁰⁶³ P 01174, p. 1.

¹⁰⁶⁴ Slobodan Praljak, T(F), pp. 44071-44072 and 44079; Slobodan Praljak, T(E), p. 44080; P 01174, pp. 2 and 3.

¹⁰⁶⁵ Peter Galbraith, T(F), pp. 6538-6540; 3D 00141/P 04716.

¹⁰⁶⁶ P 05530, p. 5.

537. Lastly, the Chamber notes that on 5 November 1993, President Tuđman referred to the instructions he gave to Slobodan Praljak regarding defence in Novi Travnik, Vitez and Busovača. The Chamber does not know whether or not this suggestion was followed up on.¹⁰⁶⁷

iii. Slobodan Praljak Informed Croatian Leaders About the Situation in BiH

538. During the various meetings held at the office of the Croatian president from at least April 1992 to November 1993, Slobodan Praljak informed the Croatian leadership about the military and political situation in BiH,¹⁰⁶⁸ based on his direct observations in the field,¹⁰⁶⁹ or on accounts provided by the HVO commanders on site.¹⁰⁷⁰ For example, on 11 September 1992 Slobodan Praljak mentioned during a meeting at the Croatian presidency that although the notion of an HR H-B required stronger centralisation of all structures of civilian authority, this had not been achieved. During this meeting, he also spoke about the poor quality of equipment, losses of able military personnel within the HVO, the considerable increase of the Muslim population forced out by the Serbs in Bugojno, Travnik and Mostar, which he claimed indicated the Muslims' intention to create their own state, and the military situation in a number of enclaves and towns, such as Gornji Vakuf, Novi Travnik, Kiseljak, Fojnica, Bugojno and Vareš.¹⁰⁷¹

539. The Chamber notes in this respect that during a meeting of the presidency on 8 March 1993, President Franjo Tuđman stated his intention once again of sending Slobodan Praljak, then the Assistant Minister of Defence of Croatia,¹⁰⁷² to BiH.¹⁰⁷³ The Chamber does not have additional information about this.

540. In light of the evidence, the Chamber is satisfied that from at least April 1992 to November 1993, Slobodan Praljak, by virtue of his functions both in the Croatian government and in the HVO Main Staff from July to November 1993, effectively took part in transmitting information, instructions, orders, requests and policies between the leadership of the Croatian government and the HZ(R) H-B leadership with the aim of furthering the common criminal purpose.

¹⁰⁶⁷ P 06454, p. 54.

¹⁰⁶⁸ P 00147, pp. 23 and 24; P 00353, p. 24; P 00466, pp. 14, 47 and 57; P 00524, pp. 9, 10 and 13; P 06454, pp. 49-57 and 62; P 05080, pp. 18-20; P 01325, pp. 7 and 9; P 06485, pp. 24 and 37.

¹⁰⁶⁹ P 00353, p. 24; P 06454, pp. 49-57; P 05080, pp. 18-20.

¹⁰⁷⁰ P 00466, p. 47.

¹⁰⁷¹ P 06454, pp. 49-57 and 62; P 05080: Slobodan Praljak described and compared the respective state of the HVO and ABiH troops and the - fewer - chances of success the latter had in an attack launched from Uskoplje.

¹⁰⁷² P00570; 3D 03085; P 01458; P 01889.

¹⁰⁷³ P 01622, p. 36 and p. 18: the suggestion by Zoran Marić to send Slobodan Praljak to BiH, in particular to Travnik, to help impose military discipline.

c) Slobodan Praljak Requested, Organised and Facilitated Reinforcement in Military Personnel from the Croatian Armed Forces to the HVO Armed Forces with the Aim of Furthering the Common Criminal Purpose

541. The Chamber notes that Slobodan Praljak directly facilitated securing military support in personnel from Croatia to the HVO.

542. The Chamber recalls that it noted that the HV troops were directly involved alongside the HVO troops in the conflict with the ABiH and that this was the case in the majority of the camps and municipalities.¹⁰⁷⁴ The evidence shows that Slobodan Praljak personally and directly contributed to posting HV members to the HVO armed forces¹⁰⁷⁵ – and even to discharging them¹⁰⁷⁶ – either by sending requests to the Croatian authorities, including Franjo Tuđman and Gojko Šušak,¹⁰⁷⁷ or by sending out direct orders to this effect.¹⁰⁷⁸ Slobodan Praljak also directly appointed HV officer Vladimir Primorac to a command post within the HVO in the spring of 1992, that is, to the post of commander of the Military Police in the South-Eastern Herzegovina operations group.¹⁰⁷⁹

543. It was also at the request of Slobodan Praljak that the Croatian government continued paying salaries to the HV soldiers authorised by the government of Croatia to go to BiH to join the HVO.¹⁰⁸⁰

544. In light of the evidence, the Chamber finds that Slobodan Praljak facilitated securing military support from Croatia in the form of manpower to the HVO armed forces by encouraging

¹⁰⁷⁴ See "Evidence Regarding the Direct Intervention by the HV Troops Alongside the HVO in the Conflict with the ABiH" in the Chamber's review of general requirements for the application of Articles 2, 3 and 5 of the Statute.

¹⁰⁷⁵ P 00567; P 00742; P 03957; P 01606; Slobodan Praljak, T(F), pp. 41587-41589, 43037, 43070 and 43071. See also P 01622, p. 42; P 00891; Dragan Ćurčić, T(F), pp. 45954-45957; Slobodan Praljak, T(F), pp. 43066-43071. See also 3D 00909, p. 1, Slobodan Praljak, T(F), p. 43110; P 06037; Slobodan Praljak, T(F), pp. 41128 and 41129; 3D 02082; P 06006, p. 5.

¹⁰⁷⁶ P 06118.

¹⁰⁷⁷ P 00147, p. 24; Slobodan Praljak, T(F), pp. 41446, 41448, 41587-41589; P 03957. See also Slobodan Praljak, T(F), p. 43037.

¹⁰⁷⁸ P 00567; P 00742; Slobodan Praljak, T(F), p. 41898.

¹⁰⁷⁹ P 00345; P 00927; P 00345: a note from Valentin Ćorić, the chief of the Military Police Administration, dated 24 July 1992, states that Vladimir Primorac was subsequently reallocated to the post of commander of the Intervention Company due to the reorganisation of the Military Police; P 00927: another note dated 17 December 1992 states that he was assigned to the post of deputy commander of the 3rd Battalion of the Military Police and commander of the Military Police for Sector South; 3D 00453, p. 1: The Chamber also notes that on 31 August 1992, Slobodan Praljak suggested that a certain number of measures be adopted to encourage "volunteer" enlistments by HV soldiers, namely that HV members wanting to go to BiH to take part in the conflict not be prosecuted and be able to receive a three-to-six-month contract granting them the status of professional soldiers; Slobodan Praljak also proposed inquiring amongst HV soldiers about who wanted to go to Bosanska Posavina, amongst other places, to take part in the conflict. See also 3D 01222, pp. 1 and 2; Slobodan Praljak, T(F), p. 39843.

and directly contributing to the enrolment of the HV officers in the HVO between the spring of 1992 and October 1993.

545. The Chamber finds that by virtue of his functions in the Croatian government and the HVO – *de facto* and/or *de jure* authority exercised simultaneously in Croatia and BiH - Slobodan Praljak learnt during meetings of the senior Croatian and HVO leadership what their policies were regarding Herceg-Bosna and, furthermore, demonstrated his willingness to implement these policies. As part of this, Slobodan Praljak transmitted orders, communiqués and instructions and took part in securing military support from Croatia for the HVO armed forces. Consequently, the Chamber is satisfied that as part of a project to establish Croatian control over the HZ(R) H-B territories, Slobodan Praljak served as a conduit between Croatia and the HZ(R) H-B to further the common criminal purpose of the JCE.

2. Slobodan Praljak's Contribution to the Crimes Committed by the HVO in the Municipalities and Detention Centres Relevant to the Indictment

546. It is alleged that Slobodan Praljak issued orders, commands, instructions and directives to support domination by Herceg-Bosna and the HVO of the BiH Muslims and issued ultimatums demanding the subordination of the ABiH troops to the HVO command; that he planned, approved, supported, ordered and directed the military operations during which crimes against the BiH Muslims were committed, notably the plunder and destruction of private property and cultural and religious property belonging to BiH Muslims; that he participated in the seizure of property and the transfer of its ownership to the Herceg-Bosna/HVO forces; that, furthermore, he contributed to a system of mistreatment through a network of prisons and detention centres used to arrest, detain and imprison thousands of BiH Muslims in unlawful and harsh conditions where they were killed, mistreated, beaten, battered and required to perform forced labour; that he participated and supported a system to expel large numbers of BiH Muslims and proposed deporting the BiH Muslims from the territory claimed by Herceg-Bosna during the war between the HVO and the ABiH, and lastly, that he encouraged the obstruction of humanitarian aid to the BiH Muslims by failing to exert his authority to ensure a constant and uninterrupted flow of humanitarian aid.¹⁰⁸¹

547. In its Final Trial Brief and closing arguments, the Prosecution contends that Slobodan Praljak deployed personnel, provided necessary equipment and ordered military operations – in

¹⁰⁸⁰ P 00734; P 00891. *See* also "Evidence Regarding the Direct Intervention by the HV Troops Alongside the HVO in the Conflict with the ABiH" in the Chamber's review of the general requirements for the application of Articles 2, 3 and 5 of the Statute

¹⁰⁸¹ Indictment, paras 17. 3 (e), (f), (h), (i), (j), (k) and (l).

particular in Gornji Vakuf, Raštani and Stupni Do in 1993 – during which the HVO units committed crimes;¹⁰⁸² that Slobodan Praljak had knowledge of the existence of the detention centres and prisons during his mandate as commander of the HVO Main Staff¹⁰⁸³ and that he deliberately continued to ignore the conditions of confinement in the HVO camps, despite Mate Boban's delegating responsibility to him to improve these conditions;¹⁰⁸⁴ and that, although Slobodan Praljak did not have control over prisoners on a daily basis, he had the obligation to ensure that they received appropriate treatment, which he failed to do.¹⁰⁸⁵

548. The Prosecution points out, furthermore, that Slobodan Praljak advocated and tolerated the deportation of the Muslims from Herceg-Bosna to achieve Croatian demographic control over this territory;¹⁰⁸⁶ that it was under Slobodan Praljak's *de facto* and *de jure* authority over the HVO armed forces that Muslim deportations materialised in several sectors of Herceg-Bosna in late 1992 and in 1993, including in the zones of Stolac, Čapljina, Ljubuški and Prozor in August 1993;¹⁰⁸⁷ that he was informed about all of the events that took place in the area controlled by the HVO;¹⁰⁸⁸ and that, in this context, he failed to take any measures to punish his subordinates or attempt to prevent these crimes.¹⁰⁸⁹

549. Lastly, the Prosecution argues that during the entire period that he was the commander of the Main Staff, Slobodan Praljak maintained the siege of East Mostar by blocking humanitarian aid, used as one of the weapon of war by the HVO, and that it was up to Slobodan Praljak to intervene to ensure the proper circulation of humanitarian convoys.¹⁰⁹⁰

550. The Praljak Defence argues that the orders issued by Slobodan Praljak were not directed against the Muslim civilian population and did not include the commission of crimes but concerned only the armed conflict with the ABiH;¹⁰⁹¹ that no evidence was tendered that proves that either Slobodan Praljak or his subordinates seized any property and transferred ownership to the HZ H-B;¹⁰⁹² that the destruction and looting was not committed by HVO troops under the command of

¹⁰⁸² Prosecution Final Trial Brief, paras 720-723.

¹⁰⁸³ Prosecution Final Trial Brief, paras 787-792; Closing Arguments by the Prosecution, T(F), p. 51976.

¹⁰⁸⁴ Prosecution Final Trial Brief, paras 803-807; Closing Arguments by the Prosecution, T(F), pp. 51983 and 51992.

¹⁰⁸⁵ Prosecution Final Trial Brief, paras 803-807; Closing Arguments by the Prosecution, T(F), p. 51991.

¹⁰⁸⁶ Prosecution Final Trial Brief, paras 660, 695, 731, 769-771.

¹⁰⁸⁷ Prosecution Final Trial Brief, paras 663, 751, and 772-786; Closing Arguments by the Prosecution, T(F), pp. 52001-52003.

¹⁰⁸⁸ Prosecution Final Trial Brief, paras 751 and 759; Closing Arguments by the Prosecution, T(F), p. 52007.

¹⁰⁸⁹ Prosecution Final Trial Brief, paras 746 and 754.

¹⁰⁹⁰ Prosecution Final Trial Brief, paras 759-766.

¹⁰⁹¹ Praljak Defence Final Trial Brief, paras 69 and 80.

¹⁰⁹² Praljak Defence Final Trial Brief, para. 91.

Slobodan Praljak;¹⁰⁹³ that the detention centres were administered by the HVO executive (civilian) branch and not the military branch, and that there is no evidence that Slobodan Praljak had any link, personal or related to his military functions, to the administration or supervision of the HVO detention facilities and therefore did not know anything about the conditions there;¹⁰⁹⁴; and that there is no evidence that would be sufficient to charge Slobodan Praljak for the criminal activities alleged in paragraph 17.3 (l) of the Indictment.¹⁰⁹⁵

551. The Praljak Defence also claims that neither the HVO nor Slobodan Praljak obstructed the delivery of humanitarian aid to BiH and particularly to East Mostar;¹⁰⁹⁶; that all the convoys reached their destinations, with or without delays;¹⁰⁹⁷ that Slobodan Praljak directly facilitated the delivery of humanitarian aid to Mostar, including by opening a corridor on 25 August 1993 to allow passage for a convoy blocked by angry civilians in Čitluk and guarantee its passage towards East Mostar;¹⁰⁹⁸ and that Slobodan Praljak insisted that those who refused to allow passage of humanitarian aid be punished.¹⁰⁹⁹

552. The Chamber will examine the evidence related to Slobodan Praljak's contribution in the municipalities of (a) Gornji Vakuf, (b) Prozor, (c) Mostar, (d) Vareš and (e) in the detention centres.

a) Municipality of Gornji Vakuf

553. The Chamber recalls that Slobodan Praljak actively participated in drafting the HVO "ultimatum" on 15 January 1993 demanding that ABiH forces present in provinces 3, 8 and 10 of the Vance-Owen Plan subordinate themselves to the HVO within five days.¹¹⁰⁰ During a meeting on 16 January 1993 between representatives of the HVO and the ABiH, Miro Andrić, colonel of the HVO Main Staff, forwarded the general order for subordination issued by Milivoj Petković on 15 January 1993 to the representatives of the ABiH and demanded that all the ABiH forces subordinate themselves to the HVO forces.¹¹⁰¹

554. In this regard, the Prosecution underscores the role of Slobodan Praljak, who arrived from Zagreb to join the HVO troop command in Gornji Vakuf on the evening of 15 January 1993 and his

¹⁰⁹³ Praljak Defence Final Trial Brief, paras 92-93.

¹⁰⁹⁴ Praljak Defence Final Trial Brief, para. 82.

¹⁰⁹⁵ Praljak Defence Final Trial Brief, para. 94.

¹⁰⁹⁶ Defence Final Trial Brief, para. 86;

¹⁰⁹⁷ Defence Final Trial Brief, paras 87 and 89; Closing Arguments by the Praljak Defence, T(F), p. 52496.

¹⁰⁹⁸ Defence Final Trial Brief, paras 86, 253, 591 and 592; Closing Arguments by the Praljak Defence, T(F), p. 52496.

¹⁰⁹⁹ Defence Final Trial Brief, para. 596.

¹¹⁰⁰ See "Slobodan Praljak's Command Authority Over HVO Armed Forces before 24 July 1993" in the Chamber's findings with regard to Slobodan Praljak's responsibility under the JCE.

forceful assertion of the "ultimatum" through his commanders on 16 January 1993, warning the ABiH representatives in Gornji Vakuf that they would be annihilated if they did not accept the decision of the HZ H-B.¹¹⁰² In support of its claim, the Prosecution refers to a report dated 16 January 1993 from Željko Šiljeg sent to the HVO Main Staff based in Mostar, in which Željko Šiljeg mentions this message from Slobodan Praljak and the words he used.¹¹⁰³ In closing arguments, the Praljak Defence pointed out that, during his testimony, *Slobodan Praljak* refuted these suggestions and said that he never made such a statement.¹¹⁰⁴

555. *Slobodan Praljak* stated that he had never used the term "annihilate" and that this term was written by Željko Šiljeg in the said report regarding the situation in Gornji Vakuf on 16 January 1993 which he sent to the HVO Main Staff.¹¹⁰⁵

556. The Chamber deems that even if Slobodan Praljak did not use the term "annihilate" or "exterminate", Željko Šiljeg's report dated 16 January 1993 as well as the report of the negotiations commission of the ABiH in Gornji Vakuf, dated 16 January 1993, prove that Slobodan Praljak was involved in implementing the "ultimatum" of 15 January 1993 in Gornji Vakuf and, consequently, in planning the HVO military operations in this area in January 1993.¹¹⁰⁶

557. In its Final Trial Brief, the Prosecution contends, furthermore, that Slobodan Praljak's contribution to the events in Gornji Vakuf extended beyond his issuance of the "ultimatum" since he took steps to ensure logistical support to the HVO during the period in which it was committing crimes, notably by obtaining artillery assets immediately prior to the HVO shelling of the residential zones in Gornji Vakuf on 18 January 1993.¹¹⁰⁷ During its closing arguments, the Prosecution pointed out that Slobodan Praljak had superior *de facto* military authority during the events in Gornji Vakuf in January 1993¹¹⁰⁸ and that on 18 January, the date on which the attack on Gornji Vakuf started, he directed and took part in the HVO activities in the field.¹¹⁰⁹

558. The Chamber deems that the evidence confirms that Slobodan Praljak facilitated and directed the military operations in the Municipality of Gornji Vakuf around 18 January 1993 by

¹¹⁰¹ See "HVO Subordination Orders of 14 and 16 January 1993 to ABiH Armed Forces" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹¹⁰² Prosecution Final Trial Brief, paras 220, 671 and 718.

¹¹⁰³ P 01162, p. 3.

¹¹⁰⁴ Closing Arguments, T(F), pp. 52483-52484, quoting Slobodan Praljak, T(E), p. 43698.

¹¹⁰⁵ Slobodan Praljak, T(F), pp. 41599-41601; P 01162.

¹¹⁰⁶ P 01162; 1D 00816. See also "As a Representative of the Croatian Government, Slobodan Praljak Served as a Conduit for Implementing Instructions from Croatia on BiH Territory, in Particular by Issuing Instructions to HVO Commanders" in the Chamber's findings with regard to Slobodan Praljak's responsibility under the JCE.

¹¹⁰⁷ Prosecution Final Trial Brief, para. 721.

¹¹⁰⁸ Closing Arguments by the Prosecution, T(F), pp 51950-51960

issuing two orders requesting that artillery be sent to Gornji Vakuf.¹¹¹⁰ For example, on 16 January 1993, he issued an order to the commander of the South-East OZ requesting that eight rocket-launchers be sent to Gornji Vakuf.¹¹¹¹

559. In a report from Željko Šiljeg to the Defence Department and the HVO Main Staff, dated 23 January 1993, "Brada" is mentioned several times as being the person who issued orders in connection with the military operations in Gornji Vakuf, orders which were repeated by Željko Šiljeg.¹¹¹² However, the Chamber does not have more specific information as to the nature of these orders. Likewise, another report from Željko Šiljeg, dated 26 January 1993 and sent to the HZ H-B presidency and government and to the Defence Department and HVO Main Staff, indicates that as part of the negotiations to resolve the conflict in Gornji Vakuf, pursuant to the orders from "Brada", they met with "Andabak"; and, more generally, that they had indeed been "informed of the instructions that Zrinko Tokić received from "Brada"". ¹¹¹³

560. Slobodan Praljak was also kept abreast of the situation in the field in January 1993. On 24 January 1993, Milivoj Petković ordered Željko Šiljeg to draft a report to "Brada" on the situation in Gornji Vakuf.¹¹¹⁴

561. The Chamber recalls that on 18 January 1993, the HVO launched an attack on the town of Gornji Vakuf and the villages of Duša, Hrasnica, Uzričje and Ždrimci. The HVO operations, particularly in the four villages, unfolded in exactly the same way: the HVO first attacked the villages by firing shells that destroyed several Muslim houses and killed several people, then it entered the villages, arrested all of the population there, separated the men from the women, children and elderly people, detained all the Muslims in the villages at different locations in the municipality and destroyed their houses. Lastly, the HVO removed the majority of the civilians detained in the municipality.¹¹¹⁵ Bearing in mind the total similarity in the way the operations unfolded and the crimes committed in each of these villages, the Chamber finds that they corresponded to a preconceived plan.

¹¹⁰⁹ Closing Arguments by the Prosecution, T(F), pp 51958 and 51959

¹¹¹⁰ P 01172; P 01202; P 01277.

¹¹¹¹ P 01172.

¹¹¹² P 01277.

¹¹¹³ P 01311, pp. 2 and 8. The Chamber notes that "Brada" is the nickname given to Slobodan Praljak: Slobodan Praljak T(F), pp. 39486, 43772 and 43773.

¹¹¹⁴ P 01293.

¹¹¹⁵ See "Attacks of 18 January 1993 in the Municipality of Gornji Vakuf" and "Alleged Criminal Events Following the HVO Attack and Takeover of the Villages in the Municipality of Gornji Vakuf" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

562. Insofar as Slobodan Praljak planned, directed, facilitated and was kept informed of the HVO military operations in Gornji Vakuf around 18 January 1993, and as the operations and the crimes directly linked to them unfolded according to a preconceived plan, the Chamber deems that the only reasonable conclusion it can draw is that Slobodan Praljak intended to have people who were not members of any army and were not directly involved in the hostilities murdered, to have houses destroyed, to have Muslims arrested regardless of their status and to have the Muslim population removed from the area.

b) Municipality of Prozor

563. The Chamber will (i) examine the evidence related to Slobodan Praljak's contribution to the HVO military operations and the campaigns to evict Muslims in the Municipality of Prozor, and (ii) the evidence relating to the role of Slobodan Praljak in the work done on the front line by detainees in this municipality.

i. HVO Military Operations and Eviction Campaigns

564. In its Final Trial Brief, the Prosecution submits that Slobodan Praljak devoted much of his time and attention to this municipality, in which the Muslim population was subject to a "vicious and lengthy" campaign to drive it out.¹¹¹⁶

565. In its Final Trial Brief, the Praljak Defence argues that while Slobodan Praljak was present in the Prozor sector, he was never informed of the crimes that were allegedly committed there or of the fact that his subordinates might have committed them;¹¹¹⁷ that, furthermore, he did not have effective control over the troops¹¹¹⁸ and that, in accordance with national legislation, Slobodan Praljak, as the military commander, was not responsible for punishing the perpetrators of these crimes, unlike the Military Police or the SIS.¹¹¹⁹

566. A report dated 17 July 1993 from Željko Šiljeg to the HVO Main Staff mentions that all the reports on the incidents and the general situation were sent daily to the HVO Main Staff and indicates, furthermore, that Slobodan Praljak was acquainted with the situation in Prozor "in detail" as this was a region that he knew well.¹¹²⁰ Moreover, *Slobodan Praljak* himself confirmed that he

¹¹¹⁶ Prosecution Final Trial Brief, para. 772.

¹¹¹⁷ Praljak Defence Final Trial Brief, paras 186 and 207.

¹¹¹⁸ Praljak Defence Final Trial Brief, para. 207.

¹¹¹⁹ Praljak Defence Final Trial Brief, para. 200.

¹¹²⁰ P 03516, pp. 4 and 5.

was very familiar with the military situation throughout the North-West OZ during that time because he had gone there several times, notably to the vicinity of Vakuf and Prozor.¹¹²¹

567. Furthermore, two HVO reports dated 11 September and 9 October 1993 regarding the military situation in Prozor were sent to Slobodan Praljak.¹¹²² In a report dated 30 July 1993, the commander of the *Petar Krešimir IV* Brigade of the HVO pointed out that Slobodan Praljak was present in Prozor during this period and had been informed of the HVO military operations in the region and had issued orders on how the operations were to be carried out.¹¹²³

568. Between 24 July and mid-September 1993 as well, Slobodan Praljak regularly issued orders regarding the redeployment of HVO units to Prozor for needs related to combat and MTS supplies for Milivoj Petković, Željko Šiljeg and the Military Police brigades and units deployed in the field.¹¹²⁴ For example, on 28 August 1993, Slobodan Praljak ordered the commander of the *Rama* Brigade to deploy 30 soldiers to the Kučani zone between 28 and 31 August 1993¹¹²⁵ and on 4 September 1993, Slobodan Praljak ordered the redeployment of the *Rostovo* company from the Lašva Battalion sector to the Kučani sector.¹¹²⁶

569. The Chamber found in its factual findings regarding the Municipality of Prozor that on 28 July 1993, Slobodan Praljak ordered that the Prozor MUP units be integrated into the HVO armed forces; that on 14 August 1993, the Prozor MUP was mobilised for operations in the field under the command of Slobodan Praljak;¹¹²⁷ and that on 31 July 1993, the Military Police platoon commanded by Perica Turajlija, attached to the 3rd company of the 1st Active Battalion and which operated at least on 19 April 1993 in the Municipality of Prozor, was under the direct command of Slobodan Praljak.¹¹²⁸

570. Therefore, Slobodan Praljak was directly involved in the planning and directing of the HVO military operations between July and mid-September 1993.

571. The Chamber found that pursuant to an order from Željko Šiljeg dated 6 July 1993,¹¹²⁹ the Military Police, assisted among others by soldiers from the *Kinder vod* unit and the SIS attached to

¹¹²¹ Slobodan Praljak T(F), pp. 43766, 43770, 43772 and 43773; see also P 03516, para. 10.

¹¹²² 3D 00972; P 05772.

¹¹²³ P 03821.

¹¹²⁴ P 03700/3D 00640; 3D 01097; 3D 01527; P 03934; 3D 02066; 3D 02448; 3D 02059; P 04804, pp. 3 and 4. See also 3D 02622.

¹¹²⁵ 3D 02448.

¹¹²⁶ 3D 02059.

¹¹²⁷ P 04177, p. 4.

¹¹²⁸ See also "HVO Military Police" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹¹²⁹ P 03234.

the *Rama* Brigade, arrested Muslim men, including minors, elderly and sick people, in June, July and August 1993 in the Municipality of Prozor.¹¹³⁰ The Chamber considered that HVO soldiers – the Chamber does not know to which unit they belonged – and military police, under the command of Ilija Franjić, arrested Muslim women, children and elderly people in the Municipality of Prozor in late July and early August 1993 and placed them in detention in Podgrađe and in the villages of Lapsunj and Duge.¹¹³¹ Lastly, it found that on 28 August 1993, HVO soldiers moved the women, children and elderly people being held in Podgrađe, Lapsunj and Duge to ABiH-held territories.¹¹³²

572. The Chamber considers that inasmuch as the arrests and removals were carried out in an organised and orchestrated manner at different locations in the municipality, they did not constitute random events but followed a preconceived plan drawn up by the HVO leadership, as evidenced by the order of Željko Šiljeg dated 6 July 1993. Moreover, the operations were carried out jointly by members of several components of the HVO armed forces: the Military Police, the *Kinder vod* and the SIS of the *Rama* Brigade, and pursuant to an order of the commander of the Northwest OZ.

573. The Chamber considers that inasmuch as Slobodan Praljak planned and directed the HVO military operations in the Municipality of Prozor as of 24 July 1993 and that he was familiar with the situation in the field even before he took up the post of commander of the Main Staff and that he remained informed of the situation in the field as of 24 July 1993, the only inference the Chamber can reasonably draw is that he must have known that members of the HVO armed forces were removing and detaining the Muslim population from Prozor from July to August 1993. Insofar as he continued to exercise his functions in the HVO, the Chamber deems that Slobodan Praljak accepted the detentions and removals.

ii. Labour Performed by Detainees on the Front Line

574. On 17 August 1993, Slobodan Praljak issued an order to the Prozor forward command post that all the detainees used for labour in the zone of responsibility of that post be withdrawn and made the SIS and the Military Police platoon of the *Rama* Brigade responsible for implementing this order.¹¹³³ The following day, Ante Pavlović, the commander of the Prozor forward command post, forwarded Slobodan Praljak's order to the *Rama* Brigade.¹¹³⁴ This evidence indicates that

¹¹³⁰ See "Arrests of Muslim Men from Prozor Municipality from Spring 1993 to the End of 1993" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹¹³¹ See "Arrests, Detention and Removal of Women, Children and Elderly People from Prozor Municipality in July and August 1993" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹¹³² See "Removal to Kućani in Late August 1993 of Women, Children and Elderly People Held in Podgrađe, Lapsunj and Duge" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹¹³³ P 04260.

¹¹³⁴ P 04285.

Slobodan Praljak knew that Muslim detainees were being used for labour in the zone of responsibility of the Prozor forward command post.

575. The Chamber recalls that between June and September 1993, the HVO members frequently used detainees from the Secondary School, the fire station, the MUP building and the Prozor Tech School for work on the front line.¹¹³⁵ Insofar as Slobodan Praljak had command authority over the HVO armed forces throughout the period when this work was being done, and as he was informed of the military situation on the field, the Chamber deems that the only inference it can reasonably draw is that he was aware that the work being done by detainees was often on the front line. The Chamber notes that Slobodan Praljak did not take any measures to prevent detainees from working on the front line prior to 17 August 1993 and thus accepted it.

c) Municipality of Mostar

576. Firstly, the Chamber recalls that *Slobodan Praljak* stated before the Chamber that he no longer recalled his whereabouts on 9 May 1993, but he did say that he arrived in Mostar on the morning of 11 May 1993.¹¹³⁶ The Chamber does not have evidence that would allow it to determine Slobodan Praljak's precise role in the events of 9 May 1993 in Mostar, notably the extent to which he commanded the military operations or participated in them.

577. Moreover, the Chamber does not have evidence to support a finding on Slobodan Praljak's role in the criminal events in the Municipality of Mostar between 9 May and 24 July 1993.

578. The Chamber will (i) address Slobodan Praljak's role in the military operations in the Municipality of Mostar, and (ii) in the blocking of humanitarian aid intended for East Mostar between 24 July 1993 and 9 November 1993.

i. HVO Military Operations Between 24 July and 9 November 1993

579. Generally speaking, Slobodan Praljak played an important role in planning and directing the military operations in the Municipality of Mostar between 24 July 1993 and 9 November 1993.¹¹³⁷ On 28 July 1993, he ordered the brigades of the OZ to prepare for combat.¹¹³⁸ On 6 August 1993, Žarko Tole issued an order specifying that the Main Staff would take over the command of the

¹¹³⁵ See "Detention of Muslim Men at the Prozor Secondary School", "Detention of Muslim Men at the Prozor Fire Station" and "Detention of Muslim Men at the Tech School" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹¹³⁶ Slobodan Praljak, T(F), p. 41519.

¹¹³⁷ P 04125; P 03773; P 09506 under seal, p. 1; Peter Galbraith, T(F), pp. 6501 and 6502.

¹¹³⁸ P 03773.

defence of Mostar.¹¹³⁹ On 12 August 1993, Slobodan Praljak mobilised all the manpower and materiel of the HVO armed forces, including the Military Police of the 1st sector of the South-East OZ to eliminate Muslim "terrorists" from Mostar.¹¹⁴⁰ On 25 August 1993, Slobodan Praljak appointed Colonel Milan Štampar as commander of the Raštani combat operations, specifying that all units should subordinate to him.¹¹⁴¹ On 1 September 1993, Slobodan Praljak issued an order organising the command structure and military operations in the Mostar sector.¹¹⁴² On 24 September 1993, he sent a message to all the HVO troops giving them an overview of the situation in Mostar and congratulating them for the actions they carried out.¹¹⁴³ Lastly, on 7 October 1993, Slobodan Praljak issued an order for the defence of the Mostar region with the instruction to "inflict as many losses on them as possible".¹¹⁴⁴

580. Lastly, the Chamber recalls that the offensive launched pursuant to an order from Milivoj Petković on 8 November 1993¹¹⁴⁵ on the old town of Mostar, which led, *inter alia*, to the destruction of the Old Bridge, had been discussed at a meeting attended by Slobodan Praljak and senior HVO commanders, including Miljenko Lasić, commander of the Mostar ZP.¹¹⁴⁶

581. From the aforementioned, the Chamber infers that Slobodan Praljak participated in directing and planning the HVO operations in the Municipality of Mostar between July and early November 1993.

582. The Chamber recalls that between early June 1993 and early March 1994, East Mostar was under intense shelling and firing by the HVO, notably from the direction of Hum mountain and Stotina hill;¹¹⁴⁷ that the shooting and shelling by the HVO killed and wounded many people amongst the population of East Mostar;¹¹⁴⁸ that HVO snipers, located in West Mostar, opened fire at Muslims in East Mostar between May 1993 and February 1994;¹¹⁴⁹ that the HVO was responsible for destroying and damaging mosques in East Mostar in 1993 because of the constant

¹¹³⁹ P 03983, item 5; Witness NO, T(F), p. 51182, closed session.

¹¹⁴⁰ P 04125.

¹¹⁴¹ See "Attack on the Village of Raštani, Mostar Hydro-Electric Plant and *Tihomir Mišić* Barracks" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹¹⁴² P 04719.

¹¹⁴³ P 05365, Slobodan Praljak, T(F), pp. 42126-42128.

¹¹⁴⁴ P 05692, p. 1.

¹¹⁴⁵ P 06534; Slobodan Praljak, T(F), pp. 44461 and 44462.

¹¹⁴⁶ P 06482; 3D 00793. See "Order of Milivoj Petković Dated 8 November 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹¹⁴⁷ See "Shelling and Artillery Fire Targeting East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹¹⁴⁸ See "Shelling and Artillery Fire Targeting East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹¹⁴⁹ See "Campaign of Sniping Affecting the Entire Population of East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

firing and shelling of East Mostar from the direction of West Mostar, Hum mountain and Stotina hill;¹¹⁵⁰ and lastly, that the members of the international organisations present in Mostar between May 1993 and April 1994 were deliberately targeted by HVO snipers and by HVO artillery and mortars killing or wounding some of them as a result.¹¹⁵¹

583. The Chamber also found that the old town quarter, of which the Old Bridge was an integral part, was deliberately targeted on 8 November 1993 by an HVO tank; that from the evening of 8 November 1993, the Main Staff had official knowledge about which locations had been shelled by the HVO artillery and that the Old Bridge had in fact been destroyed by the evening of 8 November 1993. The Chamber considered that the destruction of the Old Bridge was not limited only to its collapse and found that, as of the evening of 8 November 1993, the bridge could be considered completely unusable.¹¹⁵²

584. The Chamber recalls that during HVO operations in the village of Raštani around 24 August 1993, four Muslim men were killed by HVO soldiers; the HVO soldiers inflicted physical and mental abuse on the women and children who were in the area around Mirsad Žuškić's house in Raštani village;¹¹⁵³ and, due to the particularly coercive atmosphere, the Muslim women and children who had taken refuge in a village house had no other choice but to flee Raštani village, occupied by the HVO soldiers, and cross the river to reach the territory under ABiH control.¹¹⁵⁴

585. The Chamber also notes that on 31 August 1993, Gojko Šušak promised Peter Galbraith that he would contact Slobodan Praljak directly to ask him to stop the heavy shelling of East Mostar by the HVO launched that day.¹¹⁵⁵

¹¹⁵⁰ See "Alleged Destruction of Religious Institutions in East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹¹⁵¹ See "Targeting Members of International Organisations" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹¹⁵² See "Destruction of the Old Bridge as of the Evening of 8 November 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹¹⁵³ See "Treatment of Muslim Women and Children during the Attack on the Village of Raštani" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹¹⁵⁴ See "Displacement of Muslim Women and Children during the Attack on the Village of Raštani" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹¹⁵⁵ P 09506 under seal, p. 1; Peter Galbraith, T(F), pp. 6501 and 6502.

586. It is clear to the Chamber that the crimes described above which accompanied HVO military operations and were committed systematically and/or over a period of time were not random acts or the actions of undisciplined soldiers but rather operations orchestrated by the HZ(R) H-B leadership. Insofar as Slobodan Praljak directed the HVO military operations in the Municipality of Mostar during a part of this period, the only conclusion that the Chamber can reasonably draw is that Slobodan Praljak knew that these crimes would be committed during the operations in Raštani and Mostar. The Chamber finds, therefore, that he intended to have buildings in East Mostar destroyed, including mosques and the Old Bridge, to deliberately target civilians, to have murders, wounding, physical and psychological abuse and attacks on members of international organisations committed and lastly, to have women and children removed.

ii. Blocking of Humanitarian Aid to East Mostar

587. The Chamber found that the HVO hindered the regular delivery of humanitarian aid to East Mostar between June and December 1993 at least, by restricting the access of the international organisations to East Mostar, notably by creating administrative obstacles and completely blocking entry to East Mostar for humanitarian convoys for approximately two months during the summer of 1993, and during the month of December 1993. The sporadic aid that the HVO did bring in, which was conditional on obtaining certain advantages, was not such as to cast doubt on the observation that the HVO obstructed the delivery of humanitarian aid to East Mostar.¹¹⁵⁶

588. Slobodan Praljak issued a number of orders to this effect between 24 July and 9 November 1993. On 21 and 25 August 1993,¹¹⁵⁷ humanitarian convoys were given access to East Mostar and food supplies were able to be dropped by air.¹¹⁵⁸ Slobodan Praljak himself intervened to ensure the safety of the convoy of 25 August 1993.¹¹⁵⁹ On 1 September 1993 Slobodan Praljak personally issued authorisation for passage to Sally Becker, a member of a humanitarian organisation,

¹¹⁵⁶ See "Blocking of International Organisations and Humanitarian Aid" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹¹⁵⁷ Witness BC, T(F), pp. 18389-18392, 18394 closed session; Larry Forbes, T(F), pp. 21291, 21297 and 21298; Witness BJ, T(F), pp. 5592-5594, 5597, 5721-5724 and T(E), p. 5719; Cedric Thornberry, T(F), pp. 26167 and 26168, 26206-26208; P 10041, para. 65; P 10039, paras 7-10; P 01717 under seal, pp. 151 and 152; 3D 00366; P 05091, paras 4 and 27; P 04511, p. 1.

¹¹⁵⁸ Witness BC, T(F), pp. 18389-18392, 18394, 18396 and 18397, closed session; P 10832, p. 2; P 04423 under seal, p. 5; Witness BJ, T(F), pp. 5592-5594; P 09900 under seal, p. 2; Witness BD, T(F), pp. 20744, 20751-20752, 20783-20786, and 20910, closed session; P 09906 under seal; P 06528, p. 2; 1D 01591; Amor Mašović, T(F), p. 25185; P 09946 under seal, para. 70; 1D 01639; 1D 01640; 1D 01641; P 07904, p. 1; 1D 01637; 1D 02207; P 05497, pp. 2 and 8; P 06514, p. 1; P 07345; P 07769 under seal, p. 4; P 09901 under seal, p. 1; P 05091, paras 4 and 27; Larry Forbes, T(F), pp. 21291, 21297 and 21298; Witness BJ, T(F), pp. 5592-5594, 5597, 5721 to 5724 and T(E), p. 5719; P 01717 under seal, pp. 151 and 152; 3D 00366; P 04511, p. 1; P 04573, p. 2; Cedric Thornberry, T(F), pp. 26166-26173, 26206-26208; P 10041, paras 62 and 65; P 10039, paras 7-10.

¹¹⁵⁹ Witness BJ, T(F), pp. 5592-5594, 5597, 5721-5724 and T(E), p. 5719, P 01717 under seal, pp. 151 and 152; Cedric Thornberry, T(F), pp. 26167, 26168, 26206-26209; P 10041, para. 65; 3D 00366.

allowing her to cross the checkpoints and enter East Mostar to evacuate the children and the sick.¹¹⁶⁰ On 19 September 1993, Slobodan Praljak ordered all of the OZs and all the units subordinated to the Main Staff to execute the order of Mate Boban dated 15 September 1993,¹¹⁶¹ charging the HVO Main Staff with the responsibility of implementing his decision requiring HVO armed forces to allow unobstructed access for humanitarian aid brought in by the UNHCR, UNICEF and the ICRC throughout the territory of the HZ(R) H-B.¹¹⁶² Pursuant to an order dated 26 September 1993, Slobodan Praljak urged the South-East and North-West OZs and independent units to allow the humanitarian organisations to carry out their work and not to open fire when the organisations were in their zones of responsibility.¹¹⁶³

589. However, on 31 July 1993, Slobodan Praljak issued an order to four OZs and professional units demanding that the humanitarian convoys be systematically searched and then escorted along approved routes.¹¹⁶⁴ Furthermore, according to an ECMM report dated 17 August 1993, during a meeting with the ECMM, Slobodan Praljak stated that the HVO would stop at nothing to defeat the Muslims, including "the blocking of all aid during the winter" – nevertheless, neither the report nor the testimony of *Philip Watkins* were able to further elucidate the nature of the aid in question.¹¹⁶⁵

590. This evidence does not show that Slobodan Praljak followed through with this threat. Based on this evidence, the Chamber cannot find that Slobodan Praljak participated in hindering the arrival of humanitarian aid to Mostar or that he was aware that the HVO authorities were hindering its arrival.

¹¹⁶⁰ 3D 00673. *See also* P 04470.

¹¹⁶¹ P 05104.

¹¹⁶² 3D 00915.

¹¹⁶³ P 05402.

¹¹⁶⁴ P 03835. During examination (Slobodan Praljak, T(F), p. 44598), Slobodan Praljak stated that he was the source of order issued on 2 August 1993 by Tihomir Blaškić, commander of the Central Bosnia OZ, addressed to all the subordinated brigades, independent units and artillery battalions, demanding that humanitarian convoys in fact be systematically searched and issued with a certificate detailing the results of the search. The order specified, furthermore, that the searches were to be performed at HVO checkpoints and at the entrance to the Central Bosnia OZ (P 03885, pp. 1 and 2).

¹¹⁶⁵ P 04272 under seal, p. 1; P 04256, p. 1; Philip Watkins, T(F), pp. 18809, 19123-19124. *See also* P 05356, p. 2.

d) Municipality of Vareš

591. The Chamber recalls that on 23 October 1993, Slobodan Praljak issued an order to Milivoj Petković, Mario Bradara, Ivica Rajić, Dario Kordić and Tihomir Blaškić "to sort out the situation in Vareš showing no mercy to anyone" with men who are "up [...] to the tasks",¹¹⁶⁶ and that it found by a majority, with Judge Antonetti dissenting, that this order by Slobodan Praljak was received by HVO forces present in the Municipality of Vareš and interpreted as allowing them to act with brutality from at least 0200 or 0300 hours on 24 October 1993.¹¹⁶⁷

592. On 25 October 1993, in executing the order dated 23 October 1993 issued by Slobodan Praljak to various HVO officers in Kiseljak and Vitez, Ivica Rajić ordered the *Bobovac* Brigade to control the entry and exit checkpoints in Vareš located in its zone of responsibility.¹¹⁶⁸ The Chamber noted that HVO forces obstructed access for UNPROFOR to Stupni Do village between 23 and 25 October 1993.¹¹⁶⁹

593. Lastly, the Chamber notes that on 5 November 1993, Slobodan Praljak issued an order to Tihomir Blaškić and Ivica Rajić for the purpose of organising the defence of Vareš.¹¹⁷⁰

594. The Chamber deems that the evidence shows that Slobodan Praljak participated in planning and directing HVO operations in Vareš in October 1993.

595. The Chamber notes, furthermore, that the key members of the HR H-B government, including Jadranko Prlić, Slobodan Praljak and Mate Boban, were present at a meeting held in Split on 5 November 1993, which Franjo Tuđman and other Croatian leaders also attended and during which, amongst other issues, the possible consequences of the events in Stupni Do were analysed, including the involvement of Ivica Rajić and HVO troops in these events, which had become public knowledge.¹¹⁷¹ During this meeting, Milivoj Petković¹¹⁷² explained that on 25 October 1993, he received a report from the HVO that the HVO troops had killed approximately 80 people, of whom

¹¹⁶⁶ Witness EA, T(F), pp. 24427-24434, closed session; P 06028; P 06051; P 10330 under seal, para. 16; P 09813; *See* "Order of Slobodan Praljak dated 23 October 1993" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹¹⁶⁷ *See* "Slobodan Praljak's Order of 23 October 1993" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹¹⁶⁸ Witness EA, T(F), pp. 24577-24578, 24608-24610 and T(E), p. 24884, closed session; P 06114 under seal; P 06028.

¹¹⁶⁹ *See* "Restrictions Imposed on Access by UNPROFOR to Stupni Do" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹¹⁷⁰ P 06440.

¹¹⁷¹ P 06454, pp. 57-60, 72 and 73.

¹¹⁷² The Chamber notes that pages 58 et seq. of transcript P 06454 attribute this part to a person named Pratković. However, the Chamber considers that this is an error and that the person speaking is in fact Milivoj Petković insofar as the activities he mentions correspond exactly to those of Milivoj Petković for the period 23 to 25 October 1993; *See* "Sequence of the Criminal Events" in the Chamber's factual findings with regard to the Municipality of Vareš.

47 were members of the ABiH, and had set fire to practically all the property in the village, and that he had asked for an investigation to be launched.¹¹⁷³ Consequently, Slobodan Praljak was informed of the murders of people who did not belong to any armed force and the destruction of property belonging to the Muslim population in Stupni Do no later than 5 November 1993.

596. Furthermore, pursuant to an order from Slobodan Praljak signed by Milivoj Petković and dated 8 November 1993,¹¹⁷⁴ two reports dated 8 and 15 November 1993 were submitted by Ivica Rajić to Milivoj Petković.¹¹⁷⁵ The Chamber notes the testimony of *Witness EA*, according to whom the reports of 8 and 15 November 1993 signed by Ivica Rajić were in fact submitted to him for signing for the sole purpose of having the international community believe that the HVO was investigating the crimes that were committed.¹¹⁷⁶ Accordingly, according to the report of 8 November 1993, two members of the special units, Franjo Bokulić, a member of the *Apostoli* special unit, and Zoran Filipović, a member of the *Maturice* special unit, ignored the orders of their commanders during the operation in Stupni Do when they opened fire on the civilians in houses in Stupni Do village.¹¹⁷⁷ Nevertheless, *Witness EA* stated that Franjo Bokulić had been shot before even entering the village and thus never had an opportunity to shoot "civilians".¹¹⁷⁸ On the basis of all the evidence regarding the events that occurred in the Municipality of Vareš, including the oral evidence of *Witness EA*, the Chamber found that the HVO intended to deceive the international community and make it believe that investigations were underway into the crimes committed by the HVO members in Stupni Do in October 1993.¹¹⁷⁹ The Chamber finds that by his order of 8 November 1993, Slobodan Praljak contributed to the HVO's efforts to conceal their responsibility for the crimes in Stupni Do.

597. Slobodan Praljak contributed to planning and directing the HVO operations in Vareš. He was later informed of some of the crimes committed by the HVO members during these campaigns – murders of Muslims who did not belong to any armed force and the destruction of property – and, by signing the order of 8 November 1993, contributed to the HVO's efforts to conceal these crimes. As a result of what has been set out above, the Chamber finds that Slobodan Praljak contributed to the murders of Muslims who did not belong to any armed force and to the destruction of property in Stupni Do in October 1993 by facilitating these crimes.

¹¹⁷³ P 06454, p. 59.

¹¹⁷⁴ Slobodan Praljak, T(F), p. 42211; 4D 00834.

¹¹⁷⁵ P 06519. *See* also Ivan Bandić, T(F), p. 38319; P 06671.

¹¹⁷⁶ *Witness EA*, T(F), pp. 24497-24500, 24507-24509, 24716, 24515-24519, 24717, 24772, 24773, 24864, 24948 and 24949, closed session; P 06038; P 06671.

¹¹⁷⁷ *Witness EA*, T(F), pp. 24513, 24515 and 24519, closed session; P 06519, p. 8; P 06671, p. 4.

¹¹⁷⁸ *Witness EA*, T(F), pp. 24513 and 24515, closed session; P 06519, p. 8.

598. The evidence does not support a finding as to whether Slobodan Praljak was informed of the crimes committed in the town of Vareš such as mistreatment.

e) Detention Centres

599. Generally and with respect to all of the HVO detention centres, the Chamber notes that in a newspaper article published in Croatia in 1997, Slobodan Praljak not only acknowledged that the HVO detention centres existed at the time he joined the HVO Main Staff command but also acknowledged that the conditions of confinement in these centres did not conform to international standards.¹¹⁸⁰

600. Furthermore, on 19 September 1993, Slobodan Praljak forwarded the order issued by Mate Boban on 15 September 1993 calling on all components of the HZ H-B armed forces to adhere to the Geneva Conventions in HVO prisons and detention centres and to allow the ICRC "unimpeded" access to the detention centres holding "prisoners of war".¹¹⁸¹

601. The Chamber will examine the evidence related to Slobodan Praljak's responsibility between 24 July 1993 and 9 November 1993 in (i) Gabela Prison, (ii) Dretelj Prison and the Heliodrom.

i. Gabela Prison

602. During an interview given as part of the undated documentary "The Death of Yugoslavia", *Slobodan Praljak* stated that he personally issued orders for Gabela Prison to be reorganised so that the detainees would receive water, food, mattresses and be able to wash, in accordance with the laws of war.¹¹⁸²

603. According to *Slobodan Praljak*, on 1 September 1993, while he was in Grude, he was contacted by Mira Ivanisević, a Croatian woman from Split, who informed him that she was accompanying a German crew from the German ZDF television station that wanted to visit either Gabela or Dretelj Prison but were being denied access.¹¹⁸³ That same day, Slobodan Praljak sent out an order by fax authorising the ZDF television crew to enter Gabela Prison.¹¹⁸⁴ *Slobodan Praljak*

¹¹⁷⁹ See "Information and Investigative Procedures Ordered by the HVO and Absence of Legal Prosecution" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹¹⁸⁰ P 08765, p. 9.

¹¹⁸¹ 3D 00915, pp. 3-5. See also P 05188.

¹¹⁸² P 09470, p. 2. See also *Slobodan Praljak*, T(F), p. 44337.

¹¹⁸³ *Slobodan Praljak*, T(F), p. 40918.

¹¹⁸⁴ 3D 00141; *Slobodan Praljak*, T(F), pp. 40918 and 40919; Peter Galbraith, T(F), pp. 6537-6540; Edward Vulliamy, T(F), pp. 1639 and 1640.

explained that he did not have an opportunity to view the footage recorded by the television station crew in the said prison.¹¹⁸⁵ *Slobodan Praljak* added that on 6 September 1993 he authorised a journalist from *Globus* magazine to visit the Gabela Prison but that the guards prevented the journalist from entering.¹¹⁸⁶ The journalist then addressed the same request, with more success, to Žarko Tole, the chief of the Main Staff, who provided him with an entry permit.¹¹⁸⁷ *Slobodan Praljak* stated that a few days later he saw the published photos in the press of thin-looking men who had lost significant weight, but that at the time he did not consider the situation to be very serious.¹¹⁸⁸

604. *Slobodan Praljak* then stated that when the images filmed by ZDF inside Gabela Prison were broadcast, they caused quite a scandal; that other international representatives then requested access to detention centres in the HR H-B and that Franjo Tuđman intervened to attempt to improve the situation in the HVO detention centres by dispatching Mate Granić there and convening meetings.¹¹⁸⁹

605. Despite all this, *Slobodan Praljak* stated that he did not know anything about the conditions of confinement and the treatment of detainees in the detention centres of the HZ(R) H-B.¹¹⁹⁰

606. He also testified that when Mate Boban ordered that the HVO detention centres be brought in line with international legal standards, he did nothing about this because the implementation of this order fell under the jurisdiction of other HZ(R) H-B authorities and that, in any case, he did not have the means to act.¹¹⁹¹

607. The Chamber recalls that on 6 September 1993, Peter Galbraith¹¹⁹² intervened with Mate Granić to get the Croatian authorities to ask the BiH Croats to grant the ICRC immediate access to all the HVO camps detaining BiH Muslims.¹¹⁹³ At this meeting, Mate Granić informed Peter Galbraith that Franjo Tuđman was about to send a letter to Mate Boban demanding that the BiH Croats respect international humanitarian law.¹¹⁹⁴ *Edward Vulliamy* explained that he was aware of

¹¹⁸⁵ *Slobodan Praljak*, T(F), pp. 40918 and 40919.

¹¹⁸⁶ *Slobodan Praljak*, T(F), pp. 40917 and 40919. *See also* Peter Galbraith, T(F), pp. 6537-6540.

¹¹⁸⁷ *Slobodan Praljak*, T(F), p. 40919.

¹¹⁸⁸ *Slobodan Praljak*, T(F), p. 40919.

¹¹⁸⁹ *Slobodan Praljak*, T(F), pp. 44327-44333. *See also* Peter Galbraith, T(F), pp. 6537-6540.

¹¹⁹⁰ *Slobodan Praljak*, T(F), pp. 44331-44333.

¹¹⁹¹ *Slobodan Praljak*, T(F), p. 44330.

¹¹⁹² United States Ambassador to Croatia from 24 June 1993 to 3 January 1998: Peter Galbraith, T(F), pp. 6424 and 6425.

¹¹⁹³ P 09507 under seal, pp. 1 and 2.

¹¹⁹⁴ P 09507 under seal, pp 1 and 2; Peter Galbraith, T(F), p. 6507.

a letter published in the newspaper *Slobodna Dalmacija*,¹¹⁹⁵ that was dated 6 September 1993,¹¹⁹⁶ written by President Tuđman and addressed to Mate Boban on the subject of the application of international law and the Geneva Conventions in the camps.¹¹⁹⁷ On 10 September 1993, Mate Granić informed Peter Galbraith that the HVO had agreed to close all the detention centres in BiH, with the exception of the Heliodrom, Dretelj and "Čapljina", that the detainees in these three camps would be registered and that the ICRC would have daily access to them and, lastly, that the HVO had appointed two senior officials, one of them Vlado Pogacić, to oversee the welfare of the detainees.¹¹⁹⁸ On 15 September 1993, Mate Boban issued an order that HVO forces were to respect international humanitarian law.¹¹⁹⁹

608. The Chamber recalls, furthermore, that this order followed the usual chain of command as it was sent on 19 September 1993 by Slobodan Praljak to all OZs and to the chief of the Military Police Administration.¹²⁰⁰

609. In light of the foregoing, the Chamber deems that, from at least September 1993, Slobodan Praljak had to have known that the conditions of confinement in Gabela Prison were problematic enough to elicit a reaction from the international community and bring about the direct intervention of Franjo Tuđman. Moreover, contrary to his testimony, Slobodan Praljak did indeed intervene further to an order of Mate Boban dated 15 September 1993 insofar as he forwarded the order through the chain of command of the HVO armed forces on 19 September 1993.¹²⁰¹

610. The Chamber found that the conditions of confinement in Gabela Prison were still poor when Slobodan Praljak left his duties at the HVO Main Staff in early November 1993.¹²⁰²

¹¹⁹⁵ This letter, which was drafted in BCS, was translated for Witness *Edward Vulliamy* by a correspondent of the *Daily Telegraph* who had lived several years in Belgrade, T(F), p. 1560. Subsequently, Witness *Edward Vulliamy* read the letter in English in a press release, T(F), pp. 1561-1562. *See also* P 09497.

¹¹⁹⁶ Edward Vulliamy, T(F), p. 1639.

¹¹⁹⁷ Edward Vulliamy, T(F), pp. 1556-1562.

¹¹⁹⁸ P 09508 under seal, p. 1; Peter Galbraith, T(F), p. 6508.

¹¹⁹⁹ P 05104.

¹²⁰⁰ 3D 00915. This order was sent by Tihomir Blaškić, commanding officer of the Central Bosnia OZ on 19 September 1993 to all of the HVO Brigades that were part of the Central Bosnia OZ and all of the independent units in the OZ, as well as by Miljenko Lasić, commanding officer of the South-East OZ, specifically to the North Sector, the South Sector and the Mostar Defence Sector. *See in this respect:* 3D 01104; 4D 01067; Slobodan Praljak, T(F), p. 40779.

¹²⁰¹ 3D 00915, pp. 3-5. *See also* P 05188.

¹²⁰² *See* "Conditions of Confinement at Gabela Prison" in the Chamber's factual findings with regard to the Gabela Prison.

611. In light of the foregoing, it is evident to the Chamber that the fact that Slobodan Praljak facilitated access for journalists to Gabela Prison and the fact that he forwarded Mate Boban's letter dated 15 September 1993 do not constitute a real effort on his part to remedy the poor conditions since they continued to exist. On the contrary, although after the visits of these journalists everything indicated that the situation in this detention centre was bad, Slobodan Praljak did not react and claimed that the management of the detention centres did not fall under his authority. Since Slobodan Praljak continued carrying out his functions within the HZ(R) H-B armed forces all the while knowing that conditions of confinement at Gabela Prison were bad enough to elicit a strong reaction from the international community and bring about the direct intervention of Franjo Tuđman, the Chamber infers that Slobodan Praljak accepted these crimes.

ii. Dretelj Prison

612. Following the publication of the letter on 6 September 1993 in the newspaper *Slobodna Dalmacija*,¹²⁰³ Edward Vulliamy, a journalist from the *Guardian*,¹²⁰⁴ returned to Grude in September 1993 to request permission to visit Dretelj Prison, which was granted to him by Slobodan Praljak.¹²⁰⁵ He then went to Dretelj Prison¹²⁰⁶ with a document signed by Slobodan Praljak and met with the warden of Dretelj Prison, Tomislav Šakota,¹²⁰⁷ who accompanied him during his visit of the prison.¹²⁰⁸

613. On 24 September 1993, Slobodan Praljak stated to the ECMM that he was aware that Dretelj Prison was "a bad thing".¹²⁰⁹ Furthermore, he testified before the Chamber that in September 1993 he asked the Čapljina barracks to send mattresses to Dretelj Prison because he had read in *Globus* magazine that the detainees were sleeping on the floor.¹²¹⁰

614. The Chamber deems that this evidence proves that Slobodan Praljak was at least aware that the conditions of confinement in Dretelj Prison were poor. Insofar as he continued carrying out his functions in the HZ(R) H-B armed forces without making any real effort to remedy the conditions, the Chamber infers that he accepted these crimes.

¹²⁰³ Edward Vulliamy, T(F), p. 1639. This letter, which was drafted in BCS, was translated for Witness *Edward Vulliamy* by a correspondent of the *Daily Telegraph* who had lived several years in Belgrade, T(F), p. 1560. Subsequently, Witness *Edward Vulliamy* read the letter in English in a press release, T(F), pp. 1561-1562. See also P 09497.

¹²⁰⁴ Edward Vulliamy, T(F), pp. 1492 and 1493.

¹²⁰⁵ Edward Vulliamy, T(F), pp. 1563-1564, 1638 and 1712.

¹²⁰⁶ See P 08761. See also 1C 00006, IC 00007 and Edward Vulliamy, T(F), pp. 1585-1591.

¹²⁰⁷ Edward Vulliamy, T(F), p. 1565. For the position of Tomislav Šakota see also "Management of Dretelj Prison" in the Chamber's factual findings with regard to the Dretelj Prison.

¹²⁰⁸ Edward Vulliamy, T(F), p. 1566.

iii. The Heliodrom

615. The Chamber established by a majority, with Judge Antonetti dissenting, that on 8 November 1993 Slobodan Praljak co-signed an order authorising the 2nd HVO Brigade to use 40 detainees from the Heliodrom to clean streets and parks.¹²¹¹ However, the Chamber does not have evidence that Slobodan Praljak knew that the detainees in this centre were taken to the front line to do forced labour.

616. In light of the foregoing, the Chamber cannot find any contribution by Slobodan Praljak to the use of Heliodrom detainees to do work on the front line.

3. Slobodan Praljak Denied that Crimes Were Committed Against the Muslims and Failed to Prevent or Punish Them

617. Paragraph 17.3 (n) of the Indictment alleges that Slobodan Praljak participated significantly in the commission of the crimes by the HVO against the BiH Muslims by facilitating, encouraging and condoning these crimes, by failing to prevent them from being committed and punishing the perpetrators, and by commending and promoting the HVO soldiers who played a role in such crimes.

618. In its Final Trial Brief, the Praljak Defence argues that Slobodan Praljak neither awarded nor promoted soldiers who he knew, or had reason to know, had committed crimes and that, furthermore, Slobodan Praljak informed his subordinates that perpetrators of the crimes would be punished.¹²¹² In its closing arguments, the Praljak Defence denies that Slobodan Praljak ever condoned or supported the crimes committed against the Muslims and points out that the Prosecution did not provide any proof that crimes were committed under orders of Slobodan Praljak.¹²¹³

619. In view of his authority in this sphere, the Chamber will analyse Slobodan Praljak's conduct with respect to the crimes committed in order to establish (a) the degree to which he condoned the crimes and (b) the degree to which he prevented or failed to prevent these crimes from being committed and to punish the perpetrators.

¹²⁰⁹ P 05356 under seal, p. 3.

¹²¹⁰ Slobodan Praljak, T(F), p. 40920.

¹²¹¹ See "Authorities that Authorised Use of Heliodrom Detainees for Forced Labour" in the Chamber's factual findings with regard to the Heliodrom. As a reminder, see P 06937.

¹²¹² Praljak Defence Final Trial Brief, para. 100.

¹²¹³ Closing Arguments by the Praljak Defence, T(F), pp. 52491 and 52492.

a) Slobodan Praljak Condoned the Crimes Against the BiH Muslims

620. The Chamber notes that on 24 September 1993, Slobodan Praljak sent a message to the HVO troops in which he gave them an overview of the situation in Mostar and congratulated them on the combat waged.¹²¹⁴ The Chamber deems that by congratulating the HVO troops deployed in Mostar while knowing that the HVO members were committing crimes against the Muslims in this town,¹²¹⁵ Slobodan Praljak facilitated the commission of these crimes against the Muslims of Mostar.

b) Slobodan Praljak Failed to Prevent the Crimes Against the Muslims and to Punish the Perpetrators

621. The Chamber recalls that when the 2nd Norbat Battalion received an order on 23 October 1993 to enter Stupni Do village to investigate the allegations of a massacre of the civilian population, the *Bobovac* Brigade hindered Norbat's efforts to enter Stupni Do village on 23 and 24 October 1993¹²¹⁶ by erecting barricades, by placing mines at HVO checkpoints located around the village and by opening fire at UNPROFOR vehicles;¹²¹⁷ that following a report from Ivica Rajić sent on 24 October 1993 to the HVO Main Staff in which he specified that unless the HVO withdrew, his forces would "intervene", Žarko Tole, the head of the Main Staff, ordered him, in response, to deploy HVO anti-tank weapons around the UNPROFOR vehicles and warn them that the HVO "would destroy them if they rendered inoperative [HVO] actions in fighting" the ABiH forces;¹²¹⁸ that on 25 October 1993, in implementing an order dated 23 October 1993 sent by Slobodan Praljak to various HVO officers in Kiseljak and Vitez, Ivica Rajić ordered the *Bobovac* Brigade to take control of the entry and exit checkpoints in Vareš in its zone of responsibility,¹²¹⁹ and that, therefore, the HVO forces prevented UNPROFOR from entering Stupni Do village between 23 and 25 October 1993. It was not until 25 October 1993, under pressure from the international community, that Milivoj Petković allowed UNPROFOR access to Stupni Do.¹²²⁰ On

¹²¹⁴ See "Slobodan Praljak Condoned the Crimes Against the BiH Muslims" in the Chamber's factual findings with regard to Slobodan Praljak's responsibility under the JCE; see also P 05365.

¹²¹⁵ See above "Mostar Municipality" in the Chamber's factual findings with regard to Slobodan Praljak's responsibility under the JCE.

¹²¹⁶ Nelson Draper, T(F), pp. 16459 and 16460; Hakan Birger, T(F), p. 16328; P 02980, pp. 14 and 15; P 10084, para. 4; P 06053, pp. 3 and 4; P 06055, under seal, p. 1; P 07838/P 07840, para. 7.

¹²¹⁷ Nelson Draper, T(F), pp. 16459, 16460, 16501, 16502, 16594; P 06251, p. 11; Ferida Likić, T(F), p. 16247; P 02980, pp. 14 and 15; P 06251, p. 11; P 07838/P 07840, paras 7 and 12; P 06122, p. 1; P 06140, pp. 2 and 4; P 06182, p. 1; P 10090, para. 32; Hakan Birger, T(F), p. 16328; P 10084, para. 4.

¹²¹⁸ Prosecution Pre-Trial Brief, para. 214.1, referring to P 06067.

¹²¹⁹ Witness EA, T(F), pp. 24577 and 24578, 24608-24610 and T(E), p. 24884, closed session; P 06114, under seal; P 06028.

¹²²⁰ See "Restrictions Imposed on Access by UNPROFOR to Stupni Do" in the Chamber's factual findings with regard to the Municipality of Vareš.

the basis of this evidence, the Chamber finds that although Slobodan Praljak knew UNPROFOR was seeking access to Stupni Do following the allegations of crimes, he ordered that such access be prevented. It infers from this that in doing so, Slobodan Praljak sought to prevent UNPROFOR from uncovering the consequences of the HVO operations in Stupni Do.

622. The Chamber notes that on 6 November 1993, Slobodan Praljak sent a letter to Angus Ramsay, commander of UNPROFOR, explaining that the HVO would do its best to identify the perpetrators of the crimes in Stupni Do, but that it would perhaps be difficult to do so.¹²²¹

623. However, pursuant to an order from Slobodan Praljak signed on behalf of Milivoj Petković and dated 8 November 1993,¹²²² two reports dated 8 and 15 November 1993 were submitted by Ivica Rajić to Milivoj Petković.¹²²³ The Chamber notes the testimony of *Witness EA*, according to whom the reports of 8 and 15 November 1993, signed by Ivica Rajić, were in fact submitted to him for signature for the sole purpose of making the international community believe that the HVO was investigating the crimes that were committed.¹²²⁴ Accordingly, the report of 8 November 1993 states that two members of the special units, Franjo Bokulić, a member of the *Apostoli* special unit, and Zoran Filipović, a member of the *Maturice* special unit, ignored the orders of their commanders during the operation in Stupni Do when they opened fire on civilians in houses in Stupni Do village.¹²²⁵ However, *Witness EA* stated that Franjo Bokulić had been shot even before entering the village and thus never had the opportunity to shoot "civilians".¹²²⁶ The Chamber deems that by asking Ivica Rajić to draft reports intended to make the international community believe that an investigation into the crimes committed by HVO members in Stupni Do was underway, Slobodan Praljak contributed to concealing these crimes despite his knowing about some of them.

4. Findings of the Chamber with Regard to Slobodan Praljak's Responsibility Under JCE 1

624. In view of the above findings, the Chamber is satisfied beyond reasonable doubt that between the autumn of 1992 and 9 November 1993, Slobodan Praljak had significant *de facto* and subsequently *de jure* and *de facto* authority over the HZ(R) H-B armed forces and the Military Police and that he exercised these powers. As the evidence shows, Slobodan Praljak made decisions

¹²²¹ P 06481.

¹²²² Slobodan Praljak, T(F), p. 42211. *See also* 4D 00834.

¹²²³ P 06519. *See also* Ivan Bandić, T(F), p. 38319; P 06671.

¹²²⁴ *Witness EA*, T(F), pp. 24497-24500, 24507-24509, 24716, 24515-24519, 24717, 24772, 24773, 24864, 24948 and 24949, closed session; P 06038; P 06519; P 06671.

¹²²⁵ *Witness EA*, T(F), pp. 24513, 24515 and 24519, closed session; P 06519, p. 8; P 06671, p. 4.

¹²²⁶ *Witness EA*, T(F), pp. 24513 and 24515, closed session. *See* "Information and Investigative Procedures Ordered by the HVO and Absence of Legal Prosecution" in the Chamber's factual findings with regard to the Municipality of Vareš.

regarding the HVO military operations and had them carried out through the chain of command of the armed forces. Moreover, Slobodan Praljak was a conduit between Croatia and the HVO government. He thus participated in forwarding instructions and policies from Croatia to the HZ(R) H-B and vice-versa, and facilitated obtaining military and logistical support from Croatia to the HVO.

625. As it established above, the Chamber notes that Slobodan Praljak was informed of the crimes committed by the members of the HZ(R) H-B armed forces primarily through HVO internal communication channels. Despite knowing this, he continued to exercise effective control over the armed forces and the Military Police until the end of his functions as commander of the HVO Main Staff. The Chamber deems that the only reasonable inference it can draw from the fact that Slobodan Praljak participated in the planning of the HVO military operations in Prozor during the summer of 1993, in Mostar during the summer of 1993, and then in Vareš in October 1993, and that he continued to exercise control over the armed forces while knowing that its members were committing crimes in other municipalities in BiH, is that he intended to have these crimes committed.

626. Moreover, despite his authority over the armed forces and the Military Police, Slobodan Praljak did not make any serious efforts to stop them from committing crimes, as is shown by the aforementioned evidence. On the contrary, he denied that crimes had been committed against the Muslims and facilitated the failure to prosecute the perpetrators of these crimes, as shown by his request to Ivica Rajić to draft reports whose purpose was to make the international community believe that the crimes committed by the HVO members in Stupni Do were being investigated.

627. In view of all the evidence analysed above, the Chamber deems furthermore that the only inference it can reasonably draw is that Slobodan Praljak intended to expel the Muslim population from the HZ(R) H-B. As it specified above, Slobodan Praljak shared this intention with other members of the JCE, notably members of the HVO/HZ(R) H-B government and chiefs and commanders of the HVO Main Staff.

628. With regard to his contribution to implementing the common criminal purpose, the Chamber considers that the evidence shows beyond a reasonable doubt that it was significant. By controlling the HVO armed forces and the Military Police and by serving as a link between Croatia and the HZ(R) H-B, Slobodan Praljak was one of the most important members of the JCE. As a member of this JCE, he used the armed forces and the Military Police to commit crimes that formed part of the common criminal purpose, and the actions of the armed forces and the Military Police are attributable to him. Moreover, the Chamber deems that all of the evidence analysed above proves

that Slobodan Praljak knew that these crimes were being committed against the Muslims with the sole aim of forcing them to leave the territory of Herceg-Bosna. The Chamber deems that by participating in the JCE, Slobodan Praljak had the intention to discriminate against the Muslims in order to facilitate their eviction from these territories.

629. With respect to Slobodan Praljak's knowledge of the factual circumstances that allowed the Chamber to find by a majority, with Judge Antonetti dissenting, that there was an international armed conflict between the HVO/HV and the ABiH, the evidence shows that Slobodan Praljak was not only informed of the HVO's military operations against the ABiH but that he also participated in planning some of them, notably in Mostar. Slobodan Praljak therefore knew that an armed conflict between the HVO and the ABiH was taking place. Furthermore, the evidence shows that Slobodan Praljak was aware of Croatia's participation in the conflict between the HVO and the ABiH in BiH and facilitated it. Consequently, the Chamber considers that he knew that this conflict was international in nature.

630. In light of the foregoing and further to the counts it retained for the acts described above, the Chamber is satisfied beyond reasonable doubt that Slobodan Praljak is criminally responsible – by virtue of his participating in a JCE¹²²⁷ – for having committed the following crimes:

Municipality of Gornji Vakuf:

Count 1: Persecutions on political, racial and religious grounds under Article 5 of the Statute.

Count 2: Murder under Article 5 of the Statute.

Count 3: Wilful killing under Article 2 of the Statute.

Count 8: Inhumane acts (forcible transfer) under Article 5 of the Statute.

Count 9: Unlawful transfer of a civilian under Article 2 of the Statute.

Count 10: Imprisonment under Article 5 of the Statute.

Count 11: Unlawful confinement of a civilian under Article 2 of the Statute.

Count 15: Inhumane acts under Article 5 of the Statute.

¹²²⁷ Judge Antonetti dissents as to the modes of responsibility – participation in a JCE – held by the majority of the Chamber. Nevertheless, he considers that the evidence supports a finding that Slobodan Praljak was responsible for the crimes under the counts listed in this paragraph by virtue of other modes of responsibility provided for in the Statute, as he sets out in his separate and partially dissenting opinion attached to this Judgement.

Count 16: Inhuman treatment under Article 2 of the Statute.

Count 17: Cruel treatment under Article 3 of the Statute.

Count 19: Extensive destruction of property not justified by military necessity and carried out unlawfully and wantonly under Article 2 of the Statute.

Count 20: Wanton destruction of cities, towns and villages or devastation not justified by military necessity under Article 3 of the Statute.

Municipality of Prozor:

Count 1: Persecutions on political, racial and religious grounds under Article 5 of the Statute.

Count 8: Inhumane acts (forcible transfer) under Article 5 of the Statute.

Count 9: Unlawful transfer of a civilian under Article 2 of the Statute.

Count 10: Imprisonment under Article 5 of the Statute.

Count 11: Unlawful confinement of a civilian under Article 2 of the Statute.

Count 18: Unlawful labour under Article 3 of the Statute.

Municipality of Mostar:

Count 1: Persecutions on political, racial and religious grounds under Article 5 of the Statute.

Count 2: Murder under Article 5 of the Statute.

Count 3: Wilful killing under Article 2 of the Statute.

Count 6: Deportation under Article 5 of the Statute.

Count 7: Unlawful deportation of a civilian under Article 2 of the Statute.

Count 8: Inhumane acts (forcible transfer) under Article 5 of the Statute.

Count 9: Unlawful transfer of a civilian under Article 2 of the Statute.

Count 15: Inhumane acts under Article 5 of the Statute.

Count 16: Inhuman treatment under Article 2 of the Statute.

Count 17: Cruel treatment under Article 3 of the Statute.

Count 20: Wanton destruction of cities, towns and villages or devastation not justified by military necessity under Article 3 of the Statute.

Count 21: Destruction or wilful damage to institutions dedicated to religion or education under Article 3 of the Statute.

Count 24: Unlawful attack on civilians under Article 3 of the Statute.

Count 25: Unlawful infliction of terror on civilians (Mostar) under Article 3 of the Statute.

Municipality of Vareš

Count 1: Persecutions on political, racial and religious grounds under Article 5 of the Statute.

Count 2: Murder under Article 5 of the Statute.

Count 3: Wilful killing under Article 2 of the Statute.

Count 19: Extensive destruction of property not justified by military necessity and carried out unlawfully and wantonly under Article 2 of the Statute.

Count 20: Wanton destruction of cities, towns and villages or devastation not justified by military necessity under Article 3 of the Statute.

Gabela Prison:

Count 1: Persecutions on political, racial and religious grounds under Article 5 of the Statute.

Count 12: Inhumane acts (conditions of confinement) under Article 5 of the Statute.

Count 13: Inhuman treatment (conditions of confinement) under Article 2 of the Statute.

Count 14: Cruel treatment (conditions of confinement) under Article 3 of the Statute.

Dretelj Prison:

Count 1: Persecutions on political, racial and religious grounds under Article 5 of the Statute.

Count 12: Inhumane acts (conditions of confinement) under Article 5 of the Statute.

Count 13: Inhuman treatment (conditions of confinement) under Article 2 of the Statute.

Count 14: Cruel treatment (conditions of confinement) under Article 3 of the Statute.

631. Insofar as Slobodan Praljak committed these crimes with the aim of furthering the common criminal purpose, he is held responsible not only for the crimes set out above but for all of the crimes forming part of the common criminal plan.

D. Slobodan Praljak's Responsibility Under JCE 3

632. The Chamber established that the murders, sexual abuse and the thefts committed during the eviction operations, the destruction of institutions dedicated to religion in the Municipality of Jablanica in April 1993, and the murders that resulted from poor conditions of confinement and the violence inflicted on the Muslim detainees in the detention centres were not part of the common criminal purpose. Consequently, the Chamber will analyse whether Slobodan Praljak could reasonably have foreseen that these crimes, despite their falling outside the scope of this purpose, would be committed and took the risk.

1. Thefts in the Municipality of Gornji Vakuf

633. The Chamber recalls that Slobodan Praljak planned, directed, facilitated and was kept informed of the HVO military operations in Gornji Vakuf around 18 January 1993.¹²²⁸

634. The Chamber recalls, moreover, that HVO members engaged in thefts following the operations in Hrasnica, Uzričje and Ždrimci.¹²²⁹

635. Insofar as the HVO military operations and the takeover of these localities unfolded in an atmosphere of extreme violence, the Chamber deems that Slobodan Praljak could have foreseen that the HVO members would commit thefts in these locations. Having planned and facilitated the HVO operations in Gornji Vakuf, the Chamber infers that Slobodan Praljak knowingly took the risk that thefts would take place.

¹²²⁸ See "Municipality of Gornji Vakuf" in the Chamber's findings with regard to Slobodan Praljak's responsibility under the JCE.

¹²²⁹ See "Allegations of Burned Houses and Theft of Muslim Property in the Village of Hrasnica"; "Allegations of Burned Houses and the Theft of Muslim Property in the Village of Uzričje" and "Burned Houses, Thefts of Muslim Property in the Village of Ždrimci and Burning of the Mekteb" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

2. Thefts in the Village of Raštani in the Municipality of Mostar

636. The Chamber recalls that Slobodan Praljak participated in directing and planning the HVO military operations in the Municipality of Mostar between July and November 1993, including in Raštani village.¹²³⁰

637. The Chamber recalls, furthermore, that during the HVO operations in Raštani village around 24 August 1993, HVO soldiers looted property belonging to Muslims in the village.¹²³¹

638. As the HVO military operations in and their takeover of this village unfolded in an atmosphere of extreme violence, the Chamber deems that Slobodan Praljak could have foreseen that the HVO members would commit acts of theft there. Having planned and facilitated HVO operations in Raštani, the Chamber infers that Slobodan Praljak knowingly took the risk that thefts would take place.

3. Thefts and Sexual Assaults in the Municipality of Vareš

639. The Chamber established that on 23 October 1993, during and after the attack on the village of Stupni Do, the members of the *Maturice* and/or *Apostoli* special units systematically stole property from the houses in the village and confiscated livestock, money, jewellery and other valuables.¹²³² The Chamber also found that during the arrests of the Muslim men by HVO soldiers, including some members of the *Maturice* special unit, in the town of Vareš on 23 October 1993, the soldiers stole property and money belonging to the Muslim inhabitants of the town.¹²³³

640. Moreover, the Chamber established that on 23 October 1993, a member of either the *Maturice* or *Apostoli* special unit forced a Muslim girl from Stupni Do village to have sexual relations; and that on 23 October and in the night of 24 to 25 October 1993, two Muslim women, *Witnesses DF* and *DG*, Muslim inhabitants of the town of Vareš, were subjected to sexual abuse by HVO members, some of whom belonged to the *Maturice* special unit.¹²³⁴

¹²³⁰ See "Municipality of Mostar" in the Chamber's findings with regard to Slobodan Praljak's responsibility under the JCE.

¹²³¹ See "Treatment of Muslim Women and Children during the Attack on the Village of Raštani" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹²³² See "Thefts, Burning and Destruction of Muslim Property and Houses in the Village of Stupni Do" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹²³³ See "Arrests of Muslim Men and Crimes Allegedly Committed during Arrests" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹²³⁴ See "Thefts and Sexual Abuse of the Muslim Population of Vareš" in the Chamber's factual findings with regard to the Municipality of Vareš" and "Municipality of Vareš" in the legal findings with regard to Count 4 (rape as a crime against humanity).

641. The Chamber recalls that Slobodan Praljak was informed of the murders of people who were not members of any armed force and of the destruction of property belonging to the Muslim population in Stupni Do no later than 5 November 1993.¹²³⁵ The Chamber also established that Slobodan Praljak was not informed of the crimes committed in the town of Vareš.¹²³⁶

642. The Chamber deems that even if Slobodan Praljak issued an order to "sort out the situation in Vareš showing no mercy to anyone" on 23 October 1993, an order that was received by the HVO forces present in the Municipality of Vareš on the morning of 24 October 1993, the vague nature of his order and his lack of knowledge about any crime committed in the town of Vareš and in Stupni Do on the date of the thefts and the sexual abuse do not enable the Chamber to establish that Slobodan Praljak had knowledge of the atmosphere of violence in the town of Vareš and in Stupni Do.

643. Consequently, the Chamber cannot find beyond reasonable doubt that Slobodan Praljak could have foreseen that members of the HVO would commit thefts and sexual abuse in the town of Vareš and in Stupni Do from 23 to 25 October 1993.

644. In light of the foregoing, the Chamber is satisfied beyond reasonable doubt that Slobodan Praljak is criminally responsible of having committed – by virtue of participating in a JCE 3 – the following crimes:

Municipality of Gornji Vakuf:

Count 22: Appropriation of property not justified by military necessity and carried out unlawfully and wantonly under Article 2 of the Statute.

Count 23: Plunder of public or private property under Article 3 of the Statute.

Municipality of Mostar:

Count 22: Appropriation of property not justified by military necessity and carried out unlawfully and wantonly under Article 2 of the Statute.

Count 23: Plunder of public or private property under Article 3 of the Statute.

¹²³⁵ See "Municipality of Vareš" in the Chamber's findings with regard to Slobodan Praljak's criminal responsibility.

¹²³⁶ See "Municipality of Vareš" in the Chamber's findings with regard to Slobodan Praljak's criminal responsibility.

IV. Milivoj Petković

645. The Prosecution alleges that Milivoj Petković participated in and furthered the JCE notably: by directing and commanding the HVO armed forces that conducted activities and actions to further the JCE; by participating in high-level meetings about establishing Croatian control over the territories of Herceg-Bosna which were attended by the HZ(R) H-B armed forces and leadership and by leaders of Croatia; by contributing to HZ(R) H-B dominance over the BiH Muslims and the perpetration of crimes against them by issuing orders, commands, directives, instructions and ultimatums; by planning, approving, preparing, supporting, ordering and/or directing military operations and actions during and within which crimes were committed; by mobilising the necessary resources to implement the political and military goals of the HZ(R) H-B leadership; by participating in the financial operations of the armed forces; by participating in the seizure of movable and immovable property and the transfer of their ownership to the HZ(R) H-B forces; by planning, approving, preparing, supporting, ordering and/or directing military operations and actions during and within which cultural and religious property was destroyed and the private property of BiH Muslims was looted, burned or destroyed and failing to prevent, punish, stop or redress such destruction and looting; by contributing to a system of mistreatment involving a network of prisons, concentration camps and other detention centres used to arrest, detain and imprison thousands of BiH Muslims in unlawful and harsh conditions, where they were killed, mistreated, beaten and abused; by controlling, authorising, facilitating, condoning and allowing the use of the BiH Muslims for forced labour during which many of them were killed or injured; by expelling BiH Muslims to other countries or transferring them to parts of BiH not claimed or controlled by the HZ(R) H-B forces; 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; by failing to ensure that HVO armed forces conducted themselves in accordance with the Geneva Conventions and international humanitarian law; by failing to prevent crimes against the Muslims and failing to punish the perpetrators, and commending, rewarding and promoting HVO officers and soldiers who committed or played a role in such crimes and by participating in and facilitating the concealment of crimes committed by Herceg-Bosna/HVO forces.¹²³⁷

646. In its Final Trial Brief, the Prosecution points out that not only was Milivoj Petković fully informed of the crimes committed by the HVO but that he also intended that these crimes be committed and significantly contributed to them by knowingly and intentionally participating in

¹²³⁷ Indictment, para. 17 (4).

virtually all parts of the JCE plan, practices and behaviour.¹²³⁸ As such, the Prosecution argues that he: played a key role in Herceg-Bosna's overall political and military policy, programme and strategy; directed armed forces whose stated mission was to "protect the sovereignty of the HZ H-B and defend its territorial integrity"; was the head of an army whose members took an oath that they would obey the commands of the Croatian Defence Council and "protect and defend [their] motherland of Herceg-Bosna, its sovereignty [and its] territorial integrity" and stated as early as 26 June 1992, when reporting to a group of Herceg-Bosna leaders, that "with the assistance of considerable [Croatian Army forces]", the HVO took control over "almost the entire territory of the Croatian municipalities", that four main tasks still awaited the HVO, including "putting under control the remaining area of Croatian municipalities" and "establish[ing] Croatian rule over all municipalities". The Prosecution notes that Milivoj Petković's statements at certain meetings and in a report dated 26 June 1992 clearly show the intention of the HVO, namely to put the municipalities claimed by Herceg-Bosna under Croatian control.¹²³⁹ Once again in late 1992, Milivoj Petković is alleged to have written in a report that the HVO now controlled "over 90% of the area mapped out as HZ H-B" and the Prosecution argues that this was very plainly a progress report on Herceg-Bosna and that he clearly knew what he was writing.¹²⁴⁰

647. The Petković Defence contends that the Prosecution failed to put forth evidence that would allow for a finding beyond reasonable doubt that Milivoj Petković shared any of the criminal purposes said to underlie the JCE and that, on the contrary, there was compelling evidence that would render such a finding completely unreasonable.¹²⁴¹ Consequently, it submits that during his rare public speeches, Petković called for peace and negotiations; that he sought to cooperate and build bridges with the ABiH; that his orders showed that his goal was not only to protect the Croats but also the Muslims living on the territory controlled by the HVO authorities; that he considered that the three constituent peoples of BiH should have equal rights; and that he used his authority to remind troops repeatedly of their obligations to abide by the laws of war and to protect civilians.¹²⁴²

648. As a preliminary matter, the Chamber notes that it will address only those events for which it has evidence that may be relevant for its analysis of Milivoj Petković's responsibility.

649. In order to determine whether Milivoj Petković participated significantly in the JCE, the Chamber will first determine (A) Milivoj Petković's functions during the period relevant to the

¹²³⁸ Prosecution Final Trial Brief, paras 861-876.

¹²³⁹ Prosecution Final Trial Brief, para. 864.

¹²⁴⁰ Prosecution Final Trial Brief, para. 869.

¹²⁴¹ Petković Defence Final Trial Brief, para. 537.

¹²⁴² Petković Defence Final Trial Brief, paras 537 (vi), 537 (v), 537 (vi), 537 (vii), 537 (viii) and 537 (ix).

Indictment and (B) Milivoj Petković's powers. It will then examine the evidence related to his responsibility under (C) JCE 1 and (D) JCE 3. Subsequently, the Chamber will examine Milivoj Petković's responsibility under other forms of responsibility provided for in the Statute.

A. The Functions of Milivoj Petković

650. Milivoj Petković, son of Jerko, was born on 11 October 1949 in Šibenik, Croatia.¹²⁴³

651. A former member of the JNA¹²⁴⁴ and a senior officer in the HV,¹²⁴⁵ between 21 January and 14 April 1992, Milivoj Petković was the head of operations and training in the HV operative zone in Split.¹²⁴⁶ On 16 April 1992, Milivoj Petković was appointed by Janko Bobetko¹²⁴⁷ to the HV forward command post in Grude together with Bruno Stojić.¹²⁴⁸ Milivoj Petković was appointed chief of the HVO Main Staff by Mate Boban on 14 April 1992.¹²⁴⁹ He remained at this position until 24 July 1993.¹²⁵⁰

652. When Slobodan Praljak arrived to take up the post of commander of the Main Staff on 24 July 1993, Milivoj Petković held the post of deputy commander of the HVO Main Staff.¹²⁵¹ Therefore, he acted as Slobodan Praljak's deputy, until 8 November 1993, and then Ante Roso's deputy until 26 April 1994.¹²⁵² Milivoj Petković was once again appointed chief of the HVO Main Staff from 26 April 1994 to 5 August 1994.¹²⁵³

¹²⁴³ Milivoj Petković, T(F), pp. 49279 and 49281; P 00043. See also *The Prosecutor v. Milivoj Petković*, Case No. IT-04-74-I, "Warrant of Arrest and Order for Surrender", under seal, 4 March 2004, p. 2; T(F), p. 2.

¹²⁴⁴ Milivoj Petković left the JNA on 25 April 1991 to join the HV: P 10336, pp. 2 and 3; Witness EA, T(E), p. 24312, closed session; Slobodan Praljak, T(F), pp. 41074, 41076 and 41077.

¹²⁴⁵ P 00146. Milivoj Petković was "released from active military service" after submitting such a request on 1 April 1992 for the purpose of joining the RBiH. P 10336, pp. 2-4. However, on 10 March 1993, Bruno Stojić submitted a request to Gojko Šušak, the Minister of Defence of Croatia, seeking a rank of senior officer for Milivoj Petković within the HV for having defended a large part of the HZ H-B territory. See Bruno Pinjuh, T(F), pp. 37344-37353; P 10517, p. 4; Decision of 7 September 2006, Adjudicated Fact no. 20 (*Blaškić* Judgement, para. 115); Petković Defence Final Trial Brief, para. 16.

¹²⁴⁶ P 10336, p. 2.

¹²⁴⁷ Commander of the HVO troops at the southern front. See P 00156.

¹²⁴⁸ P 00162.

¹²⁴⁹ Milivoj Petković, T(F), pp. 50499-50501, 50503 and 50504; P 10336, pp. 2 and 3; 4D 00075. Witness EA, T(F), p. 24313, closed session; P 10330 under seal, para. 4. See also Petković Defence Final Trial Brief, para. 16.

¹²⁵⁰ See "Milivoj Petković, Chief of the Main Staff from 14 April 1992 to 24 July 1993" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

¹²⁵¹ See "Slobodan Praljak and Ante Roso Succeeding One Another as Commander on 9 November 1993 and the Retention of Milivoj Petković on the Main Staff" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

¹²⁵² See "Slobodan Praljak and Ante Roso Succeeding One Another as Commander on 9 November 1993 and the Retention of Milivoj Petković on the Main Staff" in the Chamber's findings with regard to the military structure of the HZ(R) H-B. The Chamber recalls that between 24 July 1993 and 9 December 1993, Milivoj Petković had the title of deputy commander of the HVO Main Staff and that as of 9 December 1993, he had the title of deputy chief of the HVO Main Staff.

¹²⁵³ See "Slobodan Praljak and Ante Roso Succeeding One Another as Commander on 9 November 1993 and the Retention of Milivoj Petković on the Main Staff" in the Chamber's findings with regard to the military structure of the HZ(R) H-B. See also Milivoj Petković, T(F), p. 49286.

B. Milivoj Petković's Powers

653. The Prosecution alleges that at the time of the events, Milivoj Petković exercised *de jure* and *de facto* command and control over the HVO armed forces while he held the post of chief of the Main Staff and also while he was the deputy commander of the Main Staff.¹²⁵⁴

654. The Chamber recalls that the primary mission of the Main Staff was to command the HVO armed forces and conduct military operations to protect the territory of the HZ(R) H-B.¹²⁵⁵ *Milivoj Petković* testified furthermore that command over the military operations came solely under the authority of the HVO Main Staff.¹²⁵⁶

655. The Chamber will now establish (1) that Milivoj Petković exercised *de jure* and *de facto* command authority over the HVO armed forces, both in his capacity as the Chief of the Main Staff and in his capacity as the deputy commander of the Main Staff. The Chamber will also (2) analyse the evidence related to Milivoj Petković's power to represent the HVO during negotiations and the ensuing attempts to implement a cease-fire and, lastly, (3) the evidence related to Milivoj Petković's power to transmit decisions from the HVO political branch to its military branch.

1. Command Authority of Milivoj Petković

656. The Chamber will first (a) recall the HVO units that were subordinate to the command of Milivoj Petković in his capacity as chief of the Main Staff and deputy commander of the Main Staff before (b) providing a detailed account of the powers exercised by Milivoj Petković over these units.

a) Units Under the Command of Milivoj Petković

657. The Chamber recalls that the HVO Main Staff – its chief and its deputy commander in the case of Milivoj Petković – had command authority over the OZs and the ZPs, and at times directly over the brigades.¹²⁵⁷

¹²⁵⁴ Indictment, para. 17 (4) (a).

¹²⁵⁵ See "Command and Control of the Armed Forces by the Main Staff" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

¹²⁵⁶ *Milivoj Petković*, T(F), p. 49769.

¹²⁵⁷ See "Orders Given by the Main Staff to the Armed Forces" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

658. Milivoj Petković also had the authority to deploy professional units, amongst which were the *Bruno Bušić* Regiment, the *Ludvig Pavlović* PPN, the *Vitezovi* PPN, the KB and its ATGs, including *Vinko Škrobo* and *Benko Penavić* to the OZ/ZP; once deployed, the units were subordinate to the commander of the OZ in which they operated.¹²⁵⁸

659. The artillery units, whether under the command of the brigades or the OZ, by virtue of these two came, at least indirectly, under the command of the Main Staff. The Široki Brijeg artillery regiment was under the command of the commander of the South-East OZ during the period relevant to the Indictment, with the exception of the period from 12 August 1993 to 1 December 1993, during which time it was under the direct command of the Main Staff.¹²⁵⁹

660. Lastly, the HVO armed forces received support from an air force group that was placed under the direct command of the Main Staff as of 12 August 1993.¹²⁶⁰

661. With respect to relations between the chief of the Main Staff and the Military Police, the Chamber established that Milivoj Petković, as chief of the Main Staff, had command authority over the Military Police platoons within these brigades.¹²⁶¹ All the evidence also shows that at times, Milivoj Petković issued orders directly to these Military Police platoons, especially regarding the setting up of checkpoints¹²⁶² and discipline within the HVO brigades.¹²⁶³

662. With regard to the Military Police units that were not integrated into the brigades, the Chamber also established that the Main Staff ultimately had authority over Military Police battalions in the execution of their "daily duties".¹²⁶⁴ All the evidence shows that Milivoj Petković sometimes issued orders directly to these Military Police battalions.¹²⁶⁵

663. Consequently, the Chamber finds that the OZs, brigades, the professional units, the air force groups and, by way of the brigades, the Military Police units were all subordinated to Milivoj Petković in his capacity as chief of the Main Staff and subsequently as deputy commander of the Main Staff.

¹²⁵⁸ See "The *Bruno Bušić* Regiment and the *Ludvig Pavlović* PPN", "The *Vitezovi* PPN " and "Placement of the KB and its ATGs within the Military Chain of Command" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

¹²⁵⁹ See "Artillery and the Air Forces Group" in the Chamber's findings on the military structure of the HZ(R) HB.

¹²⁶⁰ See "Artillery and the Air Forces Group" in the Chamber's findings on the military structure of the HZ(R) HB.

¹²⁶¹ See "Command and Control Authority of the OZ and HVO Brigade Commanders Over the Military Police Units" in the Chamber's factual findings with regard to the military structure of the HZ(R) H-B.

¹²⁶² P 01673.

¹²⁶³ 3D 01145, p. 1. On the subordination of Military Police platoons to the brigades see: P 01673; P 04262.

¹²⁶⁴ P 00856, p. 1. See also "Command and Control Authority of the OZ and HVO Brigade Commanders Over the Military Police Units" in the Chamber's factual findings with regard to the military structure of the HZ(R) H-B.

b) Milivoj Petković's Powers Within the Command of the Armed Forces

664. In order to determine how Milivoj Petković exercised his command authority over the HVO units, the Chamber will explain in detail the type of orders he issued to the HVO units while serving as the chief or deputy commander of the Main Staff.

665. The Chamber notes that the orders which the Main Staff issued to the armed forces primarily concerned their overall structure.¹²⁶⁶ For example, on 31 August 1992, the OZ were created and their geographically delineated boundaries defined pursuant to orders from the Main Staff, headed by Milivoj Petković.¹²⁶⁷ Pursuant to an order from Mate Boban, and together with Bruno Stojić, Milivoj Petković set up the *Domobrani* units by an order dated 8 February 1993.¹²⁶⁸

666. Milivoj Petković had the power to order inspections of the HVO units.¹²⁶⁹ For example, in early April 1993, Milivoj Petković issued an order to the South-East, North-West and Central-Bosnia OZs planning inspections of the brigades and determining their readiness for combat.¹²⁷⁰

667. Subsequently, Milivoj Petković issued numerous deployment orders directly to the armed forces in the field and orders regarding their combat readiness.¹²⁷¹ For example, on 15 January 1993, when Bruno Stojić issued an order for the subordination of ABiH units in provinces 3, 8 and 10 declared as Croatian based on the interpretation of the Vance-Owen Plan by the HZ(R) H-B political authorities, following the decision of the HVO signed by Jadranko Prlić,¹²⁷² Milivoj Petković issued an order to all HVO units to prepare fully for combat and for the North-West OZ to prepare and send out 500 to 600 men, a part of the mobile artillery and two or three tanks for an intervention towards Prozor and Gornji Vakuf.¹²⁷³

668. Milivoj Petković also issued orders to the commanders of the ZPs regarding the launching of offensive operations.¹²⁷⁴ For example, on 8 November 1993, he ordered the Mostar ZP to launch

¹²⁶⁵ P 00377; 3D 01145, p. 1. Zdenko Andabak stated that he received this order and that the 6th Military Police Battalion carried it out. See Zdenko Andabak, T(F), p. 50941; Marijan Biškić, T(F), p. 15233; P 02968; 3D 02584.

¹²⁶⁶ 2D 01357; 2D 01358; 2D 01354; P 03622; P 00886; P 00933; P 02040; P 02055; P 04054; P 06498.

¹²⁶⁷ See "Operative Zones and Brigades" in the Chamber's findings on the military structure of the HZ(R) HB.

¹²⁶⁸ See "The *Domobrani*" in the Chamber's findings on the military structure of the HZ(R) HB.

¹²⁶⁹ P 03685. The HVO armed forces were also inspected by the commander of the HV Sector South: P 01442; P 01662.

¹²⁷⁰ P 01787; P 01807; P 01864.

¹²⁷¹ To the OZ and the brigades: P 00602; P 00622; 4D 01553; P 01087; 4D 00416; P 01135, p. 2; P 01292; 4D 01048; P 01487; P 01736; 4D 00874; P 02040; P 02209; P 02526; P 02599; 4D 00948; P 02911; P 03019; P 03082; P 03128; P 03384; 3D 02582. To the professional units: P 02209; 4D 00623; P 01064; P 01896. To the Military Police: 4D 00923; P 00377.

¹²⁷² P 01146; P 01140; P 01156, p. 1.

¹²⁷³ P 01135, p. 2.

¹²⁷⁴ 2D 03057.

offensive operations in the towns of Bijelo Polje, Blagaj and Mostar and to shell the town of Mostar "selectively at various intervals".¹²⁷⁵

669. Milivoj Petković issued numerous orders to the OZs or directly to the brigades prohibiting all attacks on international forces and humanitarian convoys, and demanding that they be allowed unobstructed access.¹²⁷⁶ Accordingly, on 2 August 1993, Milivoj Petković issued an order to all HVO units to allow unobstructed passage for humanitarian aid convoys.¹²⁷⁷ The order also provided that each convoy needed to be "correctly announced with a full guarantee that humanitarian aid alone was being transported" and that for security reasons, until a cease-fire had been established, the OZ and brigade commanders had to halt convoys in zones where combat operations were being conducted.¹²⁷⁸ In an order sent to the second operations group of the Central-Bosnia OZ on 7 November 1993, Milivoj Petković, deputy commander of the Main Staff at the time, ordered the following: The UN is to be given freedom of movement but you should record their every move. Do not allow them to move outside of the road."¹²⁷⁹

670. During his testimony before the Chamber, *Milivoj Petković* stated that guaranteeing that the detainees were being treated in accordance with the Geneva Conventions did not come under his responsibility as the chief of the HVO Main Staff as defined in the legislation.¹²⁸⁰ Nevertheless, the Chamber notes that Milivoj Petković issued numerous orders to the OZ commanders instructing the HVO armed forces to respect "civilians and prisoners" in accordance with international conventions and the principles of international humanitarian law,¹²⁸¹ to protect the civilian population,¹²⁸² to guarantee access to medical assistance for all and to treat civilians and prisoners in accordance with international conventions,¹²⁸³ to protect UNPROFOR staff¹²⁸⁴ and to provide security for the operations of the international organisations.¹²⁸⁵

671. Furthermore, during his testimony before the Chamber, *Slobodan Praljak* stated that Milivoj Petković participated in promoting education on the laws of war and humanitarian law, including

¹²⁷⁵ P 06534.

¹²⁷⁶ P 00458; P 01994; P 10268; P 02036; P 02038; P 02527; 4D 00332; P 03895; P 04251; P 06580. On 23 November 1993, Milivoj Petković also sent an order to the ZP regarding the unrestricted passage of a specific convoy on 24 November 1993: P 06825.

¹²⁷⁷ P 03895.

¹²⁷⁸ P 03895.

¹²⁷⁹ P 09968.

¹²⁸⁰ Milivoj Petković, T(F), pp. 49829, 49830, 50671 and 50672.

¹²⁸¹ P 02599; P 00679; P 02038; P 02036; P 10268; 4D 00320; P 02047; P 02071; P 02599; 4D 01038; 3D 01163.

¹²⁸² P 01994, P 02084; P 02089, 3D 01163.

¹²⁸³ 4D 00320.

¹²⁸⁴ P 02739.

¹²⁸⁵ P 06580.

the distribution of ICRC brochures to HVO soldiers.¹²⁸⁶ On 26 September 1993, Slobodan Praljak, commander of the HVO Main Staff, accepted the ICRC's proposal to hold a series of lectures on international humanitarian law for HVO officers.¹²⁸⁷ Following this agreement, Milivoj Petković, at the time deputy commander of the Main Staff, issued an order on 14 October 1993 to the North-West and South-East OZs regarding an ICRC-sponsored lecture on international humanitarian law for the benefit of HVO officers.¹²⁸⁸ However, the Chamber does not know whether the lecture was every given.

672. Milivoj Petković also issued orders¹²⁸⁹ and, after 14 October 1993, authorisations to the HVO units¹²⁹⁰ to use detainees for labour. On 17 October 1993, Milivoj Petković, then the deputy commander of the Main Staff, therefore approved making 20 detainees from the Heliodrom available to the 2nd Battalion of the 2nd Brigade for labour.¹²⁹¹

673. With regard to Milivoj Petković's powers regarding discipline in the armed forces, the Prosecution submits that he had all the authority to launch criminal investigations whenever he wanted to.¹²⁹² The Petković Defence submits that the Military Police were obliged to draft criminal investigation reports for all violations of military discipline, disruptions of public order or any crime committed and that it was their responsibility to arrest and take suspects into custody.¹²⁹³ Moreover, it submits that the chief of the Main Staff had no *de jure* authority over either the Military Police Administration or the Military Police units.¹²⁹⁴ It argues that Milivoj Petković did not have any material ability to prevent crimes from being committed by the members of the HVO armed forces or to punish perpetrators.¹²⁹⁵

674. The Chamber found that the HVO Military Police was also responsible for maintaining discipline and punishing offences committed by members of the HVO armed forces, and that it fell to the Military Police Administration to ensure punishment for the crimes committed by the members of the Military Police itself.¹²⁹⁶ It also established, based on the testimony of *Milivoj Petković*, that it was the responsibility of the commanders of HVO units, to which the Military

¹²⁸⁶ Slobodan Praljak, T(F), pp. 39864 and 39865; *See also* 3D 00840.

¹²⁸⁷ 3D 02322.

¹²⁸⁸ 4D 00838.

¹²⁸⁹ P 03474; P 04020.

¹²⁹⁰ *See for example:* P 05895.

¹²⁹¹ P 05922.

¹²⁹² Closing Arguments by the Prosecution, T(F), pp. 51932-51934 and 51936-51937.

¹²⁹³ Petković Defence Final Trial Brief, para. 93.

¹²⁹⁴ Petković Defence Final Trial Brief, para. 94.

¹²⁹⁵ Petković Defence Final Trial Brief, paras 633 and 637.

¹²⁹⁶ *See* "Role of the Military Police in Fighting Crime within the HVO Armed Forces" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

Police units belonged, to report any offences committed and to forward this information to the military authorities, including the military prosecutor.¹²⁹⁷ In addition, the Chamber recalls that the military tribunals had jurisdiction to adjudicate criminal offences committed by members of the HVO armed forces.¹²⁹⁸

675. The evidence shows that Milivoj Petković issued an order directly to the commanders of the OZs and the brigades for investigations to be launched when the conduct of members of the armed forces was inappropriate, or when they were suspected of having committed criminal acts.¹²⁹⁹ Accordingly, in October 1992 he ordered the commander of the North-West OZ, the President of the Prozor HVO and the commander of the *Rama* Brigade to prepare a detailed report on the events in October 1992 in Prozor.¹³⁰⁰ On 28 October 1992, Milivoj Petković ordered that an HVO investigative commission be set up in Prozor¹³⁰¹ and ordered the Prozor HVO to prevent such conduct by all available means.¹³⁰² The commission was set up on 3 November 1992 by Željko Šiljeg, the commander of the North-West OZ.¹³⁰³

676. All the evidence also shows that Milivoj Petković sometimes issued orders directly to the Military Police platoons regarding discipline in the HVO brigades.¹³⁰⁴ On 9 February 1993, Milivoj Petković thus ordered the Military Police to investigate the deportation of a group of civilians in Mostar, to work on preventing such incidents in the future and to arrest all those responsible.¹³⁰⁵ Furthermore, during a meeting on 5 November 1993, in the presence of Franjo Tuđman, Jadranko Prlić, Slobodan Praljak and Mate Boban, Milivoj Petković explained that on 25 October 1993, he had received a report from the HVO troops about the events in Stupni Do which mentioned the deaths of at least thirty civilians and the destruction of practically all of the property in the village, and that he had requested that an investigation be launched.¹³⁰⁶ The Chamber will analyse the

¹²⁹⁷ See "Role of the Military Police in Fighting Crime within the HVO Armed Forces" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

¹²⁹⁸ See "Role of the Military Police in Criminal Proceedings" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

¹²⁹⁹ P 01598; P 01959 under seal; P 03356; P 03802; P 05614.

¹³⁰⁰ 3D 01602.

¹³⁰¹ 4D 00901.

¹³⁰² P 00679.

¹³⁰³ 4D 00903. The Chamber will analyse the creation of this commission when it analyses Milivoj Petković's criminal responsibility regarding the criminal events in the Municipality of Prozor in October 1992. See "Milivoj Petković" in the Chamber's findings with regard to the other forms of responsibility.

¹³⁰⁴ 3D 01145, p. 1. On the subordination of Military Police platoons to the brigades see: P 01673; P 04262.

¹³⁰⁵ P 01445.

¹³⁰⁶ P 06454, pp. 57-60, 72 and 73. The Chamber notes that pages 58 et seq. of transcript P 06454 attribute this part to a person named Pratković. However, the Chamber considers that this is an error and that the person speaking is in fact Milivoj Petković insofar as the activities he mentions correspond exactly to those of Milivoj Petković for the period 23 to 25 October 1993. See "Arrest of Several HVO Officials on 23 October 1993", "Restrictions Imposed on Access by UNPROFOR to Stupni Do" and "Information and Investigative Procedures Ordered by the HVO and Absence of Legal Prosecution" in the Chamber's factual findings with regard to the Municipality of Vareš.

results and the implications of this investigation when it analyses the contribution of Milivoj Petković in the Municipality of Vareš.¹³⁰⁷

677. In addition, Milivoj Petković occasionally ordered the arrest of members of the armed forces¹³⁰⁸ or, alternatively, revoked the suspension of HVO members suspected of having committed criminal acts.¹³⁰⁹

678. Moreover, the Chamber notes that on many occasions, Milivoj Petković issued orders to the commanders of the armed forces to remind soldiers of their obligations and of the need to respect orders and discipline; and, at times, he ordered the commanders to take measures when military discipline was violated by their men and ordered that investigations be launched.¹³¹⁰

679. In light of the foregoing, the Chamber finds that Milivoj Petković, as the chief of the Main Staff and the deputy commander, and subsequently deputy chief of the Main Staff, had command and control authority and effective control over the armed forces which he exercised in matters of organisation, deployment and combat readiness of the HVO units, including for offensive operations. Furthermore, Milivoj Petković exercised his command and control authority over the armed forces by prohibiting the HVO units from attacking the international forces and organisations and by requiring that they and humanitarian convoys be allowed freedom of movement. The orders issued by Milivoj Petković all show that he had at least *de facto* authority to order the HVO units to conduct themselves in accordance with international conventions and the principles of international humanitarian law. Lastly, even if it was the responsibility of the Military Police to investigate unlawful conduct by HVO members, Milivoj Petković had the power to order that investigations be launched when the conduct of members of the armed forces was inappropriate or when they were suspected of having committed criminal acts.

2. Milivoj Petković's Power to Negotiate and Order Cease-Fires

680. Throughout the period covered by the Indictment, Milivoj Petković was in charge of conducting negotiations¹³¹¹ with the ABiH and also with the participation of the international organisations.¹³¹²

¹³⁰⁷ See "Municipality of Vareš" in the Chamber's findings with regard to Milivoj Petković's responsibility.

¹³⁰⁸ P 01344; P 01598; P 02968.

¹³⁰⁹ P 02569.

¹³¹⁰ P 00625; P 00633; P 00679; P 00856, p. 1; P 02036; P 10268; P 11213; P 04055; 3D 01146; P 06779; P 06791.

Regarding arrests of deserters, see also 3D 01145.

¹³¹¹ Milivoj Petković, T(F), p. 50755; P 05138; P02002, p. 1; Radmilo Jasak, T(F), p. 48612.

681. In January, April and May 1993, Milivoj Petković attended two international negotiations.¹³¹³ For example, in January 1993, Milivoj Petković participated in negotiations held in Geneva. During the ICFY, the representatives for BiH Croats were Mate Boban, Mile Akmadžić and Milivoj Petković; the President of Croatia, Franjo Tuđman, also took part in the negotiations.¹³¹⁴

682. Milivoj Petković also participated in implementing the results of the negotiations in the field as well as the negotiations and agreements reached between Mate Boban and Alija Izetbegović¹³¹⁵ by issuing several cease-fires.¹³¹⁶

683. On 25 April 1993, Milivoj Petković and Bruno Stojić therefore signed an order addressed to all the OZ regarding the cease-fire pursuant to the agreement on a cease-fire and the cessation of hostilities signed in Zagreb by Alija Izetbegović, Mate Boban, Milivoj Petković, Sefer Halilović, and to which Franjo Tuđman *inter alia* was likewise a signatory.¹³¹⁷ The order was sent that same day to Miljenko Lasić, commander of the South-East OZ, who immediately forwarded it to his troops for implementation.¹³¹⁸

684. Therefore, Milivoj Petković had the power to represent and engage the HVO in peace negotiations and to issue cease-fire orders to the HVO armed forces according to the agreements reached at these negotiations.

¹³¹² P 01709; 4D 01556; 4D 01558; P 10367 under seal, paras 57 and 58; Christopher Beese, T(F), pp. 3104-3109; P 10419, paras 66 and 67; P 01459 under seal; P 01950 under seal, p. 1; P 01959; P 01981; P 10358, paras 29-32; P 02002, p. 1; P 02084; P 02352; P 02496 under seal, p. 2; P 02652, p. 2; 4D 00863; P 02947 under seal, p. 5.

¹³¹³ P 01286; Slobodan Praljak, T(F), p. 44119; Milivoj Petković, T(F), pp. 49747-49749; P 02088, pp. 1-2. Milivoj Petković was present during a meeting that resulted in the joint statement of 24 April 1993 in which Alija Izetbegović and Mate Boban ordered the ABiH and the HVO to cease hostilities in Central Bosnia and in other parts of the RBiH, and to implement the agreement on the legality of the ABiH and the HVO and on the creation of a joint command consisting of representatives of these two armies. *Milivoj Petković* stated that his participation at a meeting in Zagreb on 24 April 1993, attended among others by Alija Izetbegović, Mate Boban and Franjo Tuđman, was limited to discussing technical matters concerning the organisation of the joint command with Mr Halilović, which was done in private, without the main protagonists of the meeting being present. Milivoj Petković, T(F), pp. 50774 50776, 50778 and 50779; 3D 03720, pp. 138 and 139; P 02441, p. 1.

¹³¹⁴ See "Negotiations within the Framework of the Vance-Owen Plan (August 1992 – January 1993)" in the Chamber's factual findings with regard to the main events following the creation of Herceg-Bosna.

¹³¹⁵ 4D 00358; P 01341; 2D 01111, pp. 1 and 2; P 02088, pp. 1, 2 and 4; P 02091, p. 1; Witness DZ, T(F), pp. 26833 and 26834 closed session; P 02352, pp. 1 and 4; Andjelko Makar, T(F), pp. 38439, 38613 and 38614.

¹³¹⁶ P 00625; P 00633; P 00644; P 01059; P 01229; P 01153; P 01205; P 01286; P 01293; P 01322; P 01959; P 02002, pp. 1 and 2; P 02016, p. 5; P 02037, p. 1; 4D 00096; 4D 00549; 4D 00548; P 02344; P 02483; 6D 00007; P 02577; P 02599.

¹³¹⁷ P 02093/P 02097; P 02112.

¹³¹⁸ P 02089; P 02084.

3. Milivoj Petković's Power to Transmit the Decisions of the HVO Political Branch to the Military Branch

685. Milivoj Petković had the power to transmit the orders and decisions issued by the political and governmental authorities of the HZ(R) H-B, which were forwarded to him by the head of the Defence Department, Bruno Stojić, through the military chain of command. Accordingly, on 15 January 1993, Milivoj Petković issued an order for subordination following the decisions by the HZ H-B political leadership. On 15 January 1993, Jadranko Prlić ordered that all ABiH units present in provinces 3, 8 and 10, declared Croatian pursuant to the Vance-Owen Plan, subordinate themselves to the HVO within five days¹³¹⁹ and Bruno Stojić forwarded this order to the HVO Main Staff, which was made responsible for its implementation.¹³²⁰ That same day, Milivoj Petković transmitted an order to the South-East, North-West and Central Bosnia OZs and to the 1st Mostar Brigade repeating the contents of the order signed by Bruno Stojić.¹³²¹ Milivoj Petković also created the *Domobrani* units following a series of orders from Mate Boban, President of the HZ H-B, and Bruno Stojić in February 1993.¹³²²

686. Lastly, Milivoj Petković kept the HZ(R) H-B political organs informed of the military situation in the field by either directly reporting to the HVO government or reporting through the head of the Defence Department, Bruno Stojić.¹³²³

C. Milivoj Petković's Responsibility Under JCE 1

687. Insofar as Judge Antonetti dissents from the majority of the Chamber regarding the existence of a JCE,¹³²⁴ he dissents from all the observations and findings of the Chamber regarding Milivoj Petković's participation in the JCE. Consequently, the reasoning that follows was adopted by the majority.

688. The Chamber will now analyse the extent to which Milivoj Petković contributed or did not contribute to the perpetration of the crimes committed by the armed forces and the Military Police

¹³¹⁹ See "Subsequent History of the Vance-Owen Plan; Attempts to Implement the Principles of this Plan in the Field (January 1993 – August 1993)" in the Chamber's factual findings with regard to the Principal Events Following the Creation of Herceg-Bosna.

¹³²⁰ See "Subsequent History of the Vance-Owen Plan; Attempts to Implement the Principles of this Plan in the Field (January 1993 – August 1993)" in the Chamber's factual findings with regard to the Principal Events Following the Creation of Herceg-Bosna.

¹³²¹ See "Subsequent History of the Vance-Owen Plan; Attempts to Implement the Principles of this Plan in the Field (January 1993 – August 1993)" in the Chamber's factual findings with regard to the Principal Events Following the Creation of Herceg-Bosna.

¹³²² P 00680, articles 3 and 7; P 01424, pp. 1 and 2; P 01441; P 01587.

¹³²³ See "Relationship of the Main Staff with the Political Organs of the HZ(R) H-B" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

in furtherance of the common criminal purpose. To do so, the Chamber will analyse the evidence it has regarding Milivoj Petković's contribution to the crimes committed by the HVO in the municipalities of: (a) Prozor, (b) Gornji Vakuf, (c) Jablanica, (d) Mostar, (e) Stolac, (f) Čapljina and (g) Vareš, and (h) in the HVO detention centres.

689. As a preliminary matter, the Chamber notes that with regard to the Prosecution's allegations that Milivoj Petković mobilised the military, logistical and human resources and participated in the financial operations of the HVO armed forces,¹³²⁵ the Chamber does not have sufficient evidence to support a finding that Milivoj Petković participated in the JCE through these actions.

690. Moreover, with regard to the Prosecution's allegation that Milivoj Petković used and approved the use of derogatory terms for the Bosnian Muslims to cast them in a negative light,¹³²⁶ the Chamber notes that it has only two relevant documents, namely an order signed by Milivoj Petković on 8 August 1993¹³²⁷ and a report sent to him by Ivica Rajić on 26 October 1993¹³²⁸ in which the term *balija* appears. Nevertheless, in light of the large number of orders issued by Milivoj Petković and the reports that he received – which did not contain any derogatory terms – the Chamber deems that these two references alone to the term *balija* are insufficient to prove that Milivoj Petković intended to cast the Muslims in a negative light by using or allowing the use of this term.

1. Municipality of Prozor

691. On 18 April 1993, Milivoj Petković issued an order to Željko Šiljeg, commander of the North-West OZ in Prozor at the time, to provide urgent reinforcements to his troops responsible for launching an offensive towards Klis.¹³²⁹ Also on 18 April 1993, Milivoj Petković sent a consolidated report – the Chamber does not know to whom – regarding the activities on 17 April 1993, based on four reports received on 17 April 1993 at 0900 hours, at 1300 hours, at 1500 hours and at 2100 hours, in which he describes the ongoing operations in the Municipality of Prozor – "we began to carry out the plan" – and notably in Parčani village, populated by Muslims, where "we are performing searches and mop-up actions";¹³³⁰ at 1300 hours, the operations to take Parčani were still in progress; the situation was the same at 1500 hours and the report indicates that "the

¹³²⁴ See "Existence of a Common Criminal Plan" in the Chamber's findings with regard to the JCE.

¹³²⁵ Indictment, paras 17 4 (e) and (f).

¹³²⁶ Indictment, para. 17 4 (l).

¹³²⁷ P 04020.

¹³²⁸ P 06146.

¹³²⁹ P 01949.

¹³³⁰ P 01954, p. 6.

resistance encountered in the village is stronger than expected".¹³³¹ In light of this evidence, the Chamber finds that Milivoj Petković directed the HVO attacks in Parčani and was kept informed of how the military operations were progressing throughout the day of 17 April 1993.

692. The Chamber established that between 17 and 19 April 1993, after having called on the Muslim population to surrender, the HVO launched an attack on the villages of Parčani, Lizoperci and Tošćanica and that HVO members destroyed Muslim houses in the villages of Parčani and Tošćanica.¹³³² The Chamber also recalls that the attacks occurred, according to a report from Željko Šiljeg, pursuant to a "plan" that he himself drew up with a view to taking control of these villages.¹³³³ Insofar as the HVO operations were conducted exactly the same way in the three villages and as the HVO members destroyed Muslim houses in Parčani and Tošćanica after taking control of these locations, the Chamber deems that the destructions were part of the attack plan.

693. Insofar as Milivoj Petković directed operations in April 1993 in the villages of Parčani, Lizoperci and Tošćanica, and as the operations were planned and executed according to a previously defined plan which involved the destruction of Muslim houses, the Chamber considers that the only inference it can reasonably draw is that Milivoj Petković intended to have these crimes committed.

694. Between 23 April 1993 and 22 June 1993, Milivoj Petković ordered the reinforcement of the troops present in Prozor and the deployment of tanks.¹³³⁴ From this the Chamber finds that between 23 April and 22 June 1993, Milivoj Petković continued to participate in directing the HVO military operations in the Prozor area.

695. The Chamber established that during the attack on Skrobućani village in May or June 1993, HVO members destroyed Muslim property and the village mosque, while leaving property belonging to the Croats intact. In late June 1993, the HVO soldiers damaged property belonging to Muslims in Lug village.¹³³⁵ Insofar as during the attacks the HVO soldiers systematically destroyed the property belonging to the Muslims, the Chamber deems that the destruction was part of a preconceived plan and was not due to the actions of a few unruly soldiers. The Chamber finds that

¹³³¹ P 01954, p. 6.

¹³³² See "Attack on the Village of Parčani on 17 April 1993 and Burning of Houses", "Attack on the Village of Lizoperci on 18 and 19 April 1993 and Burning of Houses" and "Attack on the Village of Tošćanica on 19 April 1993, Burning of Houses and Death of Three Residents", in the Chamber's factual findings with regard to the Municipality of Prozor.

¹³³³ P 01909; P 01917; P 01952; P 01936; P 01937; P 01938; P 09196 under seal, p. 11.

¹³³⁴ P 02040; P 02055; P 02526; P 02911.

by taking part in directing the HVO operations in the Municipality of Prozor in June 1993, Milivoj Petković intended to have this property, including the Skrobućani mosque, destroyed.

696. In July and August 1993, Milivoj Petković again ordered the organisation of combat operations in the Municipality of Prozor and planned the operations.¹³³⁶ On 16 July 1993, the SIS issued a document entitled "information", which was to be delivered to Milivoj Petković "so that he [could] have an insight into it", and which reports on the situation in the Prozor area on or about 11 July 1993, namely that several HVO soldiers – it appears from the document that these were members of the *Kinder Vod* – arrested Muslim men.¹³³⁷ The Chamber found that, pursuant to the order of Željko Šiljeg, the Military Police, assisted by soldiers of the *Kinder vod* unit and the SIS assigned to the *Rama* Brigade, arrested Muslim men, including minors, elderly and sick people, in June, July and August 1993 in the Municipality of Prozor.

697. Consequently, the Chamber can find that by planning the HVO operations in the Municipality of Prozor from July to August 1993, while knowing that in July 1993 soldiers from the *Kinder Vod* were detaining Muslims without justification, Milivoj Petković intended to have these crimes committed.

698. Subsequently, on 13 July 1993, Željko Šiljeg informed Milivoj Petković and Bruno Stojić that he had begun removing detainees – for the most part prisoners of war but also a few civilians – from the Secondary School in Prozor to Ljubuški Prison.¹³³⁸ Consequently, Milivoj Petković was informed that men who did not belong to any armed force were being detained at the Prozor Secondary School in July 1993. Because he continued to carry out his functions within the HZ(R) H-B armed forces, the Chamber finds that Milivoj Petković accepted these detentions.

699. Consequently, the Chamber finds that Milivoj Petković directed the HVO military operations in the Municipality of Prozor in April 1993 and intended to have destruction carried out in the villages of the Municipality of Prozor, including the destruction of the mosque, as well as the detention of men who did not belong to any armed force.

¹³³⁵ See "Attack on the Villages of Skrobućani and Gračanica and Damage to Property and the Skrobućani Mosque" and "Attack on the Villages of Duge and Lug and Damage to Property" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹³³⁶ P 03246; P 03384; 3D 02582.

¹³³⁷ P 03492.

¹³³⁸ P 03418, p. 4.

2. Municipality of Gornji Vakuf

700. The Prosecution claims that Milivoj Petković knew that Muslims had been driven out of their homes in Gornji Vakuf following the HVO attacks in 1993 and did nothing to enable them to return to their homes or to punish his subordinates.¹³³⁹ During its opening statements, the Petković Defence maintained that Milivoj Petković was not involved in planning, organising or directing the HVO combat operations in Gornji Vakuf in January 1993.¹³⁴⁰

701. On 6 January 1993, as tension between the ABiH and the HVO was growing in Gornji Vakuf,¹³⁴¹ Milivoj Petković ordered the commander of the *Bruno Bušić* Regiment to have his regiment at full combat readiness; to arm his troops well and to inform him of the state of readiness of the unit so that he could inform him of the "concrete task".¹³⁴²

702. The Chamber recalls that Miro Andrić, a colonel at the Main Staff, was sent by Bruno Stojić to "manage the situation" in the Municipality of Gornji Vakuf and that, during a meeting on 14 January 1993 with representatives of the ABiH, he demanded the subordination of all ABiH forces to HVO forces and that on 16 January 1993, he reiterated the subordination order of Milivoj Petković issued on 15 January 1993.¹³⁴³ The Chamber recalls that on 15 January 1993, Bruno Stojić forwarded to Milivoj Petković the subordination order issued by Jadranko Prlić on 15 January 1993 for implementation.¹³⁴⁴ The ABiH refused this subordination.¹³⁴⁵ According to a report from Miro Andrić sent to Bruno Stojić, the HVO used force pursuant to the orders from its "superiors".¹³⁴⁶

703. On 18 January 1993, Milivoj Petković sent a letter to the HVO in Bugojno, Travnik, Vitez and Novi Travnik requesting that they call on the ABiH to calm the situation in Vakuf and informing them that a significant number of HVO forces were present in territories allocated to the Muslims by the Vance-Owen Plan and that these forces would not be withdrawn.¹³⁴⁷

¹³³⁹ Prosecution Final Trial Brief, para. 883.

¹³⁴⁰ Milivoj Petković, T(F), p. 46000. See also Petković Defence Final Trial Brief, paras 160, 161 and 168; Closing Arguments by the Petković Defence, T(F), p. 52605.

¹³⁴¹ See "The Croatian Flag Incident on 6 January 1993" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹³⁴² P 01064.

¹³⁴³ See "HVO Subordination Orders of 14 and 16 January 1993 to the ABiH Armed Forces" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹³⁴⁴ See "Subsequent History of the Vance-Owen Plan; Attempts to Implement the Principles of the Plan in the Field (January 1993 – August 1993)" in the Chamber's factual findings with regard to the Principal Events Following the Creation of Herceg-Bosna.

¹³⁴⁵ See "HVO Subordination Orders of 14 and 16 January 1993 to the ABiH Armed Forces" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹³⁴⁶ 4D 00348.

¹³⁴⁷ P 01190.

704. The Chamber recalls that on 18 January 1993, the HVO troops, including the *Bruno Bušić* Regiment, effectively launched an attack on the town of Gornji Vakuf and the villages of Duša, Hrasnica, Uzričje and Ždrimci. The HVO operations, particularly in the four villages, all took place in exactly the same manner: the HVO first shelled the locality, killing several people who were not members of any armed force and were not involved in the ongoing fighting in Duša and destroying several Muslim houses. Once inside the village, the HVO would arrest the whole population there, separate the men from the women, children and the elderly people, detain all the Muslims from these villages at various locations in the municipality and destroy their houses. Lastly, the HVO removed the majority of the civilians being detained in the municipality.¹³⁴⁸ In view of the absolute similarity between these crimes, the Chamber has no doubt that they were part of a preconceived plan and were not the acts of a few unruly soldiers. This is confirmed by the report issued by Milivoj Petković on 18 January 1993 – the Chamber does not know to whom – regarding the situation in Gornji Vakuf which indicates that the offensive operations towards Gornji Vakuf had unfolded "as scheduled".¹³⁴⁹

705. Moreover, in a report dated 19 January 1993, Milivoj Petković stated that: Uzričje and Duša villages had been "captured";¹³⁵⁰ that Hrasnica village was under HVO control since the previous day and that strong detonations could still be heard as well as the "usual sporadic shooting from infantry firearms."¹³⁵¹ On 21 January 1993, Colonel Željko Šiljeg sent a report to the chief of the HVO Main Staff, Milivoj Petković, reporting that the villages of Duša, Hrasnica, Ždrimci and Uzričje had been "cleansed".¹³⁵² On 28 January 1993, Željko Šiljeg sent a report to the HZ H-B presidency, to the HVO government, to the HVO Defence Department and to the Main Staff wherein he reports the death of "civilians" in Duša in the course of the HVO attack.¹³⁵³

706. On 24 January 1993, Milivoj Petković and Bruno Stojić received a report from the VOS indicating that Gornji Vakuf was under HVO control.¹³⁵⁴ That same day, Milivoj Petković ordered the cessation of all combat operations between the ABiH and the HVO on the territory of the Municipality of Gornji Vakuf.¹³⁵⁵ On 29 January 1993, Milivoj Petković ordered Željko Šiljeg "to arrest and imprison all our extremists" and to insist that HVO soldiers not cause further damage or

¹³⁴⁸ See "Allegations of Removal and Detention of Women, Children, Elderly and Disabled People in the Village of Duša" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹³⁴⁹ P 01193, pp. 1 and 2.

¹³⁵⁰ P 01220, pp. 2-4. The Chamber does not have information about the recipient of this report.

¹³⁵¹ P 01220, p. 4.

¹³⁵² P 01249, p. 1.

¹³⁵³ P 01351, p. 3.

¹³⁵⁴ 3D 02530.

¹³⁵⁵ See "Attempt to Arrange a Ceasefire Following the Attacks in the Municipality of Gornji Vakuf" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

provoke incidents.¹³⁵⁶ Following the order, on 30 January 1993, Željko Šiljeg issued an order strictly forbidding HVO soldiers from carrying out operations that violate the laws of war; from mistreating civilians and prisoners of war; from looting and destroying houses; from carrying out "irregular actions" against UNPROFOR and the ICRC; or any other dishonourable actions during combat operations so as to avoid tarnishing the HVO's image and battle.¹³⁵⁷ In the order, Željko Šiljeg forbid any operations not in conformity with the "righteous policy of our leadership" because such operations would only harm "our people and our homeland".¹³⁵⁸

707. On 30 January 1993, Željko Šiljeg sent a report to the Main Staff stating that houses, cowsheds and the primary school in the Gornja Hrasnica neighbourhood in Hrasnica village had been destroyed; that the entire "civilian" population had left Gornja Hrasnica and Donja Hrasnica; and that part of the population had been detained and taken to Trnovača.¹³⁵⁹ On 8 February 1993, Milivoj Petković issued a report in which he indicated that HVO soldiers were responsible for the destruction in Uzričje, Ždrimci and Duša; that both HVO and ABiH soldiers had carried out reprisals against individuals and that both were detaining prisoners in the Prozor area, including women and children.¹³⁶⁰ Insofar as Milivoj Petković's report of 8 February 1993 to a great extent repeats the information as that contained in Željko Šiljeg's report dated 30 January 1993 which was sent to the Main Staff, the Chamber can infer that Milivoj Petković was well aware of Željko Šiljeg's report of 30 January 1993.

708. In light of the foregoing evidence, the Chamber finds that by deploying the *Bruno Bušić* Regiment, by receiving and issuing reports on how the HVO operations were unfolding in the area and, lastly, by ordering on 29 January 1993 a cessation of combat activities, Milivoj Petković planned and facilitated the HVO operations in Gornji Vakuf in January 1993. The Chamber found that the crimes committed on 18 January 1993 were part of a preconceived plan that Milivoj Petković was aware of insofar as he had participated in planning and facilitating the operations. This is confirmed by various reports he received and drafted reporting on destruction, arrests and removal of the Muslim population by HVO members.

709. Furthermore, the above evidence shows that Milivoj Petković ordered combat to cease only after the HVO had taken control of the area. It was effectively not until 24 January 1993 that he ordered HVO "extremists" to be arrested and requested that they "insist" that HVO soldiers not

¹³⁵⁶ P 01344.

¹³⁵⁷ P 01357, pp. 8 and 9.

¹³⁵⁸ P 01357, p. 9.

¹³⁵⁹ P 01357, pp. 6 and 7.

¹³⁶⁰ P 01437, p. 2; Andrew Williams, T(E), pp. 8532 and 8533.

commit more crimes. Moreover, in his order of 29 January 1993, Milivoj Petković, while having effective command and control over the HVO armed forces, merely requested of Željko Šiljeg that he "impress" upon HVO members not to cause any further damage. In addition, as will be explained further on in its analysis, the Chamber notes that at least one of the units deployed to Gornji Vakuf at the time, namely the *Bruno Bušić* Regiment, was redeployed several times after January 1993 and again committed crimes.¹³⁶¹ This shows that by issuing his order on 24 January 1993, ultimately did not genuinely intend to punish and put an end to the crimes against the Muslims.

710. Based on the foregoing, the Chamber finds that by planning and facilitating the military operations in the Municipality of Gornji Vakuf in January 1993, all the while knowing that during these very military operations property belonging to Muslims was destroyed, Muslims not involved in combat and not members of any armed force were killed, and the local population was arrested and removed, Milivoj Petković intended to have these crimes committed. With regard to the thefts in Gornji Vakuf, the Chamber established that they were not part of the common criminal plan and that, consequently, it is appropriate to analyse the responsibility of Milivoj Petković for the commission of these crimes as part of the review of JCE 3.¹³⁶²

3. Municipality of Jablanica (Sovići and Doljani)

711. During his testimony before the Chamber, *Milivoj Petković* stated that in mid-April 1993 he received daily reports on the combat operations in the municipalities of Konjic and Jablanica¹³⁶³ but that the HVO Main Staff did not receive any information to indicate that criminal acts had been committed by HVO soldiers in Sovići et Doljani between 19 and 21 April 1993.¹³⁶⁴

712. On 15 April 1993, with the aim of reinforcing the HVO's defence lines in the Konjic and Jablanica area, Milivoj Petković ordered the *Bruno Bušić* regiment and the *Ludvig Pavlović* PPN to raise combat readiness to the highest level.¹³⁶⁵ In his order, Milivoj Petković specified that he himself would determine the time of departure and the destination of the units, and that the subsequent orders would be issued over the telephone.¹³⁶⁶

¹³⁶¹ See "Milivoj Petković Denied that Crimes Were Committed Against the Muslims, Did not Prevent Them, Failed to Punish Them and Encouraged Them" in the Chamber's findings with regard to Milivoj Petković's responsibility.

¹³⁶² See "Existence of a Common Criminal Plan" in the Chamber's findings with regard to the JCE.

¹³⁶³ Milivoj Petković, T(F), pp. 49432 and 49433.

¹³⁶⁴ Milivoj Petković, T(F), pp. 49439 and 49440.

¹³⁶⁵ P 01896.

¹³⁶⁶ P 01896.

713. On 15 April 1993, the HVO commenced shelling the town of Jablanica from the village of Risovac where the HVO artillery was positioned.¹³⁶⁷

714. The evidence shows that Milivoj Petković regularly received reports on the combat operations. Accordingly, on 16 April 1993, at 0700 hours, Željko Šiljeg, commander of the North-West OZ, sent a report to the Main Staff (a report the Main Staff received on 16 April at 1520 hours) explaining that the HVO attack on Sovići village would commence on 16 April 1993 at 0900 hours and specified the artillery positions in the Municipality of Jablanica.¹³⁶⁸ On the evening of 17 April 1993, Željko Šiljeg sent a report to Milivoj Petković indicating that the Sovići problem was "near resolution";¹³⁶⁹ this information was reiterated by Milivoj Petković in a situation report he issued on the same day.¹³⁷⁰ On 23 April 1993, Ivica Primorac, assistant chief of the HVO Main Staff in charge of the professional units, sent a report to Bruno Stojić and Milivoj Petković indicating that on 17 April 1993, the KB and the *Baja Kraljević* ATG had "conquered" Sovići and Doljani and that on 19 April 1993 Doljani had been cleansed.¹³⁷¹ Consequently, the Chamber is able to find that the attacks on the villages of Sovići and Doljani had been planned in advance and that Milivoj Petković was kept informed of how the operations were progressing throughout the day.

715. On 22 April 1993, Milivoj Petković ordered the *Mijat Tomić* Battalion and the *Herceg Stjepan* Brigade to cease all hostilities against the ABiH in Jablanica immediately and to fortify captured positions.¹³⁷²

716. The evidence shows that Milivoj Petković contributed to planning and directing these operations.

717. The Chamber finds that on 17 April 1993, the HVO launched an attack on the Jablanica area, shelling Sovići and Doljani villages and then taking control of the two localities once the ABiH surrendered. The HVO detained the Muslims in Sovići and Doljani, both civilians and combatants. Subsequently, the HVO set fire to all the Muslim houses and two mosques pursuant to

¹³⁶⁷ Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, revised T(F), pp. 12 and 13; Safet Idrizović, T(F), pp. 9669, 9672 and 9673; P 09400, p. 20; Witness RR, P 09872 under seal, *Naletilić and Martinović* Case, T(F), p. 6483; P 08951; P 09052; Decision of 7 September 2006, Adjudicated Fact no. 27 (*Naletilić* Judgement, para. 30); P 02627, pp. 2 and 3.

¹³⁶⁸ P 01915, p. 2.

¹³⁶⁹ P 01932, p. 1.

¹³⁷⁰ P 01954, p. 11; P 01932.

¹³⁷¹ 4D 01034.

¹³⁷² P 02037, p. 1.

the orders of "senior commanders".¹³⁷³ The Chamber deems that, insofar as the HVO operations in Jablanica were part of a well-organised and orchestrated plan by the HVO leadership, the destruction and the arrests of the Muslims were integral parts of this plan. Consequently, insofar as he planned and directed the military operations, Milivoj Petković knew that these crimes were an integral part of the said plan.

718. This is moreover corroborated by the fact that on 23 April 1993, Milivoj Petković was informed of the destruction of the Muslim houses in the villages of Sovići and Doljani and of the detention of Muslims after he ordered the *Herceg Stjepan* Brigade, at the request of Mate Boban personally, to provide him with an assessment of the number of Croatian and Muslim victims as well as the number of Croatian and Muslim villages burnt down following the events in Sovići and Doljani.¹³⁷⁴ Furthermore, *Milivoj Petković* stated that he forwarded the requested information to Mate Boban the same day and that together they discussed which measures to take, in particular against Mladen Naletilić and Ivan Andabak.¹³⁷⁵ The Chamber notes that it found that the KB and its ATGs were involved in numerous crimes committed in the Municipality of Jablanica by that date, including mistreatment of Muslims held in the Sovići School, including women, between 17 April and 5 May 1993;¹³⁷⁶ the mistreatment of the detainees while they were being transported from the Sovići School to Ljubuški Prison on 18 April 1993;¹³⁷⁷ of the women, children and elderly people detained in the hamlet of Junuzovići between 19 April and 4 or 5 May 1993;¹³⁷⁸ of the detainees at the Fish Farm on 20 April 1993,¹³⁷⁹ and also the destruction of Muslim houses and the two mosques.¹³⁸⁰ With regard to the destruction of the mosques, the Chamber recalls that it was not part of the common criminal plan in April 1993 and that, consequently, it is appropriate to discuss the responsibility of Milivoj Petković for their destruction within the review of JCE 3.¹³⁸¹

¹³⁷³ See "HVO Attacks on the Villages of Sovići and Doljani and Arrests of Men, Women, Children and Elderly People from 17 to 23 April 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani). With regard to the destruction of mosques pursuant to orders of "senior commanders" see also P 02063.

¹³⁷⁴ Milivoj Petković, T(F), pp. 49440, 49441 and 49526; 4D 01082.

¹³⁷⁵ Milivoj Petković, T(F), pp. 49440-49442 and 49447.

¹³⁷⁶ See "The Chamber's Findings about Alleged Criminal Events at Sovići School" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹³⁷⁷ See "Treatment of Muslim Men during Their Removal from Sovići School to Ljubuški Prison on 18 April 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹³⁷⁸ See "Organisation of Houses of Junuzovići as a Detention Site" and "Detention and Treatment of Detainees in Houses of the Hamlet of Junuzovići" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹³⁷⁹ See "Treatment of Detainees at the Fish Farm" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹³⁸⁰ See "Sequence of Attacks on the Villages of Sovići and Doljani on 17 April 1993" and "Destruction of Two Buildings Devoted to the Muslim Religion, Including at Least One Mosque, in Sovići and Doljani between 18 and 22 April 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹³⁸¹ See "Existence of a Common Criminal Plan" in the Chamber's findings with regard to the JCE.

719. The Chamber does not know the contents of the report sent by Milivoj Petković to Mate Boban on 23 April 1993. Nevertheless, it deems that the only inference it can reasonably draw is that if Milivoj Petković requested that measures be taken against Mladen Naletilić and Ivan Andabak, it is because he knew of the crimes their troops had committed in Jablanica.

720. *Milivoj Petković* stated that he attended a meeting on 24 and 25 April 1993 in Zagreb during which Alija Izetbegović and Mate Boban discussed the issue of Sovići and Doljani and that Boban agreed to conduct "an investigation".¹³⁸² However, the Chamber does not have any information on the results of the investigation. On the contrary, as previously mentioned by the Chamber, the HVO units deployed in Sovići and Doljani in April 1993 continued to take part in the HVO combat operations and to commit other crimes in other municipalities.¹³⁸³

721. Furthermore, the Chamber found that in the days following the HVO attacks on and the capture of Sovići and Doljani villages, HVO soldiers who had control over the roads and checkpoints obstructed the passage of some international observers and peace-keeping convoys, pursuant to an order from the Main Staff.¹³⁸⁴ A report from the deputy commander of the North-West OZ dated 24 April 1993 shows that the Main Staff issued an oral order forbidding an UNPROFOR convoy carrying Arif Pašalić and Miljenko Lasić from passing through Jablanica.¹³⁸⁵ Insofar as on 24 April 1993, Milivoj Petković was the chief of the Main Staff and was personally involved in planning and directing the HVO operations in Jablanica in April 1993, the Chamber can reasonably find that the order came from him. Therefore, the Chamber finds that Milivoj Petković obstructed the access and passage of certain international observers and peace-keeping convoys in the days following the attacks of 17 April 1993 and the capture of Sovići and Doljani villages by the HVO. Insofar as Milivoj Petković had been informed of the destruction and the detention of civilians, the Chamber can reasonably find that he hindered access of the convoy for the purpose of concealing these crimes.

¹³⁸² Milivoj Petković, T(F), pp. 49443, 49444, 49447 and 49448. According to Milivoj Petković, an HVO delegation went to Čitluk on or about 28 or 29 April 1993 to meet with the HZ H-B political leadership and appointed an investigative commission to look into the incidents in Central Bosnia, including those in Sovići and Doljani.

¹³⁸³ In particular in Mostar and at the Heliodrom. *See* in this connection "Round-up of Muslims from West Mostar, Placement in Detention in Various Locations and Departure of Some to ABiH Controlled Areas or Other Countries in the First Half of May 1993", "Muslims from West Mostar Expelled from Their Houses, Placed in Detention or Transferred to East Mostar in the Second Half of May 1993", "Violence and Thefts Committed against Muslims Arrested, Evicted from Their Flats, Placed in Detention and Displaced in May 1993", "Crimes Allegedly Committed in June 1993", "Rapes, Sexual Assaults, Thefts, Threats and Intimidation of Muslims during Eviction Operations in July and August 1993 in West Mostar" and "Crimes Alleged to Have Been Committed from September 1993 to April 1994" in the Chamber's factual findings with regard to the Municipality of Mostar. *See* also "Attempts to Restrict Use of Heliodrom Detainees for Work", "Treatment of Male Detainees at the Heliodrom" and "Treatment of Detainees during Forced Labour" in the Chamber's factual findings with regard to the Heliodrom.

722. With regard to the removal of the Muslims who remained in Sovići and Doljani to Gornji Vakuf on 4 May 1993, the Prosecution argues that this was part of the HVO plan to use detained Muslims in a prisoner exchange programme.¹³⁸⁶ The Petković Defence submits that there is no proof to indicate that the civilians gathered at the Sovići School after many houses had been burned down and destroyed on 21 and 22 April 1993 were there in order to be transferred or deported from the Doljani-Sovići sector; and that all the circumstances surrounding this evacuation led Milivoj Petković to believe that this was a legal operation, in accordance with the wishes and well-being of the civilians, and organised by the civilians themselves and the ABiH commanders, including Halilović and Pašalić.¹³⁸⁷ The Petković Defence disputes the allegation that Milivoj Petković issued an order requesting the release of the civilians detained in Sovići and Doljani.¹³⁸⁸ The Chamber dismissed this argument in the part of the Judgement devoted to the Municipality of Jablanica.¹³⁸⁹

723. The Chamber recalls that it ruled that Milivoj Petković orchestrated the removal to Gornji Vakuf of approximately 450 women, children and elderly people detained at the Sovići School and in houses in the hamlet of Junuzovići on 5 May 1993.¹³⁹⁰

724. Moreover, it was established that the conditions of confinement at the Sovići School were deplorable when Milivoj Petković visited the villages of Sovići and Doljani.¹³⁹¹ The Chamber therefore finds that during his visit to the villages of Sovići and Doljani, Milivoj Petković witnessed the deplorable conditions of confinement at the Sovići School in May 1993. However, insofar as Milivoj Petković orchestrated the removal of these detainees on 5 May 1993, the Chamber is unable to find that he had accepted the poor conditions of confinement.

4. Municipality of Mostar

725. The Chamber will examine the evidence regarding Milivoj Petković's contribution to the crimes committed in the Municipality of Mostar by discussing (a) his role in the destruction of the

¹³⁸⁴ See "Blocking of International Observers and Peace-Keeping Forces on 17 April 1993 and in the Days that Followed" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹³⁸⁵ P 02066.

¹³⁸⁶ Prosecution Final Trial Brief, para. 890; Decision of 7 September 2006, Adjudicated Facts nos 47 and 48 (*Naletilić* Judgement, paras 529, 648 and 711).

¹³⁸⁷ Petković Defence Final Trial Brief, paras 171, 172, 176 and 194.

¹³⁸⁸ Petković Defence Final Trial Brief, paras 189-192.

¹³⁸⁹ See "Removal of Women, Children and Elderly People from Sovići School and Houses in the Hamlet of Junuzovići to Gornji Vakuf around 5 May 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹³⁹⁰ See "Removal of Women, Children and Elderly People from Sovići School and Houses in the Hamlet of Junuzovići to Gornji Vakuf around 5 May 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹³⁹¹ See "Conditions of Confinement and Treatment of Detainees at the Sovići School" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani). See also P 10358, paras 37 and 40.

Baba Bešir Mosque on or about 10 May 1993, (b) the evictions and removals of the Muslim population of West Mostar as of the second half of May 1993, (c) the arrests of the Muslim men in Mostar as of 30 June 1993 and (d) the crimes linked to the siege of East Mostar.

726. As a preliminary matter, the Chamber recalls that it established that the HVO launched an attack on 9 May 1993 on the town of Mostar.¹³⁹² On 9 May 1993, Miljenko Lasić ordered the *Knez Domagoj* and *Stjepan Radić* Brigades to send 120 armed and trained men to Mostar.¹³⁹³ He also ordered a unit of the 4th *Stjepan Radić* Brigade to redeploy to Mostar on 10 May 1993 at 0530 hours and the *Ludvig Pavlović* unit to do so at 0600 hours.¹³⁹⁴ That same day, Miljenko Lasić ordered the 4th Brigade to send urgently to Mostar: the *Grdani* platoon of the Čitluk Battalion,¹³⁹⁵ six ambulances and their crews;¹³⁹⁶ a mortar and a light rocket launcher with ammunition;¹³⁹⁷ a T-34 tank and its crew¹³⁹⁸ and an anti-aircraft weapon with its crew and ammunition.¹³⁹⁹ All of these units were to place themselves under the command of the Staff of the South-East OZ, itself under the direct command of Chief of the Main Staff who, at that time, was Milivoj Petković. The Chamber notes, however, that Milivoj Petković stated he was in Split from 7 to 9 May 1993 and in Čitluk on the morning of 9 May 1993.¹⁴⁰⁰

727. On 10 May 1993, a ceasefire agreement was signed between Mate Boban and Alija Izetbegović. A second cease-fire agreement was signed by Milivoj Petković and Sefer Halilović on 12 May 1993. The second agreement, signed at Međugorje under the auspices of Spabat and several other international organisations, provided for the withdrawal of the HVO and ABiH troops from the town of Mostar, the liberation of "civilian prisoners", the exchange of "prisoners of war" and the deployment of a Spabat unit on the front line.¹⁴⁰¹

¹³⁹² See "Attack on 9 May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹³⁹³ 3D 01006. The Chamber notes that at 0800 hours on 10 May 1993 these troops had still not arrived in Mostar. See 3D 01022.

¹³⁹⁴ P 02240, For the redeployment of the *Ludvig Pavlović* unit, see Dragan Ćurčić, T(F), pp. 45804-45807; 3D 03759, pp. 14-15. For the redeployment of the unit of the 4th Brigade, see Dragan Ćurčić, T(F), p. 45946. The Chamber notes that at 0800 hours on 10 May 1993 these troops had still not arrived in Mostar. See 3D 01022.

¹³⁹⁵ 3D 01010.

¹³⁹⁶ 3D 01023.

¹³⁹⁷ 3D 01007.

¹³⁹⁸ 3D 01008.

¹³⁹⁹ 3D 01009; 3D 01011.

¹⁴⁰⁰ Milivoj Petković, T(F), pp. 49531-49534, pp. 49568-49573, 50650 and 50651.

¹⁴⁰¹ See "Continuation of Fighting and Attempts to Reach a Ceasefire" in the Chamber's factual findings with regard to the Municipality of Mostar.

a) Destruction of the *Baba Bešir* Mosque on or about 10 May 1993

728. The Petković Defence submits that no evidence shows that Milivoj Petković had knowledge of the destruction in Mostar during the period from 30 June to 24 July 1993.¹⁴⁰²

729. The Chamber established that the *Baba Bešir* Mosque was blown up with dynamite and completely demolished on or about 10 May 1993 on orders from Miljenko Lasić, commander of the South-East OZ.¹⁴⁰³ Milivoj Petković was informed in a letter from bishop Ratko Perić about the destruction of the mosque on the day it happened, namely 10 May 1993.¹⁴⁰⁴

730. Consequently, the Chamber finds that Milivoj Petković was directly informed about the destruction of the *Baba Bešir* Mosque on 10 May 1993 and that it had been destroyed on orders from Miljenko Lasić, who was directly subordinated to him. By continuing to carry out his functions as the chief of the Main Staff and by failing to take any measures against the perpetrator of this crime, as shown by the fact that Miljenko Lasić remained in his post, the Chamber deems that the only inference it can reasonably draw is that Milivoj Petković accepted the destruction.

b) Evictions of the Population of West-Mostar as of 9 May 1993

731. The Petković Defence maintains that due to the intense fighting on 9 May 1993, a considerable number of people were evacuated from the town for their own safety and taken to the Heliodrom where they spent a few days under the exclusive responsibility of the ODP.¹⁴⁰⁵ According to the Petković Defence, the HVO Main Staff was not involved in any way in this evacuation operation and was not even informed in advance about it.¹⁴⁰⁶

732. On 14 June 1993, the Main Staff was informed by the Military Police that the *Vinko Škrobo* ATG and the 4th Battalion referred to as "*Tihomir Mišić*" of the 3rd HVO Brigade were involved in transporting the Muslims from the east side of the river and that this constituted "illegal ethnic cleansing".¹⁴⁰⁷ That same day, Milivoj Petković, Bruno Stojić and Žarko Keza, head of the VOS, received a special report from the CED, the department in charge of radio surveillance within the VOS,¹⁴⁰⁸ indicating that during the eviction operations led by Vinko Martinović on 13 June 1993,

¹⁴⁰² Petković Defence Final Trial Brief, para. 384.

¹⁴⁰³ See "Destruction of Two Mosques in West Mostar around 9 and 11 May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁴⁰⁴ P 02264.

¹⁴⁰⁵ Stojić Defence Final Trial Brief, para. 500; Petković Defence Final Trial Brief, paras 238 and 239; Ćorić Defence Final Trial Brief, paras 444 to 448.

¹⁴⁰⁶ Petković Defence Final Trial Brief, para. 238.

¹⁴⁰⁷ P 02749, p. 2.

¹⁴⁰⁸ Radmilo Jasak, T(F), pp. 48839-48841.

members of the 4th *Tihomir Mišić* Battalion of the 3rd HVO Brigade, Vinko Martinović and members of his *Vinko Škrobo* ATG raped several women in the presence of witnesses, beat numerous people and that there were indications that "civilians" were murdered during these operations.¹⁴⁰⁹

733. The Chamber noted that in the course of the operations during which Muslims of West Mostar, among whom were men who did not belong to any armed force, were driven from their houses, between May 1993 and February 1994, HVO soldiers – in particular the *Benko Penavić* ATG in May 1993, the members of the 4th Battalion of the 3rd HVO Brigade and members of the KB in June 1993, the members of the *Vinko Škrobo* and *Benko Penavić* ATGs in September 1993 – threatened and intimidated the Muslims they were evicting from their homes and savagely kicked, punched and beat them with their rifle butts;¹⁴¹⁰ they took all the valuable items the Muslims had on them and also appropriated the items they found inside the apartments from which they drove the Muslims.¹⁴¹¹ The Chamber recalls that these removals lasted until February 1994.¹⁴¹²

734. Based on all the above, the Chamber finds that Milivoj Petković was directly informed of the operations to evict Muslims from West Mostar in June 1993 by HVO units subordinated to him and of the atmosphere of violence surrounding these operations and that, at the very least, he allowed this to happen insofar as the units continued operating in the same atmosphere of violence in evicting and removing the population of West Mostar until February 1994.

735. In light of the foregoing, the Chamber deems that the only inference it can reasonably draw is that, having failed to take any measures to stop the evictions or punish the perpetrators, while at the same time exercising his functions within the HZ(R) H-B armed forces, Milivoj Petković accepted the evictions and the acts of violence accompanying them.

736. With regard to the other crimes committed on 13 June 1993 by the members of the *Vinko Škrobo* ATG, that is, the murders and sexual abuse, and thefts committed as of June 1993, the

¹⁴⁰⁹ P 02770.

¹⁴¹⁰ See "Rapes, Sexual Assaults, Thefts, Threats and Intimidation of Muslims during Eviction Operations in West Mostar in July and August 1993" and "The Crimes Alleged to Have Been Committed from September 1993 to April 1994" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁴¹¹ See "Municipality of Mostar" in the Chamber's legal findings with regard to Count 22 (appropriation of property, not justified by military necessity and carried out unlawfully and wantonly as a grave breach of the Geneva Conventions) and Count 23 (plunder of public or private property as a violation of the laws or customs of war).

¹⁴¹² See "Municipality of Mostar" in the Chamber's legal findings with regard to Count 6 (deportation as a crime against humanity), Count 7 (unlawful deportation of a civilian as a grave breach of the Geneva Conventions), Count 8 (inhumane acts (forcible transfer) as a crime against humanity) and Count 9 (unlawful transfer of a civilian as a grave breach of the Geneva Conventions).

Chamber ruled that they were not part of the common criminal plan¹⁴¹³. The Chamber will later analyse Milivoj Petković's responsibility for these crimes within the JCE 3.

c) Arrests of Muslim Men as of 30 June 1993

737. Following the attack launched by ABiH forces on 30 June 1993, Milivoj Petković issued an order to the South-East OZ indicating that: (1) all the Muslims in the HVO should be disarmed and "isolate[d]"; (2) all the able-bodied Muslim men residing in the zone of responsibility of the South-East OZ should also be "isolate[d]"; and that (3) HVO forces should leave the women and children in their homes.¹⁴¹⁴ Following this order, the HVO proceeded with a widespread and massive campaign to arrest Muslim men, whether members of an armed force or not, in and around the town of Mostar.¹⁴¹⁵

738. The Chamber deems that the arrests of the Muslim men that commenced on 30 June 1993 were carried out on a widespread and massive scale pursuant to the order of Milivoj Petković dated 30 June 1993 by units under his command. Therefore, Milivoj Petković ordered the arrest of men who did not belong to any armed force.

d) Siege of East Mostar

739. The Prosecution contends that Milivoj Petković directly contributed to the siege of East Mostar by issuing orders.¹⁴¹⁶ The Petković Defence argues that none of the crimes that occurred during the siege of East Mostar could be attributed to Milivoj Petković on the grounds that the ABiH and the HVO had been continuously fighting in the town of Mostar and that the actual powers and responsibilities of Milivoj Petković during the limited time when he held the position of Chief of Main Staff would not have enabled him to act to prevent the crimes that were committed during the siege.¹⁴¹⁷

740. The Chamber recalls its finding that East Mostar was besieged by the HVO from June 1993 to April 1994.¹⁴¹⁸ On 2 July 1993, further to an order from Milivoj Petković, Miljenko Lasić, commander of the South-East OZ, divided the defence zone of the town of Mostar into three sectors

¹⁴¹³ See "Existence of a Common Criminal Plan" in the Chamber's findings with regard to the JCE.

¹⁴¹⁴ P 03019, Milivoj Petković, T(F), pp. 49574-49581.

¹⁴¹⁵ The Chamber recalls that on 30 June 1993, the ABiH attacked and took control of the HVO *Tihomir Mišić* Barracks, located in the northern part of the town of Mostar. See also "Attack on the *Tihomir Mišić* Barracks on 30 June 1993" and "Arrests and Detention of Muslim Men Following the Attack on 30 June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁴¹⁶ Prosecution Final Trial Brief, para. 959.

¹⁴¹⁷ Petković Defence Final Trial Brief, para. 378.

and appointed Zlatan Mijo Jelić commander of the sector that comprised the town of Mostar.¹⁴¹⁹ Furthermore, on 6 August 1993, the Main Staff took over the command of the defence of Mostar.¹⁴²⁰

741. The Chamber will analyse the evidence it has regarding the involvement of Milivoj Petković in (i) the shelling, (ii) obstructing the delivery of humanitarian aid and access by international organisations, and (iii) the destruction of the Old Bridge.

i. Shelling

742. The Prosecution submits that Milivoj Petković could not have been unaware of the HVO shelling and sniping as it was taking place just outside his office in West Mostar until 18 July 1993,¹⁴²¹ and that he was in charge of the shelling of the town of Mostar.¹⁴²² The Petković Defence argues that between 30 June and 24 July 1993, Milivoj Petković did not receive any complaints about the shelling; that nothing in the reports he received indicated that the shelling was unlawful or that the decisions of the commanders were a breach of the law; that the artillery in the South-East OZ was subordinated to the commander of the OZ and that, consequently, Milivoj Petković was not in charge of selecting targets or determining the duration of shelling activities, or assessing their effect.¹⁴²³

743. The Chamber recalls that East Mostar sustained intense and continuous firing and shelling from June 1993 to March 1994 and that the HVO's shooting and shelling were not limited to specific targets, possibly military ones, but were also carried out in residential areas and that the population was directly affected. The Chamber found that the HVO intensively and wantonly shelled and fired at East Mostar, thereby directly affecting the population living there.¹⁴²⁴

744. The Chamber recalls that the HVO artillery was under the control of the Main Staff and that the Široki Brijeg artillery regiment was under the direct command of the Main Staff between 12 August 1993 and 1 December 1993.¹⁴²⁵

¹⁴¹⁸ See "The Chamber's Findings on the Existence of a Siege in East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁴¹⁹ See also "HVO Armed Forces" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁴²⁰ P 03983, p. 2.

¹⁴²¹ Prosecution Final Trial Brief, para. 962.

¹⁴²² Prosecution Final Trial Brief, paras 960 and 961.

¹⁴²³ Petković Defence Final Trial Brief, paras 380, 382, 383, 385 and 386.

¹⁴²⁴ See "Shelling and Artillery Fire Targeting East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁴²⁵ See "Artillery and the Air Forces Group" in the Chamber's findings with regard to the military structure of the HZ(R) HB.

745. The Chamber notes that as of 27 March 1993, Milivoj Petković issued an order to Miljenko Lasić, commander of the South-East OZ, indicating that "for firing at the populated areas it is obligatory to seek approval of the [the Main Staff]"; Lasić then forwarded this order to the units under his command.¹⁴²⁶

746. On 8 November 1993, Milivoj Petković expressly ordered the Mostar ZP to launch offensive operations in the towns of Bijelo Polje, Blagaj and Mostar: "[...] carry out offensive operations [...]. Shell the town of Mostar selectively at various intervals [...]. The HVO Main Staff will take the most stringent measures against all levels of command that fail to fulfil this order".¹⁴²⁷ This order was transmitted by Miljenko Lasić to his troops that same day.¹⁴²⁸

747. In light of this evidence, the Chamber finds that Milivoj Petković planned the shelling during the siege of East Mostar.

748. The Chamber heard the testimony of several international witnesses who stated that they regularly alerted the HVO political and military leadership, including Milivoj Petković, to the shelling of East Mostar. *Witness DZ*¹⁴²⁹ thus discussed the shelling of Mostar and the injuries sustained by civilians with Jadranko Prlić, Bruno Stojić and Milivoj Petković and stated that they were informed about the HVO's opening fire on members of international organisations.¹⁴³⁰

749. *Witness DW*¹⁴³¹ stated that the Spabat leadership spoke directly to Slobodan Praljak, Milivoj Petković and Bruno Stojić and they had addressed them about the unlawful shelling, attacks on the civilian population, attacks on Spabat and all other problems related to the Spabat mission.¹⁴³² *Witness DW* specified that during a meeting, which was attended by Milivoj Petković, Spabat raised several issues, notably the HVO attacks on civilian targets, the HVO attacks on Spabat personnel and military materiel, and the blocking and delays caused to Spabat patrols at HVO checkpoints.¹⁴³³ Spabat notified the HVO authorities on several occasions, notably Milivoj Petković in person on

¹⁴²⁶ P 01736.

¹⁴²⁷ P 06534.

¹⁴²⁸ P 06524.

¹⁴²⁹ Member of an international organisation between 1 April 1993 and April 1994. *Witness DZ*, T(F), pp. 26472 and 26473, closed session; P 10367 under seal, paras 5 and 10.

¹⁴³⁰ *Witness DZ*, T(F), pp. 26484, 26485, 26489 and 26490, closed session; P 10367 under seal, para. 21. *See* "Targeting Members of International Organisations" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁴³¹ Spabat member deployed to BiH from September 1993 to 24 April 1994. P 10287 under seal, para. 9; *Witness DW*, T(F), p. 23087.

¹⁴³² P 10287 under seal, para. 30; *Witness DW*, T(F), p. 23087.

¹⁴³³ P 10287 under seal, para. 61; P 05883 under seal, p. 4; *Witness DW*, T(F), pp. 23087 and 23232.

14 October 1993, that its vehicles, personnel and civilian buildings were being targeted by HVO shelling and HVO snipers.¹⁴³⁴

750. In light of this evidence, the Chamber finds that Milivoj Petković knew that the HVO forces were shelling and firing on East Mostar, a densely-populated urban zone, causing deaths, injuries and the destruction of property, including mosques. He also knew that the members of the international organisations were also affected by the HVO shelling. Furthermore, under these circumstances and bearing in mind the long period during which East Mostar was regularly the target of HVO shooting, Milivoj Petković must have been aware of the terror under which the Muslim population of East Mostar was living. Insofar as he ordered and contributed to planning this shelling, while knowing that it would lead to murder, injuries and the destruction of property, including mosques, the Chamber infers that Milivoj Petković intended to have these crimes committed.

ii. Humanitarian Aid and Access by International Organisations to East Mostar

751. The Prosecution contends that Milivoj Petković was aware that the Muslims in East Mostar were living in inhumane conditions caused by the HVO, that he prevented humanitarian aid convoys from reaching them, and when he granted access to such convoys, it was under pressure from the international community.¹⁴³⁵ The Petković Defence argues that humanitarian aid was not under Milivoj Petković's competence.¹⁴³⁶

752. The Chamber notes that Milivoj Petković had the power to allow humanitarian convoys to pass and to grant international organisations access to East Mostar.¹⁴³⁷

753. The Chamber notes that following a meeting attended inter alia by Milivoj Petković and Bruno Stojić, a humanitarian convoy carrying medical supplies was organised to go to East Mostar on 21 August 1993 and that it was Milivoj Petković's responsibility to organise the technical details that would enable the convoy to pass unobstructed.¹⁴³⁸ The Chamber established that 21 August 1993, was the first time in two months that a humanitarian convoy had access to East Mostar.¹⁴³⁹

¹⁴³⁴ P 10287 under seal, paras 52 and 53; Witness DW, T(F), p. 23087.

¹⁴³⁵ Prosecution Final Trial Brief, para. 964.

¹⁴³⁶ Petković Defence Final Trial Brief, paras 396-398.

¹⁴³⁷ P 02421, p. 1; Witness BD, T(F), p. 20691, closed session; P 03923; P 06825; Witness BA, T(F), pp. 7166-7168, 7199 and 7200, closed session; P 02746; P 10013, p. 1; P 07915, p. 1; P 10013, p. 1. *See also* "Milivoj Petković's Powers" in the Chamber's findings with regard to Milivoj Petković's responsibility.

¹⁴³⁸ P 03858, pp. 6 and 14; Witness DZ, T(F), pp. 26598 to 26600, closed session; P 09495; P 02590.

¹⁴³⁹ *See* "Blocking of International Organisations and Humanitarian Aid" in the Chamber's factual findings with regard to the Municipality of Mostar.

754. Furthermore, Milivoj Petković was kept regularly informed by the international organisations of the "situation" in East Mostar.¹⁴⁴⁰ Also, as of 18 May 1993, during a meeting held under the auspices of Lord Owen, attended by Mate Boban, Alija Izetbegović, Franjo Tuđman and Milivoj Petković, Sefer Halilović insisted on the need to resolve the problem of humanitarian convoys passing through BiH because the lives of about three million people were at stake unless they received food aid.¹⁴⁴¹

755. The Chamber recalls that Milivoj Petković had the power to allow humanitarian convoys to pass through and reach East Mostar and occasionally facilitated access of the humanitarian convoys in Mostar. Therefore, the Chamber finds that when he failed to do so it was because he intended to facilitate the hindering of the humanitarian convoys from reaching the Muslim population of East Mostar, thereby contributing to the continuation of the harsh living conditions of the Muslim population in East Mostar.

iii. Destruction of the Old Bridge

756. The Chamber recalls that it found that Milivoj Petković ordered an offensive on Mostar, which was carried out by Miljenko Lasić and that as part of the offensive, an HVO tank fired throughout the day of 8 November 1993 at the Old Bridge, rendering it unusable and on the point of collapse by the evening of 8 November 1993 and leading to its collapse on 9 November 1993.¹⁴⁴² Consequently, the Chamber can therefore find that Milivoj Petković planned the military offensive on the Old Town of Mostar and thereby intended to destroy the Old Bridge.

5. Municipality of Stolac

757. The Chamber recalls that further to Milivoj Petković's order of 30 June 1993 to arrest Muslim members of the HVO and Muslim men of military age, and the order of Nedeljko Obradović dated 3 July 1993 in which he instructed all the units of the 1st *Knez Domagoj* Brigade to prevent crimes in the zone of responsibility of the brigade and to "group the Muslim population" in this zone and "secure them",¹⁴⁴³ HVO members, some of whom belonged to the 1st *Knez Domagoj* Brigade, launched a massive and systematic campaign of disarming and arrests targeting both the Muslim members of the HVO and the ABiH as well as the civilians in the Municipality of Stolac,

¹⁴⁴⁰ Ray Lane, T(F), pp. 23639, 23649 and 23716; Witness DZ, T(F), pp. 26484-26485, closed session; P 10367 under seal, paras 21 and 37.

¹⁴⁴¹ P 02441, pp. 2 and 3.

¹⁴⁴² See "General Findings of the Chamber on the Destruction of the Old Bridge" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁴⁴³ P 03135, p. 2.

and that these men were then detained in Dretelj, Gabela and Ljubuški Prisons and at the Heliodrom.¹⁴⁴⁴

758. The Chamber finds that Milivoj Petković ordered the detention of people who were not members of any armed force in Stolac after 30 June 1993,.

6. Municipality of Čapljina

759. The Chamber recalls that following Milivoj Petković's order of 30 June 1993 to arrest the Muslim members of the HVO and Muslim men of military age, on 1 July 1993, Nedeljko Obradović, commander of the 1st *Knez Domagoj* Brigade ordered the 1st and the 3rd battalions of this brigade to mop up several sectors of the Municipality of Čapljina that day, including Bivolje Brdo and Počitelj.¹⁴⁴⁵ Subsequently, on 3 July 1993, Nedeljko Obradović instructed all the units in his brigade to "prevent crimes in the zone of responsibility of the brigade" and to "group the Muslim population" in this zone and "secure them".¹⁴⁴⁶ Following this series of orders, members of the 1st *Knez Domagoj* Brigade, the 3rd company of the 3rd Military Police Battalion and the Čapljina MUP proceeded to arrest Muslim men in the Municipality of Čapljina, some of whom were not members of any armed force, and detain them in Dretelj and Gabela Prisons and at the Heliodrom.¹⁴⁴⁷ The Chamber finds that, in Čapljina after 30 June 1993, Milivoj Petković ordered the detention of people who were not members of any armed forces.

7. Municipality of Vareš

760. The Prosecution contends that Milivoj Petković sent HVO commander Ivica Rajić to Stupni Do with some of the most aggressive HVO troops to carry out a mission that they knew would result in the commission of crimes aimed at instilling fear amongst the population.¹⁴⁴⁸ On 23 October 1993, the day of the attack, Milivoj Petković received a report from Ivica Rajić regarding the progress of the operation.¹⁴⁴⁹ The Petković Defence submits that Milivoj Petković and Ivica Rajić agreed that Rajić would go to Vareš to assist the *Bobovac* Brigade.¹⁴⁵⁰ Ivica Rajić

¹⁴⁴⁴ See "Arrest and Incarceration of the Muslim Men of Military Age in Stolac Municipality in July 1993" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁴⁴⁵ P 03063; Witness CG, T(F), pp. 10798 and 10799. See also "Eviction of Women, Children and Elderly People, Their Removal and Subsequent Alleged Crimes in the Municipality of Čapljina from July to September 1993" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁴⁴⁶ P 03135, pp. 2 and 3.

¹⁴⁴⁷ See "Arrest and Incarceration of Muslim Men in the Municipality of Čapljina in July 1993" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁴⁴⁸ Prosecution Final Trial Brief, para. 897.

¹⁴⁴⁹ Prosecution Final Trial Brief, para. 898.

¹⁴⁵⁰ Petković Defence Final Trial Brief, para. 413.

arrived in Vareš on 22 October 1993, which he informed Milivoj Petković of and they did not have subsequent contact.¹⁴⁵¹

761. The Petković Defence further argues that Milivoj Petković could not have received the reports from Ivica Rajić dated 23 and 24 October 1993 informing him of the operations in Stupni Do insofar as he himself was in Kiseljak and as the reports were sent to the Main Staff in Mostar/Čitluk.¹⁴⁵² The Chamber recalls, however, that three of these reports sent to the Main Staff were done so through the system of packet communication, which functioned throughout the war.¹⁴⁵³ Moreover, during his testimony, *Milivoj Petković* stated that he was informed of the HVO attack on Stupni Do on the evening of 23 October 1993 following a conversation with Žarko Tole.¹⁴⁵⁴ This shows that in any case, Žarko Tole, chief of the Main Staff, had indeed received reports from Stupni Do on 23 October 1993 and had spoken about this to Milivoj Petković. Furthermore, during a meeting held on 4 November 1993 in the presence of Jadranko Prlić, Slobodan Praljak, Mate Boban and Franjo Tuđman, Milivoj Petković explained that on 25 October 1993, he had received a report from the HVO stating that the HVO troops had killed approximately 80 people, 47 of whom were members of the ABiH, and had burned down almost all of the property in the village and that he had requested that an investigation be launched.¹⁴⁵⁵ Therefore, as of October 1993, Milivoj Petković knew that a number of inhabitants of the village of Stupni Do who were not members of the ABiH were killed by the HVO and that almost all of the village had been destroyed. As such, he did indeed receive information about the events in Stupni Do at least on 25 October 1993.

762. With regard to the arrests of the Muslim men in the Municipality of Vareš on 23 October 1993, the Chamber recalls that Milivoj Petković was informed that same day that the town of Vareš had been "cleansed"; that all able-bodied Muslims had been placed "under surveillance" and that during the arrests, HVO soldiers, including members of the *Maturice* special units insulted,

¹⁴⁵¹ Petković Defence Final Trial Brief, para. 416.

¹⁴⁵² Petković Defence Final Trial Brief, paras 422-426 and 428-431. The Petković Defence cites the following reports: 4D 00648, p. 2. "at this moment we have learned that an action to mop up Stupni Do village has begun and Muslim forces have received an order to shell the town. We will report all changes."; 3D 00825: "the Stupni Do Sector is currently being "mopped up". We do not have detailed information about the number of wounded or killed. All the inhabitants of the town are in shelters"; P 06026; P 06036.

¹⁴⁵³ See "Structures and Means for Alerting the Main Staff and its Chief Regarding the Situation in the Field" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

¹⁴⁵⁴ Milivoj Petković, T(F), pp. 50577 and 50578.

¹⁴⁵⁵ P 06454, pp. 59 and 60.

threatened and beat the Muslim men who were arrested and stole property and money belonging to the Muslim inhabitants of the town of Vareš.¹⁴⁵⁶

763. Milivoj Petković was therefore informed of the arrests, detentions, mistreatment and thefts committed by the *Maturice* unit in the town of Vareš against Muslim men who were not members of any armed force. As to the thefts, the Chamber ruled that they were not part of the common criminal plan.¹⁴⁵⁷ The Chamber will subsequently analyse Milivoj Petković's responsibility for these crimes within the framework of JCE 3.

764. The Chamber established that on 22 October 1993, as a reaction to the attack on the village of Kopjari by the ABiH forces on 21 October 1993, Milivoj Petković ordered Ivica Rajić to redeploy to Vareš with soldiers from the *Maturice* and *Apostoli* units, soldiers from the *Ban Josip Jelačić* Brigade and eight military policemen from the platoon of this same brigade.¹⁴⁵⁸

765. In a report he sent directly to Mate Boban on 31 October 1993 regarding the events in Vareš, Ivica Rajić stated that "all activities and operation which have been carried out in Vareš are in keeping with instructions issued by [...] Tihomir Blaškić, [...] Milivoj Petković and [...] Slobodan Praljak".¹⁴⁵⁹ The report from Ivica Rajić thus shows that Milivoj Petković was directly involved in the planning of the HVO military operations in Vareš in October 1993. Nevertheless, the Chamber also established that Ivica Rajić informed Milivoj Petković of the attack on Stupni Do only after it had taken place and that, consequently, Milivoj Petković had not been involved in the decision-making to attack this village. However, Milivoj Petković was informed of Ivica Rajić's decision in a report that he sent him on the day of the attack itself, 23 October 1993.¹⁴⁶⁰ In this same report, Milivoj Petković was informed by Ivica Rajić that a large number of ABiH soldiers and "some civilians were killed".¹⁴⁶¹ The Chamber found that 28 inhabitants of Stupni Do village were killed during and after the attack by the members of the *Maturice* and *Apostoli* units.¹⁴⁶² Moreover,

¹⁴⁵⁶ See "Arrests of Muslim Men and Crimes Allegedly Committed during Arrests" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁴⁵⁷ See "Existence of a Common Criminal Plan" in the Chamber's findings with regard to the JCE.

¹⁴⁵⁸ See "ABiH Attack on Kopjari on 21 and 22 October 1993 and the HVO Response" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁴⁵⁹ P 06291, p. 4.

¹⁴⁶⁰ See "Attack on the Village of Stupni Do and Crimes Alleged" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁴⁶¹ See "Information and Investigative Procedures Ordered by the HVO and Absence of Legal Prosecution" in the Chamber's factual findings with regard to the Municipality of Vareš. See also P 06026, p. 2.

¹⁴⁶² See also "Municipality of Vareš" in the Chamber's legal findings with regard to Count 2 (Murder, a crime against humanity) and Count 3 (Wilful killing, a grave breach of the Geneva Conventions).

a report from Ivica Rajić sent to the Main Staff on 24 October 1993 indicated that: "Our forces have established full control over the village of Stupni Do".¹⁴⁶³

766. A report from an international organisation dated 25 October 1993 refers to a conversation between Dario Kordić and Milivoj Petković on the topic of Stupni Do during which Petković stated that "nothing that bad had happened – a lot of houses were burning and a lot of soldiers 'in and out of uniform' were killed and that most of the civilians had moved out and were now in Vareš".¹⁴⁶⁴

767. The Chamber finds, therefore, that Milivoj Petković planned the operations on the Municipality of Vareš and that even if he was not involved in making the decision to attack the village of Stupni Do, he was informed of the acts of violence committed by the men under the command of Ivica Rajić as of 23 October 1993, that is, of the murders of Muslims and the destructions of their property.

768. With regard to access of the international forces to the village of Stupni Do, the Petković Defence submits that Milivoj Petković was not informed of Ivica Rajić's request to have UNPROFOR withdraw from the zones in which it was located,¹⁴⁶⁵ nor was he informed of the Tihomir Blaskić's order to prevent UNPROFOR from entering the combat zone.¹⁴⁶⁶ However, after meeting with General Ramsey who informed him of the situation,¹⁴⁶⁷ he ordered Ivica Rajić on 25 October 1993 to allow the UN troops to enter Stupni Do.

769. The Chamber established that the HVO forces blocked access of UNPROFOR to the village of Stupni Do between 23 and 25 October 1993.¹⁴⁶⁸ Thus, following a report from Ivica Rajić sent to the HVO Main Staff on 24 October 1993, which indicated that if UNPROFOR did not withdraw, its forces would "intervene", Žarko Tole ordered him to deploy HVO anti-tank weapons around the vehicles of the UNPROFOR forces and to warn them that the HVO would "destroy them in case they rendered inoperative [the HVO] actions in fighting" the ABiH forces.¹⁴⁶⁹ On 25 October 1993, in execution of an order of 23 October 1993 sent by Slobodan Praljak *inter alia* to Milivoj Petković and Ivica Rajić, Rajić ordered the *Bobovac* Brigade to take control of the entry and exit points in

¹⁴⁶³ P 06047.

¹⁴⁶⁴ P 06095 under seal.

¹⁴⁶⁵ Petković Defence Final Trial Brief, para. 450.

¹⁴⁶⁶ Petković Defence Final Trial Brief, para. 451.

¹⁴⁶⁷ Petković Defence Final Trial Brief, para. 452.

¹⁴⁶⁸ See "Restrictions Imposed on Access by UNPROFOR to Stupni Do" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁴⁶⁹ See "Restrictions Imposed on Access by UNPROFOR to Stupni Do" in the Chamber's factual findings with regard to the Municipality of Vareš.

Vareš which were located in its zone of responsibility.¹⁴⁷⁰ Lastly, on the night of 24 to 25 October 1993, Milivoj Petković ordered Krešimir Božić, commander of the *Bobovac* Brigade, to "cease armed activities against UNPROFOR and to cooperate with it" and on 25 October 1993 a representative of the UNMO and on 26 October 1993 a Norbat patrol and a Britbat Battalion entered Stupni Do during the day.¹⁴⁷¹

770. The Chamber can find that Žarko Tole hindered access to the village of Stupni Do until 25 October 1993. Nevertheless, the Chamber cannot find beyond reasonable doubt that Milivoj Petković personally contributed to hindering access of the international forces to Stupni Do village, inasmuch as even though he knew that crimes had been committed there, he allowed access to UNPROFOR on 25 October 1993.

771. The Prosecution alleges that following the events in Stupni Do, Milivoj Petković ordered that an investigation be launched on 26 October 1993.¹⁴⁷² In its Final Trial Brief, the Prosecution specifies that Milivoj Petković acted to satisfy the international community and that this investigation was only for show.¹⁴⁷³ The Petković Defence argues that Milivoj Petković was not informed about the situation in Stupni Do before 25 October 1993.¹⁴⁷⁴ He then requested information about the situation from Ivica Rajić and the commander of the *Bobovac* Brigade before 15 November 1993 and requested that the UN be allowed to enter the village.¹⁴⁷⁵ Milivoj Petković informed Slobodan Praljak of what he knew about the situation, thereby fulfilling his disciplinary responsibility to notify his superiors.¹⁴⁷⁶

772. The Chamber found that the steps that Milivoj Petković took to launch an investigation into the events in Stupni Do were aimed solely at deceiving the international community by making it believe that investigations were ongoing.¹⁴⁷⁷ When he ordered Ivica Rajić to launch an investigation into the events in Stupni Do, Milivoj Petković sent him a handwritten note – confirmed by a telephone conversation – stating that the investigation order was not to be carried out and that its

¹⁴⁷⁰ See "Restrictions Imposed on Access by UNPROFOR to Stupni Do" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁴⁷¹ See "Restrictions Imposed on Access by UNPROFOR to Stupni Do" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁴⁷² Indictment, para. 215.

¹⁴⁷³ Prosecution Final Trial Brief, paras 909 and 910.

¹⁴⁷⁴ Petković Defence Final Trial Brief, paras 432 and 433.

¹⁴⁷⁵ Petković Defence Final Trial Brief, paras 433 and 437.

¹⁴⁷⁶ Petković Defence Final Trial Brief, para. 466.

¹⁴⁷⁷ See "Information and Investigative Procedures Ordered by the HVO and Absence of Legal Prosecution" in the Chamber's factual findings with regard to the Municipality of Vareš.

only purpose was to make UNPROFOR believe that the HVO was conducting an investigation.¹⁴⁷⁸ The Chamber also recalls that on the basis of an order from Slobodan Praljak signed by Milivoj Petković, two reports were submitted by Ivica Rajić to Milivoj Petković about the events in Stupni Do. The reports, signed by Ivica Rajić on 8 and 15 November 1993, were in fact given to him to sign for the sole purpose of making the international community believe that the HVO was conducting an investigation.¹⁴⁷⁹

773. With regard to the allegation regarding the changing of Ivica Rajić's name,¹⁴⁸⁰ the Petković Defence contends that: Milivoj Petković did not have any authority to punish HVO military leaders;¹⁴⁸¹ knowing that Mate Boban was involved in the investigation into the events in Stupni Do – without, however, knowing to what extent he was involved – and that he had the authority to suspend or relieve Ivica Rajić and other military leaders of their duties, Milivoj Petković did not have any reason to intervene further in the investigation.¹⁴⁸² When Ivica Rajić's report on the events in Stupni Do dated 15 November 1993 was received, Milivoj Petković was Ante Roso's deputy and, therefore, not in a position of power to take measures against Ivica Rajić or any other member of the HVO.¹⁴⁸³

774. The Chamber recalls that Milivoj Petković knew that Viktor Andrić and Ivica Rajić were one and the same person,¹⁴⁸⁴ and noted that Ivica Rajić continued to exercise his functions under the pseudonym Viktor Andrić and was therefore never investigated or punished by the HVO for his responsibility regarding the events in Stupni Do.¹⁴⁸⁵

775. The Chamber finds that Milivoj Petković participated in setting up a fake investigation of the events in Stupni Do and in fake sanctions against Ivica Rajić with the aim of deceiving the international community which was demanding that action be taken following the Stupni Do events.

776. The Chamber therefore notes that Milivoj Petković planned to send Ivica Rajić and his troops to Vareš on 22 October 1993; that he was informed of the operations to arrest and detain Muslims in the town of Vareš who did not belong to any armed force and of the fact that during the

¹⁴⁷⁸ See "Information and Investigative Procedures Ordered by the HVO and Absence of Legal Prosecution" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁴⁷⁹ See "Information and Investigative Procedures Ordered by the HVO and Absence of Legal Prosecution" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁴⁸⁰ Indictment, para. 216.

¹⁴⁸¹ Petković Defence Final Trial Brief, paras 458, 501 and 502.

¹⁴⁸² Petković Defence Final Trial Brief, paras 464 and 500.

¹⁴⁸³ Petković Defence Final Trial Brief, para. 468.

¹⁴⁸⁴ See "Keeping Ivica Rajić in His Post and Adoption of the Assumed Name of Viktor Andrić" in the Chamber's factual findings with regard to the Municipality of Vareš.

arrests, the HVO soldiers, including members of the *Maturice* special unit, insulted, threatened and beat the Muslim men who were arrested and stole money and other property belonging to the Muslim inhabitants of the town of Vareš;¹⁴⁸⁶ that although he was not involved in the decision to attack the village of Stupni Do, he was aware of it as of 23 October 1993; that he was also informed as of 25 October 1993 of the destruction, the death of people who did not belong to any armed force and of the aftermath of the attack; and that he subsequently contributed to the attempt to prevent the investigation of those responsible for the crimes committed in Stupni Do from revealing the identity of Viktor Andrić, who was in fact Ivica Rajić.

777. The Chamber infers from the foregoing that Milivoj Petković, by being aware of these crimes and failing to take any measures against the perpetrators, and by concealing the crimes in Stupni Do with his contribution to the fake investigation and to the change of Ivica Rajić's identity, accepted these crimes.

8. Detention Centres

a) Gabela Prison

778. The Main Staff received two reports from Ivo Curić, the commander of the Infectious, Epidemic and Toxicological Diseases Service at the Department of Defence on 29 September 1993 and 19 October 1993.¹⁴⁸⁷ The reports indicates that the significant overcrowding in the prison could lead to "epidemiological incidents such as intestinal and [...] respiratory diseases" and that several cases of severe malnutrition were noted¹⁴⁸⁸ as well as that "there is a lack of hot water" and that the "detainees claimed that they had not had a bath for a month".¹⁴⁸⁹

779. The Chamber established that between April 1993 and December 1993, the conditions of confinement in Gabela Prison were extremely harsh. The prison was overcrowded; the conditions of hygiene there were precarious in the extreme; the cells were unsanitary; there were no beds,

¹⁴⁸⁵ See "Keeping Ivica Rajić in His Post and Adoption of the Assumed Name of Viktor Andrić" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁴⁸⁶ See "Arrests of Muslim Men and Crimes Allegedly Committed during Arrests" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁴⁸⁷ P 05485, p. 2; P 05948, pp. 1 and 2. The Chamber notes that the report of 29 September 1993 was addressed to the Main Staff and the report of 19 October 1993 was sent to Žarko Tole, chief of the Main Staff at the time.

¹⁴⁸⁸ P 05485, p. 2.

¹⁴⁸⁹ P 05948, p. 2.

blankets or warm clothing; there was no food and water; the food was of bad quality; and the detainees had no access to medical care during their detention.¹⁴⁹⁰

780. The Chamber recalls that Milivoj Petković was alerted to the problems related to the conditions of confinement when he visited Sovići and Doljani villages in May 1993.

781. Furthermore, the Chamber also recalls that *Slobodan Praljak* stated that when footage taken by ZDF inside Gabela Prison in September 1993¹⁴⁹¹ was broadcast it caused quite a scandal; that international representatives then requested access to detention centres in the HR H-B and that Franjo Tuđman intervened to attempt to improve the situation in the HVO detention centres by dispatching Mate Granić there and by convening meetings.¹⁴⁹²

782. The Chamber therefore deems that as of at least September 1993, the poor conditions of confinement in Gabela had become public knowledge, so much in fact that they provoked the intervention of Franjo Tuđman himself. Furthermore, Ivo Curić sent two reports to the Main Staff on 29 September and 19 October 1993 describing the poor conditions of confinement in Gabela Prison. The Chamber recalls, moreover, that Milivoj Petković was already aware that the HVO had detained Muslims under poor conditions in Jablanica in April 1993. In light of this evidence, the Chamber deems that the only inference it can reasonably draw is that, as of at least September 1993, Milivoj Petković was aware that the conditions of confinement in Gabela Prison were extremely poor. By continuing to exercise his functions within the Main Staff despite this knowledge, the Chamber deems that Milivoj Petković accepted them.

b) Dretelj Prison

783. In a letter from the ICRC in Medugorje dated 20 January 1994, Milivoj Petković was informed that on 14 July 1993, guards had opened fire on detainees in Dretelj Prison killing and injuring them.¹⁴⁹³ The Chamber therefore finds that Milivoj Petković was informed on 20 January 1994 of the fact that detainees from Dretelj Prison had been wounded by guards who had shot at them and that some had succumbed to their injuries. By continuing to exercise his functions as the deputy chief of the Main Staff while failing to take any measures against the perpetrators of the shooting, the Chamber deems that the only inference it can reasonably draw is that Milivoj Petković

¹⁴⁹⁰ See "Lack of Room", "Lack of Hygiene", "Lack of Access to Food and Water" "Lack of Access to Medical Care", "Conditions of Confinement in Mid-July 1993" in the Chamber's factual findings with regard to Gabela Prison.

¹⁴⁹¹ 3D 00141; *Slobodan Praljak*, T(F), pp. 40918 and 40919; Peter Galbraith, T(F), pp. 6537-6540; Edward Vulliamy, T(F), pp. 1639 and 1640.

¹⁴⁹² *Slobodan Praljak*, T(F), pp. 44327-44333. See also Peter Galbraith, T(F), pp. 6537-6540.

¹⁴⁹³ P 07636, p. 2.

accepted the mistreatment. With regard to the murders, the Chamber recalls that they did not have the same systematic character as the other crimes associated with the military and eviction campaigns and the detention of the Muslims by the HVO and that, consequently, they were not part of the joint criminal purpose. Consequently, the Chamber will determine Milivoj Petković's responsibility in regard to these deaths in its analysis of JCE 3.

784. Moreover, the letter of 20 January 1994 sent by the ICRC to Milivoj Petković informed him of the death of several detainees in Dretelj Prison due to the dreadful conditions of confinement in the summer of 1993.¹⁴⁹⁴ The Chamber established that between July 1993 and the early days of October 1993, Dretelj Prison was overcrowded; that the detainees did not have enough room and air; that the conditions of hygiene were precarious in the extreme; that the detainees suffered from hunger and lost significant weight,¹⁴⁹⁵ and from thirst; that the detainees had no access to medical care during their detention; and that the conditions of confinement for the detainees in the isolation cells were particularly trying.¹⁴⁹⁶ Furthermore, the Chamber found that, due to the severe conditions of confinement, one detainee died from dehydration in mid-July 1993.¹⁴⁹⁷

785. Milivoj Petković was thus aware of these harsh conditions as of at least January 1994. By continuing to exercise his functions as the deputy chief of the Main Staff, the Chamber deems that Petković accepted them.

786. The Chamber recalls that the acts constituting the crimes of murder and wilful killing do not have the same systematic character as the other crimes associated with the military and eviction campaigns and the detention of the Muslims by the HVO and that, consequently, they are not part of the joint criminal purpose. Consequently, the Chamber will determine Milivoj Petković's responsibility for these deaths in its analysis of JCE 3.

c) The Heliodrom

787. The Chamber recalls that a former detainee of the Heliodrom, *Alija Lizde*, claimed to have seen Milivoj Petković visiting the Heliodrom while he was in detention.¹⁴⁹⁸ The man was detained at the Heliodrom from 30 May to 30 June 1993 and from 19 July 1993 to 19 October 1993.¹⁴⁹⁹ The

¹⁴⁹⁴ P 07636.

¹⁴⁹⁵ See "Inadequate Access to Food and Water" in the Chamber's factual findings with regard to Dretelj Prison.

¹⁴⁹⁶ See "Lack of Space and Air", "Lack of Hygiene", "Inadequate Access to Food and Water", "Lack of Medical Care", and "Conditions of Confinement in Isolation Cells" in the Chamber's factual findings with regard to Dretelj Prison.

¹⁴⁹⁷ See "Events of Mid-July 1993 Leading to the Death of at Least One Detainee" in the Chamber's factual findings with regard to the Dretelj Prison.

¹⁴⁹⁸ *Alija Lizde*, T(F), pp. 17802, 17803 and 17808.

¹⁴⁹⁹ *Alija Lizde*, T(F), pp. 17778-17783; *Alija Lizde*, T(E), pp. 17778-17780; P 08894.

Chamber does not have information about the date of Milivoj Petković's visit and what he was able to observe that day. Consequently, it cannot infer that Milivoj Petković was informed about the conditions of confinement or the mistreatment at the Heliodrom.

788. With regard to Milivoj Petković's role in the release of detainees at the Heliodrom, the Chamber recalls that on 12 May 1993, Milivoj Petković signed a cease-fire agreement with Sefer Halilović in which he accepted that all Muslim "civilians" be immediately released on 13 May 1993 and allowed to return to their homes and also issued an oral order in June 1993 that led to the release of 52 detainees from the Heliodrom.¹⁵⁰⁰ The Chamber found that people who were not members of any armed force were removed from the Heliodrom but only as of July 1993. Consequently, the Chamber did not find that the "releases" to which Milivoj Petković contributed in May and June 1993 constituted crimes.

789. Nevertheless, it does find from the foregoing that Milivoj Petković knew as of May 1993 that people who were not members of any armed force were being detained at the Heliodrom. By continuing to exercise his functions as the chief of the Main Staff, the Chamber deems that the only inference it can reasonably draw is that Milivoj Petković accepted these detentions.

790. On 15 July 1993 Milivoj Petković sent an order to all the brigade commanders, to the *Bruno Bušić* Regiment and the *Ludvig Pavlović* PPN with a list of measures to be taken regarding the organisation of defence in the South-East OZ and, notably, the use of prisoners and detainees to fortify defence lines.¹⁵⁰¹ When Milivoj Petković observed that his order had not been carried out, he re-sent it on 20 July 1993 and demanded that the defence line and positions be fortified by engaging "prisoners and available machinery".¹⁵⁰² The Chamber recalls that it heard the testimony of Božo Pavlović, the commander of the 3rd HVO Brigade as of 20 July 1993¹⁵⁰³ who was the recipient of these order and did not deny their existence or the fact that he had received them.¹⁵⁰⁴

791. The Chamber notes that Milivoj Petković also had the power to authorise work to be carried out by detainees, and that he did so on numerous occasions for Heliodrom detainees as of 14 October 1993.¹⁵⁰⁵ On 14 October 1993, Milivoj Petković sent all the brigades of the South-East

¹⁵⁰⁰ See "Authorities Responsible for Release of Detainees" in the Chamber's factual findings with regard to the Heliodrom.

¹⁵⁰¹ P 03474, p. 1.

¹⁵⁰² P 03592.

¹⁵⁰³ P 03582.

¹⁵⁰⁴ *Božo Pavlović*, T(F), pp. 47028 and 47029.

¹⁵⁰⁵ In the days following the order of 14 October 1993, Milivoj Petković notably "approved" and "consented" to a request from the 5th *Knez Branimir* Brigade: P 05882, p. 2 ; to at least two requests from the 6th *Vitez Ranko Boban* Brigade: P 05895; P 06133; P 01765, p. 6; P 07878, p. 4; a request from the 2nd Battalion of the 2nd HVO Brigade:

ZO an order prohibiting them from using detainees to do any work without prior approval from the Main Staff.¹⁵⁰⁶ The Chamber recalls that it found that Heliodrom detainees were forced by the HVO to do unlawful work between May 1993 and March 1994.¹⁵⁰⁷

792. Subsequently, when on 23 October 1993 Milivoj Petković allowed the *Vitez Ranko Boban* Brigade to use detainees to perform labour, one of the detainees was wounded by the ABiH while they were working.¹⁵⁰⁸ As the detainee had been wounded by the ABiH while working, the Chamber can reasonably find that he had been working on the front line.

793. The Chamber finds that by having ordered and authorised the work of Heliodrom detainees on the front line, Milivoj Petković ordered and facilitated this crime.

794. Moreover, Jadranko Prlić, Milivoj Petković and Marijan Biškić were informed in a letter from the Međugorje office of the ICRC dated 20 January 1994 that several detainees from the HVO camps at Mostar, Vojno and Vrđi had been taken to the front line in Mostar, where they were forced to wear HVO uniforms and carry fake wooden weapons while battle was raging in August and September 1993.¹⁵⁰⁹

795. The Chamber recalls that the detainees used for carrying out work by the HVO were regularly injured and even killed while performing this work.¹⁵¹⁰

796. The Chamber finds that by having ordered and facilitated the use of Heliodrom detainees for work on the front line while being aware of at least one incident where the detainees had been used as human shields by HVO members, Milivoj Petković must have been aware that many of them would certainly be killed or wounded while performing these activities. The Chamber deems that Milivoj Petković accepted the murders and injuries.

d) The Vojno Detention Centre

797. Jadranko Prlić, Milivoj Petković and Marijan Biškić were informed in a letter from the Međugorje office of the ICRC dated 20 January 1994 that numerous prisoners from the "HVO

P 05922; P 07878, p. 5; P 01765, p. 6; and a request from the engineering unit of the 2nd Brigade: P 05900; P 01765, p. 6; P 07773, p. 2. See also Marijan Biškić, T(F), pp. 15163 and 15164.

¹⁵⁰⁶ P 05873/P 05881.

¹⁵⁰⁷ See "Heliodrom" in the Chamber's legal findings with regard to Count 18 (unlawful labour as a violation of the laws and customs of war).

¹⁵⁰⁸ P 06133.

¹⁵⁰⁹ See "Use of Heliodrom Detainees as Human Shields" in the Chamber's factual findings with regard to the Heliodrom.

camps at Mostar, Vojno and Vrđi" had been taken to the front line in Mostar, where they were forced to wear HVO uniforms and carry fake wooden weapons while combat was raging in August and September 1993.¹⁵¹¹ Milivoj Petković also received two letters from the ICRC in January 1994 regarding the Vojno detention facility, specifically the work by these detainees and the deaths of some of them.¹⁵¹² Subsequently, Milivoj Petković was once again informed of the situation of the detainees at the Vojno detention facility and in Mostar by two letters from the ICRC dated 20 and 24 January 1994 reporting that the detainees were being forced to perform military work on the front line in Mostar and that many detainees had been injured while carrying out this work.¹⁵¹³ During his testimony, *Milivoj Petković* acknowledged that he had received the letter of 24 January 1994 and admitted that prisoners had been used for "forced labour".¹⁵¹⁴

798. Consequently, the Chamber finds that in January 1994, Milivoj Petković was informed that detainees from the Vojno detention facility were being used to do work on the front line and that some of them had been injured or killed while working. The Chamber finds that the only inference it can reasonably draw from the fact that Milivoj Petković continued to exercise his functions as deputy commander of the Main Staff and failed to take any measures to stop these crimes is that he accepted the unlawful work of the detainees on the front line and the death and injuries of the detainees while working.

e) Ljubuški Prison and the Vitina-Otok Camp

799. The Chamber notes that on 13 July 1993, Željko Šiljeg informed Milivoj Petković and Bruno Stojić that he had begun to remove the detainees from the Secondary School in Prozor to Ljubuški Prison.¹⁵¹⁵ Insofar as the report sent to Milivoj Petković mentions only men aged between 18 and 60, the Chamber cannot find beyond reasonable doubt that Milivoj Petković was informed of the fact that men who did not belong to any armed force were being held in Ljubuški in July 1993.

¹⁵¹⁰ See "Detainees from the Heliodrom and the Vojno Detention Centre Injured While Working" in the Chamber's factual findings with regard to the Vojno Detention Centre. See also "Detainees Killed or Wounded during Forced Labour" in the Chamber's factual findings with regard to the Heliodrom.

¹⁵¹¹ See "Use of Heliodrom Detainees as Human Shields" in the Chamber's factual findings with regard to the Heliodrom.

¹⁵¹² P 07636; P 07660.

¹⁵¹³ See "Authorities and Prominent Figures Informed of the Existence of the Vojno Detention Centre and the Incidents Taking Place There" and "Types and Locations of Labour in the Vojno-Bijelo Polje Area" in the Chamber's factual findings with regard to the Vojno Detention Centre.

¹⁵¹⁴ Milivoj Petković, T(F), pp. 50672, 50676 and 50677.

¹⁵¹⁵ P 03418, p. 4.

800. On 8 August 1993, Milivoj Petković ordered the commanders of the Posušje, Široki Brijeg Grude brigades to fortify the front line at Ljubuški by using Muslim prisoners and detainees after having obtained permission from the Military Police Administration.¹⁵¹⁶ That same day, the commander of the Posušje Brigade asked Valentin Ćorić, the head of the Military Police Administration, to provide him with 100 Muslim detainees explicitly referring to the order of Milivoj Petković.¹⁵¹⁷ On 11 August 1993, the Military Police platoon of the Posušje Brigade took over responsibility for 100 detainees from the Vitina-Otok Camp. In the report describing this taking of responsibility, an explicit reference was made to the request issued by the commander of the Posušje Brigade.¹⁵¹⁸

801. Therefore, the Chamber finds that, contrary to the arguments of the Petković Defence that the order of Milivoj Petković dated 8 August 1993 was lawful and that there was no evidence proving that it had ever been carried out,¹⁵¹⁹ the order of 8 August 1993 on the use of Muslim detainees to perform work on fortifying the front line was executed by Valentin Ćorić and that it was about forced labour on the front line.

802. Consequently, the Chamber finds that Milivoj Petković ordered the use of detainees from the Vitina-Otok Camp to do forced labour on the front line.

9. Milivoj Petković Denied that Crimes Were Committed Against the Muslims, Did not Prevent Them, Failed to Punish Them and Encouraged Them

803. The Chamber recalls that as the chief of the Main Staff and subsequently the deputy commander of the Main Staff, Milivoj Petković had effective command and control over the HVO armed forces which included the KB and its ATGs, and the *Bruno Bušić* Regiment.¹⁵²⁰

804. The Chamber will analyse below the evidence showing that not only did Milivoj Petković fail to punish and prevent the commission of certain crimes but that he also continued to use and, on numerous occasions, did not prevent his commanders from using the same units, in this case (a) the KB and its ATGs and the (b) *Bruno Bušić* Regiment, even though he had been informed since January 1993 that they were repeatedly committing crimes.

¹⁵¹⁶ P 04020.

¹⁵¹⁷ P 04030.

¹⁵¹⁸ P 04068.

¹⁵¹⁹ Petković Defence Final Trial Brief, paras 503 and 504; Closing Arguments by the Petković Defence, T(F), pp. 52614 and 52615.

¹⁵²⁰ See "The *Bruno Bušić* Regiment and the *Ludvig Pavlović* PPN", "Placement of the KB and its ATGs Within the Military Chain of Command" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

805. As a preliminary matter, the Chamber recalls its findings related to Milivoj Petković's contribution to the fake investigation of the events and his contribution to changing Ivica Rajić's identity.¹⁵²¹

a) The KB and its ATGs

806. Following the criminal events in the Municipality of Jablanica in April 1993, Milivoj Petković discussed with Mate Boban the possibility of taking measures against Mladen Naletilić and Ivan Andabak, commanders of the KB to which the *Vinko Škrobo* and *Benko Penavić* ATGs were attached.¹⁵²² It is clear from all the evidence that not only were no measures taken, but moreover, these units, which were known since 1993 to be violent and dangerous, took part in HVO numerous military operations during which many crimes were committed.

807. The Chamber notes that the KB and its ATGs committed crimes even after April 1993, notably by physically abusing Muslims from West Mostar in September 1993;¹⁵²³ by driving Muslim inhabitants out of their homes in West Mostar between June 1993 and February 1994;¹⁵²⁴ by raping and mistreating Muslims during these evacuation operations, facts that Milivoj Petković had been informed of personally;¹⁵²⁵ by participating in operations to arrest Muslims in West Mostar in June 1993;¹⁵²⁶ by physically abusing detainees at the Heliodrom whilst they carried out forced labour¹⁵²⁷ and raping a Muslim woman in West Mostar in September 1993.¹⁵²⁸

808. The Chamber finds that despite the information he received as of April 1993 about their criminal conduct, Milivoj Petković continued deploying the KB and its ATGs on the battlefield where HVO military operations were taking place and that these units once again committed numerous crimes. Consequently, the Chamber finds that by continuing to use these units, Milivoj Petković failed to punish or prevent the crimes committed against the Muslims.

¹⁵²¹ See "Municipality of Vareš" in the Chamber's findings with regard to Milivoj Petković's responsibility.

¹⁵²² Milivoj Petković, T(F), pp. 49440-49442 and 49447.

¹⁵²³ See "Municipality of Mostar" in the in the Chamber's legal findings with regard to Count 15 (Inhumane acts as a crime against humanity), Count 16 (Inhuman treatment as a grave breach of the Geneva Conventions) and Count 17 (Cruel treatment as a violation of the laws or customs of war).

¹⁵²⁴ See "Municipality of Mostar" in the Chamber's legal findings with regard to Count 6 (deportation as a crime against humanity), Count 7 (unlawful deportation of a civilian as a grave breach of the Geneva Conventions), Count 8 (inhumane acts (forcible transfer) as a crime against humanity) and Count 9 (unlawful transfer of a civilian as a grave breach of the Geneva Conventions).

¹⁵²⁵ P 02770.

¹⁵²⁶ See "Arrests and Detention of Muslim Men Following the Attack on 30 June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁵²⁷ See "Treatment of Detainees during Forced Labour" in the Chamber's factual findings with regard to the Heliodrom.

¹⁵²⁸ See "Municipality of Mostar" in the Chamber's legal findings with regard to Count 4 (Rape, a crime against humanity) and Count 5 (Inhuman treatment (sexual assault), a grave breach of the Geneva Conventions).

b) *Bruno Bušić* Regiment

809. The Chamber recalls that after having personally ordered the *Bruno Bušić* Regiment to be dispatched to Gornji Vakuf in January 1993, Milivoj Petković was informed that these troops had caused destruction and arrested, detained and murdered Muslims.

810. Despite the information he had since January 1993 about their criminal conduct, Milivoj Petković again ordered the deployment of the *Bruno Bušić* Regiment to the Municipality of Jablanica on 15 April 1993, following which Milivoj Petković was again informed about the destruction of Muslim houses in the villages of Sovići and Doljani and the detention of Muslims on 23 April 1993 by members of this regiment.

811. On 15 July 1993, Milivoj Petković sent an order to all brigade commanders and the *Bruno Bušić* Regiment with a list of measures to be taken regarding the organisation of defence in the South-East OZ, amongst which was the request to fortify defence lines by using prisoners and detainees.¹⁵²⁹

812. Moreover, the Chamber notes that the *Bruno Bušić* Regiment also committed crimes after January 1993, notably by administering beatings to detainees in the Heliodrom,¹⁵³⁰ and detaining Muslim men in the ABiH at the Fish Farm who were beaten by HVO soldiers, including Mladen Naletilić, on 20 April 1993.¹⁵³¹

813. The Chamber finds that despite the information he received as of from January 1993 about the criminal conduct of its members, Milivoj Petković continued deploying the *Bruno Bušić* Regiment in the theatre of military operations and personally ordered them to commit crimes such as the use of detainees to fortify defence lines. When they were again deployed in the field, the members of the *Bruno Bušić* Regiment again committed numerous crimes. Consequently, the Chamber finds that by continuing to use these units while being aware of their criminal conduct and by personally ordering them to use Muslim detainees on the front line, Milivoj Petković failed to punish or prevent the crimes committed against the Muslims by this regiment.

¹⁵²⁹ P03474, p. 1.

¹⁵³⁰ See "Treatment of the Male Detainees at the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

¹⁵³¹ See "Treatment of the Detainees at the Fish Farm" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

10. The Trial Chamber's Findings with Regard to Milivoj Petković's Responsibility Under JCE 1

814. Bearing in mind these findings, the Chamber is satisfied beyond reasonable doubt that from 14 April 1992 to 26 April 1994, Milivoj Petković, as the chief of the Main Staff, subsequently the deputy commander and later the deputy chief of the Main Staff, had effective command and control over the HZ(R) H-B armed forces. As the evidence shows, Milivoj Petković made decisions on military operations, which he had the armed forces carry out, and forwarded the decisions of the HVO government to the HVO armed forces and had them implement these decisions.

815. In light of the foregoing, the Chamber finds that Milivoj Petković ordered, planned, facilitated, encouraged and concealed the crimes committed by the members of the HZ(R) H-B armed forces as described above. The Chamber notes that Milivoj Petković was informed of the crimes committed by the members of the HZ(R) H-B armed forces, both by international representatives and through the HVO's internal communication channels. Despite this knowledge, he continued to exercise effective control over the armed forces until April 1994. The Chamber deems that the only inference it can reasonably draw from the fact that he directed the military operations in the Municipality of Prozor in April 1993 and June 1993 and planned the operations in July and August 1993; planned and facilitated the military operations in the Municipality of Gornji Vakuf in January 1993; planned and directed the military operations in the Municipality of Jablanica in April 1993, and hindered the international observers and peacekeeping forces from accessing and passing through the villages of Sovići and Doljani; orchestrated the removal of civilians detained in the Municipality of Gornji Vakuf; participated in planning the shelling in East Mostar; hindered the humanitarian convoys from reaching the Muslim population in East Mostar; planned the military offensive on the old town of Mostar; ordered the arrest of men not belonging to any armed force in the municipalities of Mostar, Stolac and Čapljina; planned the military operations in the town of Vareš and participated in the launching of a fake investigation into the events in Stupni Do and fictitious sanctions against Ivica Rajić; ordered and authorised labour by detainees from the Heliodrom and the Vitina-Otok Camp on the front line; and continued exercising control over the armed forces all the while knowing that its members had committed and were committing crimes, is that Milivoj Petković intended for these crimes to be committed.

816. Furthermore, despite his power over the armed forces and the Military Police, Milivoj Petković did not make serious efforts to put an end to the commission of crimes by the members of these armed forces, as shown by the evidence described above. On the contrary, he attempted to conceal the responsibility of the HVO authorities from the international representatives. Moreover, he continued to direct and control the HVO units, including the KB and its ATGs and the *Bruno*

Bušić Regiment, knowing that they had committed numerous crimes and, by continuing to deploy them to the battlefield or, at least, by failing to take any measures to prevent the commission of new crimes, he encouraged the commission of the subsequent crimes.

817. In view of all the evidence analysed above, the Chamber deems that the only possible inference it can reasonably draw is that Milivoj Petković intended to expel the Muslim population from the HZ(R) H-B. As the Chamber will specify below, Milivoj Petković shared this intention with other members of the JCE, notably members of the HVO/HZ(R) H-B government and the HVO Main Staff command.

818. With regard to his role in implementing the common criminal purpose, the Chamber deems that the evidence shows beyond reasonable doubt that it was significant. By directing and controlling the HVO armed forces, by negotiating with the ABiH authorities and by implementing the policies and decisions of the government in the field, Milivoj Petković was one of the most important members of the JCE. As a member of this JCE, he used the armed forces of the HZ(R) H-B to commit crimes that were part of the common criminal purpose and the actions of the members of the armed forces and the Military Police are attributable to him. Moreover, the Chamber deems that all of the evidence analysed above proves that Milivoj Petković knew that these crimes were being committed against the Muslims with the sole aim of forcing them to leave the territory of Herceg-Bosna. The Chamber deems that, by participating in the JCE, Milivoj Petković had the intention of discriminating against the Muslims in order to facilitate their eviction from these territories.

819. With respect to Milivoj Petković's knowledge of the factual circumstances that allowed the Chamber to find by a majority, with Judge Antonetti dissenting, that there was an international armed conflict between the HVO/HV and the ABiH, the evidence shows that Milivoj Petković was not only informed of the HVO military operations against the ABiH, but that he also participated in planning and directing many of them, notably in Prozor, Gornji Vakuf and Jablanica. Thus, Milivoj Petković knew that an armed conflict was taking place between the HVO and the ABiH during the period when he was chief of the Main Staff and subsequently deputy commander of the Main Staff. Furthermore, the evidence shows that Milivoj Petković was aware of Croatia's participation in the conflict between the HVO and the ABiH in BiH and facilitated it. Consequently, the Chamber holds by a majority, with Judge Antonetti dissenting, that the conflict was international in nature.

820. In light of the foregoing and under the counts that it retained for the acts described above, the Chamber is satisfied beyond reasonable doubt that Milivoj Petković is criminally responsible - by virtue of his participation in a JCE¹⁵³² – for the following crimes:

Municipality of Gornji Vakuf:

Count 1: Persecutions on political, racial and religious grounds under Article 5 of the Statute.

Count 2: Murder under Article 5 of the Statute.

Count 3: Wilful killing under Article 2 of the Statute.

Count 8: Inhumane acts (forcible transfer) under Article 5 of the Statute.

Count 9: Unlawful transfer of a civilian under Article 2 of the Statute.

Count 10: Imprisonment under Article 5 of the Statute.

Count 11: Unlawful confinement of a civilian under Article 2 of the Statute.

Count 15: Inhumane acts under Article 5 of the Statute.

Count 16: Inhuman treatment under Article 2 of the Statute.

Count 17: Cruel treatment under Article 3 of the Statute.

Count 19: Extensive destruction of property not justified by military necessity under Article 2 of the Statute.

Count 20: Wanton destruction of cities, towns and villages or devastation not justified by military necessity under Article 3 of the Statute.

Municipality of Prozor (in 1993 only):

Count 1: Persecutions on political, racial and religious grounds under Article 5 of the Statute.

Count 10: Imprisonment under Article 5 of the Statute.

Count 11: Unlawful confinement of a civilian under Article 2 of the Statute.

¹⁵³² Judge Antonetti dissents on the mode of responsibility – participation in a JCE – held by the majority of the Chamber. Nevertheless, he deems that the evidence supports a finding that Milivoj Petković was responsible for the

Count 15: Inhumane acts under Article 5 of the Statute.

Count 16: Inhuman treatment under Article 2 of the Statute.

Count 17: Cruel treatment under Article 3 of the Statute.

Count 19: Extensive destruction of property not justified by military necessity under Article 2 of the Statute.

Count 20: Wanton destruction of cities, towns and villages or devastation not justified by military necessity under Article 3 of the Statute.

Count 21: Destruction or wilful damage to institutions dedicated to religion or education under Article 3 of the Statute.

Municipality of Jablanica:

Count 1: Persecutions on political, racial and religious grounds under Article 5 of the Statute.

Count 8: Inhumane acts (forcible transfer) under Article 5 of the Statute.

Count 9: Unlawful transfer of a civilian under Article 2 of the Statute.

Count 10: Imprisonment under Article 5 of the Statute.

Count 11: Unlawful confinement of a civilian under Article 2 of the Statute.

Count 19: Extensive destruction of property not justified by military necessity under Article 2 of the Statute.

Count 20: Wanton destruction of cities, towns and villages or devastation not justified by military necessity under Article 3 of the Statute.

Municipality of Mostar:

Count 1: Persecutions on political, racial and religious grounds under Article 5 of the Statute.

Count 2: Murder under Article 5 of the Statute.

Count 3: Wilful killing under Article 2 of the Statute.

crimes under the counts listed in this paragraph by virtue of other modes of responsibility provided for in the Statute, as

Count 6: Deportation under Article 5 of the Statute.

Count 7: Unlawful deportation of a civilian under Article 2 of the Statute.

Count 8: Inhumane acts (forcible transfer) under Article 5 of the Statute.

Count 9: Unlawful transfer of a civilian under Article 2 of the Statute.

Count 15: Inhumane acts under Article 5 of the Statute.

Count 16: Inhuman treatment under Article 2 of the Statute.

Count 17: Cruel treatment under Article 3 of the Statute.

Count 20: Wanton destruction of cities, towns and villages or devastation not justified by military necessity under Article 3 of the Statute.

Count 21: Destruction or wilful damage to institutions dedicated to religion or education under Article 3 of the Statute.

Count 24: Unlawful attack on civilians under Article 3 of the Statute.

Count 25: Unlawful infliction of terror on civilians (Mostar) under Article 3 of the Statute.

The Heliodrom:

Count 1: Persecutions on political, racial and religious grounds under Article 5 of the Statute.

Count 2: Murder under Article 5 of the Statute.

Count 3: Wilful killing under Article 2 of the Statute.

Count 10: Imprisonment under Article 5 of the Statute.

Count 11: Unlawful confinement of a civilian under Article 2 of the Statute.

Count 15: Inhumane acts under Article 5 of the Statute.

Count 16: Inhuman treatment under Article 2 of the Statute.

Count 17: Cruel treatment under Article 3 of the Statute.

set out in his dissenting opinion attached to this Judgement.

Count 18: Unlawful labour under Article 3 of the Statute.

Vojno Detention Centre:

Count 1: Persecutions on political, racial and religious grounds under Article 5 of the Statute.

Count 2: Murder under Article 5 of the Statute.

Count 3: Wilful killing under Article 2 of the Statute.

Count 15: Inhumane acts under Article 5 of the Statute.

Count 16: Inhuman treatment under Article 2 of the Statute.

Count 17: Cruel treatment under Article 3 of the Statute.

Count 18: Unlawful labour under Article 3 of the Statute.

Ljubuški Prison and the Vitina-Otok Camp:

Count 1: Persecutions on political, racial and religious grounds under Article 5 of the Statute.

Count 18: Unlawful labour under Article 3 of the Statute.

Municipality of Stolac:

Count 1: Persecutions on political, racial and religious grounds under Article 5 of the Statute.

Count 10: Imprisonment under Article 5 of the Statute.

Count 11: Unlawful confinement of a civilian under Article 2 of the Statute.

Municipality of Čapljina:

Count 1: Persecutions on political, racial and religious grounds under Article 5 of the Statute.

Count 10: Imprisonment under Article 5 of the Statute.

Count 11: Unlawful confinement of a civilian under Article 2 of the Statute.

Gabela Prison:

Count 1: Persecutions on political, racial and religious grounds under Article 5 of the Statute.

Count 12: Inhumane acts (conditions of confinement) under Article 5 of the Statute.

Count 13: Inhuman treatment (conditions of confinement) under Article 2 of the Statute.

Count 14: Cruel treatment (conditions of confinement) under Article 3 of the Statute.

Dretelj Prison:

Count 1: Persecutions on political, racial and religious grounds under Article 5 of the Statute.

Count 12: Inhumane acts (conditions of confinement) under Article 5 of the Statute.

Count 13: Inhuman treatment (conditions of confinement) under Article 2 of the Statute.

Count 14: Cruel treatment (conditions of confinement) under Article 3 of the Statute.

Count 15: Inhumane acts under Article 5 of the Statute.

Count 16: Inhuman treatment under Article 2 of the Statute.

Count 17: Cruel treatment under Article 3 of the Statute.

Municipality of Vareš:

Count 1: Persecutions on political, racial and religious grounds under Article 5 of the Statute.

Count 2: Murder under Article 5 of the Statute.

Count 3: Wilful killing under Article 2 of the Statute.

Count 10: Imprisonment under Article 5 of the Statute.

Count 11: Unlawful confinement of a civilian under Article 2 of the Statute.

Count 19: Extensive destruction of property not justified by military necessity under Article 2 of the Statute.

Count 20: Wanton destruction of cities, towns and villages or devastation not justified by military necessity under Article 3 of the Statute.

821. Insofar as Milivoj Petković committed these crimes with the aim of furthering the common criminal purpose, he is held responsible not only for the crimes set out above but for all of the crimes forming part of the common criminal plan.

D. Milivoj Petković's Responsibility Under JCE 3

822. Moreover, the Chamber established that the destruction of institutions dedicated to religion in April 1993 in Jablanica, murder committed during the eviction operations, sexual abuse and thefts were not part of the common criminal purpose.¹⁵³³ Nevertheless, the Chamber notes that many of these crimes were a natural and foreseeable consequence of implementing the common criminal purpose.¹⁵³⁴ The Chamber will now analyse whether Milivoj Petković, a member of the JCE, knew that the (1) murders committed during the eviction operations and detentions, (2) the sexual abuse, (3) the thefts and (4) the destruction of mosques in April 1993 in the Municipality of Jablanica might be committed by the HVO members and knowingly took this risk.

1. Murders Committed in Connection With the Eviction Operations and Detentions

a) Murders Committed in Connection with the Eviction Operations in the Municipalities of Stolac and Čapljina

823. Milivoj Petković's order of 30 June 1993 sent to the South-East OZ gave instructions for the Muslim women and children in the South-East OZ to be allowed to remain in their homes.¹⁵³⁵ On 3 July 1993, Nedeljko Obradović, the commander of the 1st *Knez Domagoj* Brigade, instructed all the units of his brigade to prevent crimes in the brigade's zone of responsibility and to "group the Muslim population" in this zone and "secure them".¹⁵³⁶ Thus, as early as 3 July, Nedeljko Obradović issued an order that differed from the one issued by Milivoj Petković. The evidence clearly shows that the order of Milivoj Petković was not respected in the municipalities of Stolac and Čapljina insofar as it appears that the entire Muslim population was displaced and not only the men. The Chamber found that after the waves of arrests of Muslim men in the municipalities of the South-East OZ, operations were conducted, notably by the 1st *Knez Domagoj* Brigade, which led to the eviction of the Muslim inhabitants, including women, children and elderly people, who were often first detained before being sent to the ABiH-held territories.¹⁵³⁷ During these operations, the

¹⁵³³ See "Existence of a Common Criminal Plan" in the Chamber's findings with regard to the JCE.

¹⁵³⁴ See "Existence of a Common Criminal Plan" in the Chamber's findings with regard to the JCE.

¹⁵³⁵ P 03019, Milivoj Petković, T(F), pp. 49574-49581.

¹⁵³⁶ P 03135, p. 2.

¹⁵³⁷ See "Arrest and Incarceration of the Muslim Men of Military Age in Stolac Municipality in July 1993", "Incidents of 6 July 1993 in Prenj: Removal of the Population and Theft of Property", "Removal of the Muslim Population and Death of a Young Woman at Pješivac Greda" "Removal of the Population of the Town of Stolac" and "Waves of Removals of Arrested and/or Imprisoned Women, Children and Elderly People to Territories under ABiH Control" in the Chamber's factual findings with regard to the Municipality of Stolac. See also "Arrest and Incarceration of Muslim Men in the Municipality of Čapljina in July 1993", and "Eviction of Women, Children and Elderly People, Their Removal and Subsequent Alleged Crimes in the Municipality of Čapljina from July to September 1993" in the Chamber's factual findings with regard to the Municipality of Čapljina.

HVO members committed several murders, notably in the municipalities of Čapljina and Stolac in mid-July 1993.¹⁵³⁸

824. Nothing in the evidence supports a finding that Milivoj Petković knew that his order not to disturb the civilian population was not respected. As he was unaware that people who were not members of one of the armed forces had been removed, he could not foresee that murders would be committed in the course of these removals.

b) Murders in the Dretelj Prison

825. The Chamber recalls that Milivoj Petković was informed by a letter from the ICRC dated 20 January 1994 that on 14 July 1993 guards had opened fire on detainees in Dretelj Prison killing some of them and that during the summer of 1993, detainees died as a result of the very poor conditions of confinement.¹⁵³⁹ Consequently, Milivoj Petković was aware of the poor conditions of confinement for the detainees and the murders committed as of January 1994.¹⁵⁴⁰ However, insofar as Milivoj Petković was informed of these events only several months after they occurred, the Chamber cannot find that he could have foreseen these murders.

2. Sexual Abuse

a) Sexual Abuse During Eviction Operations in Mostar

826. The Chamber established that HVO members, including soldiers of the *Vinko Škrobo* ATG, committed sexual abuse against Muslim women during operations intended to drive out the Muslims from West Mostar in June,¹⁵⁴¹ July,¹⁵⁴² and September 1993.¹⁵⁴³

827. The Chamber also established that Milivoj Petković was directly informed of the operations to evict Muslims from West Mostar in June 1993 carried out by HVO units subordinated to him,

¹⁵³⁸ See "Removal of the Muslim Population and Death of a Young Woman at Pješivac Greda" in the Chamber's factual findings with regard to the Municipality of Stolac. See "Death of Two Young Women in the Village of Domanovići" and "Death of an 83-year-old Person in the Village of Bivolje Brdo" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁵³⁹ P 07636, pp. 1 and 2.

¹⁵⁴⁰ See "Dretelj Prison" in the Chamber's findings with regard to Milivoj Petković's criminal responsibility.

¹⁵⁴¹ See "Crimes Allegedly Committed in June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁵⁴² See "Rapes, Sexual Assaults, Thefts, Threats and Intimidation of Muslims during Eviction Operations in West Mostar in July and August 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁵⁴³ See "Crimes Alleged to Have Been Committed from September 1993 to April 1994" in the Chamber's factual findings with regard to the Municipality of Mostar.

and of the atmosphere of violence surrounding these operations and that he at the very least allowed these abuses to continue until February 1994.¹⁵⁴⁴

828. The Chamber recalls, furthermore, that Milivoj Petković and Bruno Stojić received a special report from the HVO on 14 June 1993 indicating that during the eviction operations led by Vinko Martinović on 13 June 1993, members of the 4th *Tihomir Mišić* Battalion of the 3rd HVO Brigade,¹⁵⁴⁵ Vinko Martinović and members of his *Vinko Škrobo* ATG attached to the KB commanded by "Tuta", raped several women in the presence of witnesses in West Mostar.¹⁵⁴⁶

829. Milivoj Petković already knew since the events in Sovići and Doljani in April 1993 that the units commanded by Mladen Naletilić and Ivan Andabak, namely the KB and its ATGs, were committing crimes.¹⁵⁴⁷ The report he received on 14 June 1993 was therefore nothing more than a confirmation for Milivoj Petković of how dangerous these soldiers were. Nevertheless, not only did he fail to take any measures against these commanders and their units, but he also agreed to their continued deployment by the HVO commanders, subordinated to Milivoj Petković, to lead military operations and actions. Moreover, these troops continued to commit crimes.

830. Based on the foregoing, the Chamber therefore finds that Milivoj Petković knew from April 1993 onwards that the eviction operations were taking place in an atmosphere of extreme violence in Mostar and that the sexual abuse was a natural and foreseeable consequence of deploying the KB and its ATGs, whose criminal conduct he had been aware of since April 1993. Nevertheless, Milivoj Petković knowingly took the risk that these crimes would be committed.

b) Sexual Abuse during the Military Operations in the Municipality of Vareš

831. The Chamber established that on 22 October 1993, Milivoj Petković ordered Ivica Rajić to deploy to Vareš with soldiers from the *Maturice* and *Apostoli* special units, soldiers from the *Ban Josip Jelačić* Brigade and eight military policemen from the platoon of this same brigade.¹⁵⁴⁸

832. The Chamber also established that on 23 October and in the night of 24 to 25 October 1993, two Muslim women, *Witnesses DF* and *DG*, Muslim inhabitants of the town of Vareš, were forced

¹⁵⁴⁴ See "Evictions of the Population of West Mostar as of 9 May 1993" in the Chamber's findings with regard to Milivoj Petković's responsibility.

¹⁵⁴⁵ The *Tihomir Mišić* Battalion was mentioned by the Chamber. See "HVO Armed Forces" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁵⁴⁶ P 02770.

¹⁵⁴⁷ Milivoj Petković, T(F), pp. 49440-49442 and 49447.

¹⁵⁴⁸ See "ABiH Attack on Kopjari on 21 and 22 October 1993 and the HVO Response" in the Chamber's factual findings with regard to the Municipality of Vareš.

to engage in sexual relations by HVO members, some of whom belonged to the *Maturice* special unit.¹⁵⁴⁹

833. On 23 October 1993, Milivoj Petković was informed that the town of Vareš had been "cleansed"; that all the able-bodied Muslims had been placed "under surveillance" and that during these arrests, the HVO soldiers, including members of the *Maturice* special unit insulted, threatened and beat the Muslim men who were arrested, and stole property and money belonging to the Muslim inhabitants in the town of Vareš.¹⁵⁵⁰

834. Based on the aforementioned, the Chamber therefore finds that as of 23 October 1993, Milivoj Petković knew that the military operations in the town of Vareš were taking place in an atmosphere of extreme violence and that sexual abuse was a natural and foreseeable consequence thereof. Nevertheless, Milivoj Petković knowingly took the risk that these crimes would be committed by continuing to exercise his functions within the HVO Main Staff and failing to take any measures to prevent the commission of new crimes.

3. Thefts

a) Thefts during Operations to Evict the Muslim Population from the Municipality of Gornji Vakuf

835. The Chamber established that following the attack of 18 January 1993 and while the villages of Hrasnica, Uzričje and Ždrimci were under occupation by the HVO, members of the HVO stole property belonging to the Muslims in these villages.¹⁵⁵¹

836. The Chamber also found that Milivoj Petković planned and facilitated the HVO operations in Gornji Vakuf in January 1993.¹⁵⁵²

837. Insofar as the HVO military operations in and their takeover of these localities took place in an atmosphere of extreme violence, the Chamber considers that Milivoj Petković could have reasonably foreseen that the HVO members would commit thefts in these locations. By having

¹⁵⁴⁹ See "Thefts and Sexual Abuse of the Muslim Population of Vareš" among the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁵⁵⁰ See "Arrests of Muslim Men and Crimes Allegedly Committed during Arrests" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁵⁵¹ See "Allegations of Burned Houses and the Theft of Muslim Property in the Village of Hrasnica", "Allegations of Burned Houses and the Theft of Muslim Property in the Village of Uzričje" and "Burned Houses, Thefts of Muslim Property in the Village of Ždrimci and Burning of the *Mekteb*" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

¹⁵⁵² See "Municipality of Gornji Vakuf" in the Chamber's findings with regard to Milivoj Petković's responsibility.

planned and facilitated the HVO operations in Gornji Vakuf, the Chamber infers that Milivoj Petković knowingly took the risk that thefts would be committed.

b) Thefts during Operations to Evict the Muslim Population from the Municipality of Jablanica (Sovići and Doljani)

838. The Chamber established that HVO soldiers, some of whom were under "Tuta's" command, took property belonging to Muslims in the days that followed the attack of 17 April 1993 on the villages of Sovići and Doljani.¹⁵⁵³ HVO soldiers searched the Muslim houses and stole property, in particular all the vehicles of the Muslims held at the Sovići School, and their livestock.¹⁵⁵⁴

839. The Chamber also found that Milivoj Petković contributed to planning and directing the military operations in the Municipality of Jablanica.¹⁵⁵⁵

840. Insofar as the HVO military operations and the takeover of these localities took place in an atmosphere of extreme violence, the Chamber deems that Milivoj Petković could have reasonably foreseen that the HVO members would commit thefts in these locations. By having planned and facilitated the HVO operations in Gornji Vakuf, the Chamber infers that Milivoj Petković knowingly took the risk that thefts would be committed.

c) Thefts during Operations to Evict the Muslim Population from the Municipalities of Stolac and Čapljina

841. The Chamber recalls that during the operations to evict the Muslim population from the municipalities of Stolac and Čapljina, thefts were committed by members of the HVO.¹⁵⁵⁶ Nevertheless, there is no evidence to support a finding that Milivoj Petković knew that his order not to disturb the civilian population had not been respected. Not knowing that people who did not belong to any armed forces had been removed, he could not have foreseen that thefts would be committed during these removals.

¹⁵⁵³ See "Thefts of Muslim Property at Sovići and Doljani between 17 April and 4 May 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹⁵⁵⁴ See "Thefts of Muslim Property at Sovići and Doljani between 17 April and 4 May 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani).

¹⁵⁵⁵ See "Municipality of Jablanica" in the Chamber's findings with regard to Milivoj Petković's responsibility.

¹⁵⁵⁶ See "Theft of the Property Belonging to the Muslims of the Village of Pješivac Greda" in the Chamber's factual findings with regard to the Municipality of Stolac. See "Conditions of Confinement at the Silos," and "Events in August and September 1993 in the Town of Čapljina" in the Chamber's factual findings with regard to the Municipality of Čapljina.

d) Thefts Committed during Operations to Evict the Muslim Population from the Municipality of West Mostar from 9 May 1993 Onwards

842. The Chamber noted that in the course of the operations during which the Muslims of West Mostar, including men who did not belong to any armed force, were driven from their homes between May 1993 and February 1994, HVO soldiers – notably the *Benko Penavić* ATG in May 1993, members of the 4th Battalion of the 3rd HVO Brigade and the members of the KB in June 1993, the members of the *Vinko Škrobo* and *Benko Penavić* ATGs in September 1993 – threatened and intimidated the Muslims they were evicting from their homes and savagely kicked, punched and beat them with their rifle butts;¹⁵⁵⁷ took all the valuables these Muslims had on them and also appropriated items in the apartments from which they drove the Muslims.¹⁵⁵⁸ The Chamber recalls that these expulsions lasted until February 1994 and were accompanied by thefts.¹⁵⁵⁹

843. On 14 June 1993 Milivoj Petković, Bruno Stojić and Žarko Keza, chief of the VOS service, received a special report from the CED indicating that during the evacuation operations led by Vinko Martinović on 13 June 1993, members of the 4th *Tihomir Mišić* Battalion of the 3rd HVO Brigade, Vinko Martinović and members of his *Vinko Škrobo* ATG raped several women in the presence of witnesses and beat numerous people.¹⁵⁶⁰

844. Based on the above, the Chamber finds that Milivoj Petković was directly informed of the operations to evict Muslims from West Mostar in June 1993 carried out by HVO units subordinated to him and of the atmosphere of violence surrounding these operations, and that at the very least allowed this to happen insofar as these same units continued operating in the same atmosphere of violence, evicting and removing the population of West Mostar until February 1994.

845. In light of the foregoing, the Chamber deems that the only inference it can reasonably draw is that Milivoj Petković could reasonably have foreseen that thefts would also be committed during

¹⁵⁵⁷ See "Rapes, Sexual Assaults, Thefts, Threats and Intimidation of Muslims during Eviction Operations" and "Crimes Alleged to Have Been Committed from September 1993 to April 1994" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁵⁵⁸ See "Municipality of Mostar" in the Chamber's legal findings with regard to Count 22 (appropriation of property, not justified by military necessity and carried out unlawfully and wantonly as a grave breach of the Geneva Conventions) and Count 23 (plunder of public or private property as a violation of the laws or customs of war).

¹⁵⁵⁹ See "Violence and Thefts Committed against Muslims Arrested, Evicted from their Flats, Placed in Detention and Displaced in May 1993", "Crimes Allegedly Committed in June 1993", "Rapes, Sexual Assaults, Thefts, Threats and Intimidation of Muslims during Eviction Operations in West Mostar in July and August 1993" and "Crimes Alleged to Have Been Committed from September 1993 to April 1994" in the Chamber's factual findings with regard to the Municipality of Mostar. See "Municipality of Mostar" in the Chamber's legal findings with regard to Count 6 (deportation as a crime against humanity), Count 7 (unlawful deportation of a civilian as a grave breach of the Geneva Conventions), Count 8 (inhumane acts (forcible transfer) as a crime against humanity) and Count 9 (unlawful transfer of a civilian as a grave breach of the Geneva Conventions).

¹⁵⁶⁰ P 02770.

the operations to evict the Muslims from Mostar between June 1993 and February 1994, and that he knowingly took this risk.

e) Thefts during Military Operations in the Town of Vareš and Stupni Do Village in October 1993

846. The Chamber established that on 22 October 1993, Milivoj Petković ordered Ivica Rajić to deploy to Vareš with soldiers from the *Maturice* and *Apostoli* special units, soldiers from the *Ban Josip Jelačić* Brigade and eight military policemen from the platoon of this same brigade.¹⁵⁶¹

847. The Chamber found that during the arrests of the Muslim men on 23 October 1993 in the town of Vareš by HVO soldiers, including members of the *Maturice* special unit, property and money belonging to the Muslim inhabitants in the town were stolen and that Milivoj Petković was informed of these arrests that same day.¹⁵⁶² Moreover, thefts by HVO members continued in the town of Vareš until 1 November 1993.¹⁵⁶³ The Chamber also established that on 23 October 1993, during and after the attack on the village of Stupni Do, the members of the *Maturice* and/or *Apostoli* special units systematically stole property from the houses in the villages and confiscated livestock, money, jewellery and other valuables.¹⁵⁶⁴

848. The Chamber considers that insofar as Milivoj Petković was informed of the arrests of Muslim men and the thefts that occurred in the town of Vareš as of 23 October 1993 and that the thefts continued until 1 November 1993, he could have foreseen them and he knowingly took the risk that the thefts would occur.

849. However, regarding the thefts committed in Stupni Do, the Chamber recalls that the decision to attack the village did not come from Milivoj Petković, who was informed of it only when the attack was over.¹⁵⁶⁵ Consequently, the Chamber cannot find that Milivoj Petković could have foreseen that the HVO members would commit theft in Stupni Do.

¹⁵⁶¹ See "ABiH Attack on Kopjari on 21 and 22 October 1993 and the HVO Response" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁵⁶² See "Arrests of Muslim Men and the Crimes Allegedly Committed during Arrest" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁵⁶³ See "Thefts and Sexual Abuse of the Muslim Population of Vareš" among the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁵⁶⁴ See "Thefts, Burning and Destruction of Muslim Property and Houses in the Village of Stupni Do" in the Chamber's factual findings with regard to the Municipality of Vareš.

¹⁵⁶⁵ See "Municipality of Vareš" in the Chamber's findings with regard to Milivoj Petković's responsibility.

4. Destruction of Mosques in the Municipality of Jablanica (Sovići and Doljani) in April 1993

850. The Chamber found that on 17 April 1993, when combat was over, the HVO set fire to all the Muslim houses and two mosques on orders from "senior commanders".¹⁵⁶⁶

851. The Chamber recalls that Milivoj Petković contributed to planning the military operations in the Municipality of Jablanica in April 1993¹⁵⁶⁷ and that on 15 April 1993, the HVO began shelling the town of Jablanica.¹⁵⁶⁸ He was regularly informed of the combat operations between 16 and 17 April 1993.¹⁵⁶⁹

852. The Chamber considers that insofar as the HVO operations in Jablanica were part of a well organised and orchestrated plan by the HVO leadership, which included Milivoj Petković, it was likely that the destruction of the mosques was also an integral part of this plan. Consequently, by planning and directing the HVO operations in Sovići and Doljani targeting Muslims, Milivoj Petković knowingly took the risk that institutions dedicated to the Muslim religion would be destroyed.

853. In light of the foregoing, the Chamber is satisfied beyond reasonable doubt that Milivoj Petković is criminally responsible – by virtue of his participation in a JCE 3 – for the following crimes:

Municipality of Gornji Vakuf:

Count 22: Appropriation of property not justified by military necessity and carried out unlawfully and wantonly under Article 2 of the Statute.

Count 23: Plunder of public or private property under Article 3 of the Statute.

¹⁵⁶⁶ See "HVO Attacks on the Villages of Sovići and Doljani and Arrests of Men, Women, Children and Elderly People from 17 to 23 April 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica (Sovići and Doljani). With regard to the destruction of the mosques orders from "senior commanders" see also P 02063.

¹⁵⁶⁷ See "Municipality of Jablanica" in the Chamber's findings with regard to Milivoj Petković's responsibility.

¹⁵⁶⁸ Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, revised T(F), pp. 12 and 13; Safet Idrizović, T(F), pp. 9669, 9672 and 9673; P 09400, p. 20; Witness RR, P 09872 under seal, *Naletilić and Martinović* Case, T(F), p. 6483; P 08951; Witness RR, T(F), pp. 6443 and 6526-6527; Decision of 7 September 2006, Adjudicated Fact no. 27 (*Naletilić* Judgement, para. 30); P 02627, pp. 2 and 3.

¹⁵⁶⁹ Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, revised T(F), pp. 12 and 13; Safet Idrizović, T(F), pp. 9669, 9672 and 9673; P 09400, p. 20; Witness RR, P 09872 under seal, *Naletilić and Martinović* Case, T(F), p. 6483; P 0895 ; P 09052; Witness RR, T(F), pp. 6443 and 6526-6527; Decision of 7 September 2006, Adjudicated Fact no. 27 (*Naletilić* Judgement, para. 30); P 02627, pp. 2 and 3.

Municipality of Jablanica:

Count 21: Destruction or wilful damage to institutions dedicated to religion or education under Article 3 of the Statute.

Count 22: Appropriation of property not justified by military necessity and carried out unlawfully and wantonly under Article 2 of the Statute.

Count 23: Plunder of public or private property under Article 3 of the Statute.

Municipality of Mostar:

Count 4: Rape under Article 5 of the Statute.

Count 5: Inhuman treatment (sexual assault) under Article 2 of the Statute.

Municipality of Vareš:

Count 4: Rape under Article 5 of the Statute.

Count 5: Inhuman treatment (sexual assault) under Article 2 of the Statute.

Count 22: Appropriation of property not justified by military necessity and carried out unlawfully and wantonly under Article 2 of the Statute.

Count 23: Plunder of public or private property under Article 3 of the Statute.

V. Valentin Ćorić

854. The Prosecution alleges that Valentin Ćorić, acting individually and through his positions and powers, and in concert with other members of the JCE, participated as a leader in the joint criminal enterprise.¹⁵⁷⁰ Valentin Ćorić contributed to the JCE mainly by playing an integral role in the HVO detention centres.¹⁵⁷¹ He had command and control of the HVO Military Police, which played important roles in ethnic cleansing operations and in securing and administering Herceg-Bosna/HVO prisons, concentration camps and detention facilities.¹⁵⁷² Valentin Ćorić contributed to the eviction and expulsion of Bosnian Muslims from their homes and the confiscation and looting

¹⁵⁷⁰ Indictment, paras 17 and 17.5. See also Prosecution Final Trial Brief, paras 981-1175.

¹⁵⁷¹ Indictment, para. 17.5 (g), (h), (i) and (j).

¹⁵⁷² Indictment, para. 17.5 (a).

of their money and property, all of which frequently involved the HVO Military Police.¹⁵⁷³ Moreover, Valentin Ćorić controlled, directed and regulated the movement of Bosnian Muslims through checkpoints which were used, among other things, in persecuting, arresting and detaining Bosnian Muslims and confiscating their property.¹⁵⁷⁴

855. Furthermore, Valentin Ćorić caused, facilitated and contributed to a humanitarian crisis for Bosnian Muslims, in controlling the provision of humanitarian assistance and public services, mainly to East Mostar.¹⁵⁷⁵ Finally, Valentin Ćorić participated in crimes and abuse against Bosnian Muslims by Herceg-Bosna/HVO forces by minimising 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.¹⁵⁷⁶

856. The Ćorić Defence submits that Valentin Ćorić did not participate in the alleged JCE because all his actions were carried out in order to enforce the "law" and not in order to implement any such JCE.¹⁵⁷⁷ The Ćorić Defence asserts in particular that the HVO checkpoints were used for legitimate purposes and not for pursuing any criminal ends, and that humanitarian convoys were legitimately checked.¹⁵⁷⁸ It also submits that the Military Police Administration encouraged members of the Military Police to apply the law scrupulously,¹⁵⁷⁹ but that the transfer of crime prevention authority down to the level of the OZs limited the role Valentin Ćorić could play to prevent and punish crimes.¹⁵⁸⁰ Finally, the Ćorić Defence submits that Valentin Ćorić was not responsible for the crimes committed in the HVO detention centres, particularly in view of the fact that the Military Police Administration had no power over the detention centres and that Valentin Ćorić played no role in them.¹⁵⁸¹

857. As a preliminary matter, the Chamber notes that it will address only the events for which it has evidence that might be relevant to its analysis of Valentin Ćorić's responsibility.

858. To determine whether Valentin Ćorić significantly participated in the JCE, the Chamber will first examine Valentin Ćorić's (A) functions and (B) powers and then (C) his acts and omissions likely to reveal that he significantly contributed to the implementation of the JCE and the ensuing

¹⁵⁷³ Indictment, para. 17.5 (k); Prosecution Final Trial Brief, paras 1164-1169.

¹⁵⁷⁴ Indictment, para. 17.5 (a), (d) and (k).

¹⁵⁷⁵ Indictment, para. 17.5 (l); Prosecution Final Trial Brief, paras 1006 and 1009-1014.

¹⁵⁷⁶ Indictment, para. 17.5 (n); Prosecution Final Trial Brief, paras 1016-1026, 1027-1036 and 1039-1048.

¹⁵⁷⁷ Ćorić Defence Final Trial Brief, paras 188-215.

¹⁵⁷⁸ Ćorić Defence Final Trial Brief, paras 324-337.

¹⁵⁷⁹ Ćorić Defence Final Trial Brief, paras 241-250.

¹⁵⁸⁰ Ćorić Defence Final Trial Brief, paras 251-278.

¹⁵⁸¹ Ćorić Defence Final Trial Brief, paras 390-609.

crimes. It will then determine (D) whether Valentin Ćorić could have foreseen that some crimes not part of the common criminal plan would be the likely consequence of its implementation and that he accepted that this might occur. The Chamber will subsequently examine Valentin Ćorić's responsibility as regards other types of responsibility envisaged by the Statute.

859. Insofar as Judge Antonetti disagrees with the majority of the Chamber as to the existence of a JCE,¹⁵⁸² he dissents from all of the Chamber's observations and findings with regard to Valentin Ćorić's participation in the JCE. Therefore, the reasoning that follows was adopted by majority.

A. Valentin Ćorić's Functions

860. Valentin Ćorić, son of Andrija, was born on 23 June 1956 in the village of Paoča, Čitluk Municipality, in the RSBiH.¹⁵⁸³

861. In 1991, Valentin Ćorić was the person in charge of an HVO training camp in Krvavica near Makarska in Croatia.¹⁵⁸⁴ In early April 1992, Valentin Ćorić was appointed Assistant Commander of the SIS¹⁵⁸⁵ and the HVO "Military Police Commander".¹⁵⁸⁶ He held the post of Assistant Commander of the SIS probably until the end of July 1992.¹⁵⁸⁷ On 24 June 1992 at the latest, Valentin Ćorić became the Chief of the Military Police Administration.¹⁵⁸⁸ He held that post until 10 November 1993,¹⁵⁸⁹ when Mate Boban appointed him Minister of the Interior of the HR H-B.¹⁵⁹⁰ The Chamber observes that on that same day Mate Boban and Jadranko Prlić presented that appointment to Franjo Tuđman and he approved it.¹⁵⁹¹ On 16 February 1994, Mate Boban appointed Valentin Ćorić as a member of the Presidential Council of the HR H-B.¹⁵⁹²

¹⁵⁸² See "Existence of a Common Criminal Plan" in the Chamber's findings with regard to the JCE.

¹⁵⁸³ *Prosecutor v. Valentin Ćorić*, Case No. IT-04-74-I, "Warrant of Arrest and Order for Surrender" under seal, 4 March 2004; T(F), p. 2.

¹⁵⁸⁴ Witness E, T(F), pp. 22004 and 22005, closed session; P 08548, p. 23.

¹⁵⁸⁵ 2D 01333. See also P 00956, p. 3.

¹⁵⁸⁶ P 08548, p. 23.

¹⁵⁸⁷ Although the Chamber does not know when Valentin Ćorić ceased holding this post, it observes that in late July 1992 Mate Boban appointed Ivica Lučić to the post of Assistant Head of the Department of Defence of the HVO HZ H-B in charge of security. See Ivan Bandić, T(F), pp. 37993 and 37998.

¹⁵⁸⁸ P 00277, p. 1. See also "Creation of the Military Police and its Administration: April-September 1992" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

¹⁵⁸⁹ See in particular P 00385; P 01635, p. 2; P 03090; P 09117, p. 2; P 00936; IC 00448.

¹⁵⁹⁰ P 06583, p. 1. See also Marijan Biškić, T(F), p. 15050. The Chamber of Deputies of the HR H-B confirmed this appointment on 20 November 1993: P 06772, p. 1; P 06995, p. 1. See also P 06589 under seal, p. 4.

¹⁵⁹¹ P 06581, pp. 26-29.

¹⁵⁹² P 07876. The Chamber recalls that the Presidential Council, established on 10 December 1993 by Mate Boban (P 07424), was a body allowing the HR H-B to operate in the President's absence: Philip Watkins, T(F), pp. 18829 and 18830; P 07226 under seal, p. 1; 1D 02737, p. 1.

B. Valentin Ćorić's Powers

862. The Prosecution alleges that Valentin Ćorić participated in the JCE by exercising a certain number of powers.¹⁵⁹³ The Chamber will group these powers into four categories, namely (1) his powers regarding the command and organisation of the HVO Military Police, (2) his powers in fighting crime, (3) his powers regarding the freedom of movement of people and goods and (4) his powers over the HVO detention centres. In its Final Trial Brief, the Prosecution also submits that (5) Valentin Ćorić had authority over the KB units.¹⁵⁹⁴ After analysing in turn each of the above allegations, the Chamber will (6) formulate its findings about Valentin Ćorić's powers.

863. As a preliminary matter, the Chamber observes that in its Closing Arguments, the Ćorić Defence criticised the Prosecution for having raised the issue of Valentin Ćorić's responsibility as Minister of the Interior for the first time in its Final Trial Brief and in its Closing Arguments.¹⁵⁹⁵ The Chamber, however, notes that in its Final Trial Brief the Ćorić Defence itself brings up Valentin Ćorić's power over the civilian police in his capacity as Minister of the Interior.¹⁵⁹⁶ The Chamber considers that the Prosecution had grounds to address Valentin Ćorić's responsibility as the Minister of the Interior in its Final Trial Brief and in its Closing Arguments, insofar as the allegations of Valentin Ćorić's responsibility in the Indictment are not limited only to the period when he was Chief of the Military Police Administration, that is, until 10 November 1993.¹⁵⁹⁷ The Chamber will thus examine Valentin Ćorić's powers throughout the period relevant to the Indictment, that is, not only the powers he held until 10 November 1993 as Chief of the Military Police Administration, but also beyond that date until April 1994 while he was Minister of the Interior.

1. Valentin Ćorić's Powers Regarding the Command and Organisation of the HVO Military Police

864. The Prosecution submits that in his various positions and functions, Valentin Ćorić, from April 1992 to at least November 1993, played a central role in the establishment, administration and

¹⁵⁹³ Indictment, paras 12 and 17.5.

¹⁵⁹⁴ Prosecution Final Trial Brief, para. 1028, citing Exhibit P 01517.

¹⁵⁹⁵ Ćorić Defence Closing Arguments, T(F), pp. 52639 and 52640. In its Final Trial Brief, the Prosecution submitted that Valentin Ćorić's appointment to that post was a promotion and illustrated the importance of the role he played in the JCE: Prosecution Final Trial Brief, para. 986. See also Prosecution Closing Arguments, T(F), pp. 52086 and 52165. It also submitted that as the Minister of the Interior, Valentin Ćorić did nothing to institute a classification procedure for the thousands of people he had arrested: Prosecution Final Trial Brief, para. 1101. Lastly, in its Closing Arguments, the Prosecution drew attention to the fact that as the Minister of the Interior, Valentin Ćorić appointed the former Commander of the 1st Military Police Light Assault Battalion, Zlatan Mijo Jelić, to the post of Commander of the Special Police Sector in the Ministry of the Interior: T(F), p. 52133, citing Exhibit P 11220.

¹⁵⁹⁶ Ćorić Defence Final Trial Brief, para. 211.

operation of the HVO Military Police and that he had *de jure* and/or *de facto* command and control of it.¹⁵⁹⁸ He had the power to allocate Military Police units for combat operations¹⁵⁹⁹ and to appoint and recruit personnel in the Military Police.¹⁶⁰⁰ Valentin Ćorić was also 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.¹⁶⁰¹

865. The Ćorić Defence asserts, for its part, that there was no hierarchical link between the Military Police Administration and the Military Police battalions in each OZ;¹⁶⁰² that the Military Police units responded to operative orders from HVO military commanders,¹⁶⁰³ both in combat and while carrying out regular Military Police tasks;¹⁶⁰⁴ and that the command powers of the Military Police Administration over Military Police units diminished as the conflict went on.¹⁶⁰⁵

866. In this part, the Chamber will analyse (a) Valentin Ćorić's power of command over the Military Police units, (b) his powers regarding the organisation of the Military Police and the Military Police Administration and (c) his knowledge of the activities of the Military Police units.

a) Valentin Ćorić's Power of Command over the Military Police Units

867. The Chamber recalls its observation that from at least April 1992 until July 1993, Military Police units were subordinated to the commander of the HVO unit to which they had been attached to carry out their "daily duties".¹⁶⁰⁶ The Chamber observes that even though those units were subordinated to the commander of the HVO unit, Valentin Ćorić still held some power of command

¹⁵⁹⁷ Paragraphs 12 and 17.5 (b), (c), (d), (e), (f), (g) (h), (i), (j), (k), (l), (m) and (n) of the Indictment simply refer to Valentin Ćorić without specifying his position. Only paragraph 17.5 (a) limits the allegations to the period while he was the Chief of the Military Police Administration.

¹⁵⁹⁸ Indictment, paras 12 and 17.5 (a); Prosecution Final Trial Brief, paras 984 and 988-992.

¹⁵⁹⁹ Prosecution Final Trial Brief, paras 996-999 and 1049-1055.

¹⁶⁰⁰ Prosecution Final Trial Brief, paras 993-995.

¹⁶⁰¹ Indictment, para. 17.5 (m).

¹⁶⁰² Ćorić Defence Final Trial Brief, para. 18.

¹⁶⁰³ Ćorić Defence Final Trial Brief, paras 97-110.

¹⁶⁰⁴ Ćorić Defence Final Trial Brief, paras 111-125.

¹⁶⁰⁵ Ćorić Defence Final Trial Brief, para. 40.

¹⁶⁰⁶ Military Police battalions were subordinated to the OZ commander, while Military Police platoons were subordinated to the brigade commander. See "Command and Control Authority of the OZ and HVO Brigade Commanders over the Military Police Units", "Command and Control Authority of the Chief of the Military Police Administration over the Units of the Military Police" and "Authority of the Chief of the Military Police Administration to Re-subordinate Military Police Units" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

and control over them.¹⁶⁰⁷ For example, on 27 January 1993, Valentin Ćorić ordered the commander of the 3rd Military Police Battalion and the commanders of the 1st and 2nd companies of that battalion to set up a certain number of checkpoints at entry and exit points in the town of Mostar.¹⁶⁰⁸ Moreover, on 19 February 1993, Valentin Ćorić ordered the commander of the 3rd Military Police Battalion to reinforce the checkpoints at the entry and exit points in the town of Mostar.¹⁶⁰⁹

868. The Chamber observes that although Valentin Ćorić's power of command over the Military Police units weakened as of July 1993, it did not disappear completely. It was then limited to defining the procedures that the Military Police were to follow and the deployment policy for that police force.¹⁶¹⁰ So, for example, on 12 August 1993, Valentin Ćorić ordered the commanders of the Military Police companies and battalions to ensure that all military policemen wear a white belt and the symbol of their unit.¹⁶¹¹

869. The Chamber recalls that it also observed that Valentin Ćorić had the power to re-subordinate Military Police units at least between July and October 1993.¹⁶¹² More specifically, on 28 July 1993, implementing an order issued by Bruno Stojić that same day, Valentin Ćorić ordered the re-subordination of the light assault battalions to the Main Staff Commander and/or the commanders of the OZs,¹⁶¹³ including the 1st Light Assault Battalion¹⁶¹⁴ which had until then been under his control.¹⁶¹⁵ Despite that re-subordination, Valentin Ćorić did not completely lose his power of command over the light assault battalions.¹⁶¹⁶ For example, on 13 August 1993, Valentin

¹⁶⁰⁷ See "Command and Control Authority of the Chief of the Military Police Administration over the Units of the Military Police" and "Authority of the Chief of the Military Police Administration to Re-subordinate Military Police Units" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

¹⁶⁰⁸ P 01331.

¹⁶⁰⁹ See "Command and Control Authority of the Chief of the Military Police Administration over the Units of the Military Police" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

¹⁶¹⁰ See "Command and Control Authority of the Chief of the Military Police Administration over the Units of the Military Police" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

¹⁶¹¹ P 04126.

¹⁶¹² See "Authority of the Chief of the Military Police Administration to Re-subordinate Military Police Units" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

¹⁶¹³ See "Authority of the Chief of the Military Police Administration to Re-subordinate Military Police Units" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

¹⁶¹⁴ That battalion was formerly called the 1st Active Battalion. See "First Restructuring of the Military Police Administration and its Units: October 1992 – July 1993" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

¹⁶¹⁵ See "First Reorganisation of the Military Police Administration and its Units: October 1992 – July 1993" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

¹⁶¹⁶ See "Authority of the Chief of the Military Police Administration to Re-subordinate Military Police Units" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

Ćorić ordered part of the troops of the 4th Light Assault Battalion to go to Mostar to assist other HVO units who were fighting there.¹⁶¹⁷

870. Furthermore, a document dated 11 September 1993 shows that in case of conflicting orders from the Department of Defence, the Main Staff or the OZ Command, Military Police units were to stop carrying out the order in question and report to the Chief of the Military Police Administration, Valentin Ćorić, personally.¹⁶¹⁸

871. In view of the above, the Chamber finds that as Chief of the Military Police Administration, Valentin Ćorić had, to some extent, effective power of command and control over the Military Police units, in particular the power to re-subordinate them. Therefore, despite the fact that the Military Police units were subordinated to HVO military commanders, Valentin Ćorić still retained some power of control over them.

872. Finally, the Chamber notes that as Minister of the Interior, Valentin Ćorić received daily bulletins compiled by the Military Police Administration on the basis of information sent in by the Military Police units.¹⁶¹⁹ However, the Chamber received no evidence showing that as Minister, Valentin Ćorić still had a power of command over the Military Police units.

b) Valentin Ćorić's Powers regarding the Organisation of the Military Police and the Military Police Administration

873. The Chamber recalls its observation that in December 1992, Valentin Ćorić and Bruno Stojić jointly signed the reform plan introducing a new organisation of the Military Police and its Administration.¹⁶²⁰ The Chamber also recalls its observation that Valentin Ćorić was in charge of carrying out the second restructuring of the Military Police between January and June 1993,¹⁶²¹ by setting up three departments within the Military Police Administration¹⁶²² and establishing three

¹⁶¹⁷ See "Authority of the Chief of the Military Police Administration to Re-subordinate Military Police Units" in the Chamber's findings with regard to the military structure of the HZ(R) H-B. See also P 05478.

¹⁶¹⁸ P 04947, p. 2.

¹⁶¹⁹ Marijan Biškić, T(F), pp. 15054-15056; P 06722, pp. 6 and 7.

¹⁶²⁰ See "Power of the Head of the Department of Defence to Organise the Military Police: an Authority Shared with the Chief of the Military Police Administration" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

¹⁶²¹ See "Second Reorganisation of the Military Police Administration and its Units: July–December 1993" in the Chamber's findings with regard to the military structure of the HZ(R) H-B. On that second restructuring, see "Restructuring of the Military Police Administration" and "Restructuring of the Military Police Units" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

¹⁶²² See "Restructuring of the Military Police Administration" in the Chamber's findings with regard to the military structure of the HZ(R) H-B and P 01416, p. 2.

new light assault battalions.¹⁶²³ In view of the above, the Chamber finds that Valentin Ćorić had the power to organise the Military Police and define the rules governing its operation.

874. The evidence examined by the Chamber shows that the power to appoint Military Police personal rested chiefly with Bruno Stojić in his capacity as the Head of the Department of Defence, while Valentin Ćorić only had the power to make proposals.¹⁶²⁴ However, Valentin Ćorić could directly appoint some Military Police officials after obtaining Bruno Stojić's consent.¹⁶²⁵ The Chamber observes that for a brief period – from April 1992 to November 1992 – Valentin Ćorić also had the autonomous power to make appointments, without Bruno Stojić's consent, but only in the case of the commanders of companies and "smaller units" of the Military Police.¹⁶²⁶ Furthermore, in a reminder sent on 17 August 1993, Milivoj Petković, Deputy Commander of the Main Staff, recalled that the power to appoint members of Military Police platoons in the brigades rested with brigade commanders.¹⁶²⁷

875. The Chamber recalls its observation that the Military Police Administration and Valentin Ćorić were also responsible for the recruitment and the basic and advanced training of HVO military policemen.¹⁶²⁸ The training included, *inter alia*, courses on the international law of war and humanitarian law.¹⁶²⁹

876. In view of the above, the Chamber finds that as Chief of the Military Police Administration, Valentin Ćorić had the power to organise the Military Police and define the rules governing its operation, but his power to make appointments was limited. The Chamber further finds that

¹⁶²³ See "Restructuring of the Military Police Units" in the Chamber's findings with regard to the military structure of the HZ(R) H-B and 2D 01396/P 04146 (identical documents), p. 2.

¹⁶²⁴ 2D 00567, p. 3; 5D 02164; P 00837, pp. 4 and 5; P 01148; P 01420/P 01422 (identical documents); P 01457; P 01460; P 01466; P 02230; P 02477, p. 3; P 02467; P 02970; P 03487. The provisional instructions for the work of the Military Police, promulgated by Mate Boban in April 1992, allocated to the "HVO" the responsibility to appoint the commanders of Military Police "battalions", at the proposal of the Military Police Administration: P 00143/P 00142 (identical documents), p. 5.

¹⁶²⁵ P 00837, p. 5; P 01379; P 01780; P 04108.

¹⁶²⁶ P 00142/P 00143 (identical documents), p. 5. See, for example, P 00801, p. 2. Mate Boban's instructions of 30 November 1992 for the work of Military Police units still provided that the commanders of Military Police platoons and companies would be appointed by the Chief of the Military Police Administration, but only after he had received the consent of the Head of the Department of Defence: P 00837, p. 5.

¹⁶²⁷ P 04262. See, for example, P 00990; Zdenko Andabak, T(F), pp. 50918 and 50919, 50923 and 50924; Witness C, T(F), pp. 22525 and 22526, closed session. Regarding an appointment to the post of Military Police platoon commander within a brigade, see 5D 05106; 5D 04039; Witness EA, T(F), pp. 24881 and 24882, closed session. In addition, members of a brigade's Military Police platoon were recruited from among the brigade's members, see Zdenko Andabak, T(F), pp. 50921 and 50922.

¹⁶²⁸ See "Power of the Head of the Department of Defence to Organise the Military Police: an Authority Shared with the Chief of the Military Police Administration" and "Power of Appointment of the Chief of the Military Police Administration over the Military Police Units" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

¹⁶²⁹ 5D 05109, para. 6; Miroslav Desnica, T(F), pp. 50890 and 50891; See also Ćorić Defence Final Trial Brief, paras 190-195 and 221-227.

Valentin Ćorić was responsible for the recruitment and the basic and advanced training of HVO military policemen.

c) Valentin Ćorić's Knowledge of the Activities of Military Police Units

877. The Prosecution submits that given Valentin Ćorić's presence in the territory of Hercegovina and the reporting system within the Military Police – which he oversaw – Valentin Ćorić was fully informed of all aspects of the contribution of the Military Police to the campaign against the Bosnian Muslims.¹⁶³⁰ The Ćorić Defence argues that Valentin Ćorić did not belong to the reporting chain within the HVO, that he received only a limited number of reports from members of the Military Police, who had ceased to be under his effective direction and command, and that the reports he received did not contain information on the activities of the Military Police as such reports were sent to the commander of the relevant OZ.¹⁶³¹

878. The Chamber observes that several times between June 1992 and at least June 1993, Valentin Ćorić sent instructions to the Military Police units regarding the sending of reports to the Military Police Administration.¹⁶³² The Chamber also notes that both *Zdenko Andabak*¹⁶³³ and *Witness C*¹⁶³⁴ stated that the parts of the reports received by the Military Police Administration that were "important" or of "special interest" were put together and sent directly to Valentin Ćorić.¹⁶³⁵ However, in the absence of any additional information as to what an "important" part or a part of "special interest" might have meant, the Chamber is not in a position to find that all the reports on crimes against the Muslims sent to the Military Police Administration were necessarily brought to Valentin Ćorić's attention. The Chamber nonetheless notes that Valentin Ćorić was sometimes directly informed of the activities of the Military Police units. Thus, in June, July, August and October 1993, Valentin Ćorić received reports from members of the Military Police on the circumstances of the detainees in the prisons in Ljubuški and Dretelj and the Heliodrom, the status and number of detainees and the fact that some had attempted suicide.¹⁶³⁶

¹⁶³⁰ Prosecution Final Trial Brief, paras 1056-1061.

¹⁶³¹ Ćorić Defence Final Trial Brief, paras 126-135. See also Ćorić Defence Closing Arguments, T(F), pp. 52661-52665.

¹⁶³² P 00277; P 01821; P 00978, pp. 3 and 4.

¹⁶³³ Zdenko Andabak was, *inter alia*, the Commander of the 2nd Military Police Battalion until 10 February 1993, the Head of the General and Traffic Military Police Department in the Military Police Administration from 10 February 1993 to 28 June 1993 and the Assistant Chief of the Military Police Administration for the North-West OZ from 28 June 1993 to the end of November 1993.

¹⁶³⁴ *Witness C* was a member of the HVO.

¹⁶³⁵ Zdenko Andabak, T(F), pp. 50930-50931; *Witness C*, T(F), p. 22562, closed session.

¹⁶³⁶ P 03377; *Witness DD*, T(F), pp. 14431, 14432 and 14456, closed session; P 03794; P 05647, p. 3; P 02853; *Josip Praljak*, T(F), p. 14705; *Witness E*, T(F), pp. 22012 to 22014 and p. 22023, closed session; P 04112, p. 1; P 03326, p. 2; P 07612.

2. Valentin Ćorić's Powers in Fighting Crime

879. The Prosecution submits that Valentin Ćorić ought to have reported and investigated the crimes of the Herceg-Bosna/HVO armed forces.¹⁶³⁷ Although the Ćorić Defence concedes that the Military Police did have some powers in this field, it nevertheless indicates that it was principally the HVO military commanders who had the duty to launch criminal investigations in their respective areas of responsibility.¹⁶³⁸ It also submits that the Military Police had no control over the judicial bodies to which the results of investigations were sent nor over the action taken following the submission of criminal reports.¹⁶³⁹

880. The Chamber recalls that from October 1992 to January 1993, officers of the Department for Criminal Investigations of the Military Police Administration had responsibility for identifying perpetrators of criminal offences in the HVO armed forces;¹⁶⁴⁰ that as of January 1993, the Department for Criminal Investigations was responsible for coordinating the investigations of Military Police battalions in the OZs;¹⁶⁴¹ and that in the process of the investigation of criminal offences committed by members of the HVO armed forces, the role of the Department for Criminal Investigations was limited to filing criminal reports with the Military Prosecutor.¹⁶⁴²

881. Moreover, the Chamber received evidence attesting to Valentin Ćorić's direct involvement in fighting crime within the HVO, specifically, instructions sent to the commanders of Military Police battalions regarding discipline in their units,¹⁶⁴³ an arrest warrant for a soldier suspected of having committed theft¹⁶⁴⁴ and the order to carry out an inquiry into criminal events at Ljubuški Prison.¹⁶⁴⁵

882. In view of the above, the Chamber finds that as Chief of the Military Police Administration, Valentin Ćorić had the ability to participate in fighting crime within the HVO but that his power was limited to investigating the perpetrators of crimes, while the responsibility for their prosecution rested with the Military Prosecutor.

¹⁶³⁷ Indictment, paras 12 and 17.5 (n); Prosecution Final Trial Brief, paras 1016-1048.

¹⁶³⁸ Ćorić Defence Final Trial Brief, para. 260 *et seq.*

¹⁶³⁹ Ćorić Defence Closing Arguments, T(F), pp. 52691 and 52692; Ćorić Defence Final Trial Brief, paras 232-236.

¹⁶⁴⁰ See "Department for Criminal Investigations of the Military Police Administration Dedicated Exclusively to Fighting Crime" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

¹⁶⁴¹ See "Department for Criminal Investigations of the Military Police Administration Dedicated Exclusively to Fighting Crime" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

¹⁶⁴² See "Role of the Military Police in Criminal Proceedings" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

¹⁶⁴³ P 00129. See also P 01444.

¹⁶⁴⁴ 2D 00871.

¹⁶⁴⁵ P 01414.

883. As Minister of the Interior, Valentin Ćorić participated in several meetings about the security situation in the territory of the HR H-B until at least February 1994;¹⁶⁴⁶ he was tasked with preparing a report on measures taken to prevent crime in the territory of the HR H-B¹⁶⁴⁷ – the Chamber has no further information in this regard – and was also instructed to work with the Minister of Defence of the HR H-B to improve collaboration between the civilian police and the Military Police.¹⁶⁴⁸ Finally, the Chamber recalls its observation that the Ministry of the Interior was responsible for national security and for protecting the government system as a whole, for the safety of persons and property, for preventing and detecting criminal acts, for arresting criminals, for ensuring and maintaining law and order, and for matters pertaining to citizenship.¹⁶⁴⁹ In view of the foregoing, the Chamber finds that until at least February 1994, Valentin Ćorić still had the ability, as Minister of the Interior, to participate in fighting crime within the HVO.

3. Valentin Ćorić's Powers Regarding Freedom of Movement of People and Goods

884. The Prosecution alleges that through Military Police checkpoints, Valentin Ćorić controlled, directed and regulated the movement of Bosnian Muslims as well as the transport and passage of equipment and supplies to them, including humanitarian assistance.¹⁶⁵⁰ The Ćorić Defence submits that the Military Police Administration had no control over the establishment and operation of the Military Police checkpoints.¹⁶⁵¹ It also argues that the control of humanitarian convoys fell outside Valentin Ćorić's jurisdiction.¹⁶⁵²

885. The evidence shows that as Chief of the Military Police Administration, Valentin Ćorić had the power to establish and control HVO Military Police checkpoints in the territory of the HZ(R) H-B. On the one hand, between July 1992 and at least June 1993, Valentin Ćorić ordered, sometimes on his own initiative and sometimes at Bruno Stojić's request, the establishment or the reinforcement of several checkpoints throughout the territory of the HZ H-B.¹⁶⁵³ On the other hand, between August 1992 and at least August 1993, Valentin Ćorić was one of the people who

¹⁶⁴⁶ See in particular P 07850. See also Marijan Biškić, T(F), pp. 15073-15074.

¹⁶⁴⁷ P 07354, p. 2.

¹⁶⁴⁸ P 06803, p. 1. See also Marijan Biškić, T(F), p. 15063; P 07243.

¹⁶⁴⁹ See "Ministry of the Interior" in the Chamber's findings with regard to the political structure of the HZ(R) H-B.

¹⁶⁵⁰ Indictment, para. 17.5 (d) and (e); Prosecution Final Trial Brief, paras 1000-1014.

¹⁶⁵¹ Ćorić Defence Final Trial Brief, paras 305-323.

¹⁶⁵² Ćorić Defence Final Trial Brief, paras 332-337.

¹⁶⁵³ P 00335, pp. 2 and 3; P 00358, p. 1; P 00360; 5D 04282; P 01331; P 01517. See also P 04699, p. 14. The Chamber also received an order concerning HZ H-B border-crossings dated 14 January 1993 bearing the name of Valentin Ćorić at the bottom of the page: P 01134. The Chamber observes that during his testimony *Zdenko Andabak* stated that the order could not be signed by Valentin Ćorić because he was in Zagreb at that time. *Zdenko Andabak* averred that the order was probably signed by Radoslav Lavrić, who was standing in for Valentin Ćorić: *Zdenko Andabak*, T(F), pp. 51086-51089. Having examined the signatures of both men, the Chamber holds that the order of 14 January 1993 indeed bears Radoslav Lavrić's signature and not that of Valentin Ćorić.

supervised the operation of the checkpoints and on several occasions he sent to the Military Police units deployed at the checkpoints instructions on how to conduct checks.¹⁶⁵⁴ The Chamber also notes that on 7 December 1992, Valentin Ćorić, Slobodan Praljak and Bruno Stojić established the rules of conduct for military policemen at the checkpoints and the procedures for carrying out checks.¹⁶⁵⁵ Valentin Ćorić also had the power to release people arrested at the checkpoints.¹⁶⁵⁶ The Chamber further observes that, apart from the checkpoints, between August 1992 and October 1993, Valentin Ćorić also had the general power to control the freedom of movement of people and goods in the territory of the HZ(R) H-B,¹⁶⁵⁷ including that of international organisations and humanitarian convoys.¹⁶⁵⁸

886. The Chamber also notes that on 31 January 1994, the Head of the ODP, Martin Raguž, asked Valentin Ćorić, the Minister of the Interior at that time, for assistance in providing an escort from Doljani to the last HVO checkpoints for a convoy transporting a field hospital.¹⁶⁵⁹ The Chamber also recalls its observation that in April 1994, several HR H-B ministers - including Valentin Ćorić, the Minister of the Interior at the time - issued instructions applicable to the passage of humanitarian convoys through HVO-controlled territory.¹⁶⁶⁰

887. In view of the preceding, the Chamber finds that as Chief of the Military Police Administration and later the Minister of the Interior, Valentin Ćorić had the power to control the freedom of movement of people and goods in the territory of the HZ(R) H-B, including that of humanitarian convoys.

¹⁶⁵⁴ P 00355; P 00508, p. 1; P 00573; P 00610, p. 2; 2D 01365; P 00864; P 00876; P 01095; P 01562; P 02020, p. 2; P 04529. *See also* P 04527. *See also* P 04699, p. 13.

¹⁶⁵⁵ P 00876, pp. 1 and 2.

¹⁶⁵⁶ Witness BB, T(F), p. 17292, closed session.

¹⁶⁵⁷ P 04174. *See also* P 00385; 2D 01495/2D 03008 (identical documents), p. 1.

¹⁶⁵⁸ 5D 00524; P 04258; P 05863. The Chamber also received an order dated 10 June 1993 prohibiting the entry of humanitarian aid into the territory of the HZ H-B without the necessary documentation certified by the ODP and bearing the name of Valentin Ćorić at the bottom of the page and no signature: P 02706. The Ćorić Defence argued that the document was a fake as it contained neither the signature nor the letterhead nor the stamp nor the personal reference number of Valentin Ćorić: "Joint Response by 5 Accused (Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Ćorić and Berislav Pušić) to Prosecution Motion Filed 20 September 2007 for Admission of Documentary Evidence (539 Items Exhibits Related to Herceg-Bosna/HVO Political, Military and Administrative Structures etc.)", confidential, 19 October 2007, Annex 5, p. 53; Ćorić Defence Final Trial Brief, para. 705. The Chamber recalls that in its "Decision on the Prosecution Motion for Admission of Documentary Evidence (Two Motions: HVO and Herceg-Bosna)", public, 11 December 2007, para. 32 and Annex 2, p. 25, it indicated that Exhibit P 02706 had sufficient indicia of reliability, relevance and probative value to be admitted into the record. The Chamber also observes that some of Valentin Ćorić's orders were reproduced in documents bearing different letterheads from that of the Military Police Administration and no signature of Valentin Ćorić. *See, for example*, P 03254. In view of these considerations, the Chamber has no doubt that the document is authentic and reflects an order issued by Valentin Ćorić.

¹⁶⁵⁹ 1D 02182; Martin Raguž, T(F), p. 31339.

¹⁶⁶⁰ *See* "Powers of the ODP" in the Chamber's findings with regard to the political structure of the HZ(R) H-B.

4. Valentin Ćorić's Authority over HVO Detention Centres

888. The Prosecution argues that Valentin Ćorić established, operated and directed a network of Herceg-Bosna/HVO prisons, concentration camps and detention facilities,¹⁶⁶¹ a system conceived to expel, deport and forcibly transfer many Bosnian Muslims;¹⁶⁶² that he was also responsible for security,¹⁶⁶³ the implementation of classification procedures,¹⁶⁶⁴ access to the detention centres,¹⁶⁶⁵ detention conditions (provision of adequate food and water, adequate space, bedding, sufficient ventilation and sanitation facilities, and adequate medical care)¹⁶⁶⁶ and the forced labour of the detainees;¹⁶⁶⁷ and that he had the power to order the release of detainees¹⁶⁶⁸ and their transfer from one detention facility to another.¹⁶⁶⁹

889. In its Final Trial Brief, the Ćorić Defence asserts that Valentin Ćorić was not responsible for the security of the detainees in the detention centres¹⁶⁷⁰ and that he played no role in the logistics of the centres.¹⁶⁷¹ It also argues that the main responsibility for sending detainees outside the detention centres for work rested with the commanders of the military units, while the superior officers of the Military Police platoons in charge of prison security bore a secondary responsibility.¹⁶⁷² The Ćorić Defence also submits that the sending of detainees for work was the responsibility of the prison warden and not of the Military Police Administration.¹⁶⁷³ It further states that Valentin Ćorić and the Military Police Administration had no power, or only limited administrative power, with regard to the release of detainees and their transfer from one detention facility to another.¹⁶⁷⁴ Finally, the

¹⁶⁶¹ Indictment, para. 17.5 (f), (g), (h), (i) and (j); Prosecution Final Trial Brief, paras 1064 and 1065.

¹⁶⁶² Prosecution Final Trial Brief, para. 1155 *et seq.*, and Prosecution Closing Arguments, T(F), pp. 52089 to 52094.

¹⁶⁶³ Prosecution Final Trial Brief, paras 1067-1070 (Heliodrom), 1071-1073 (Ljubuški Prison and Vitina-Otok Camp), 1074-1075 (Dretelj Prison), 1076 (Gabela Prison) and 1077 (Prozor detention centres).

¹⁶⁶⁴ Prosecution Final Trial Brief, paras 1087-1101.

¹⁶⁶⁵ Prosecution Final Trial Brief, paras 1082-1086.

¹⁶⁶⁶ Prosecution Final Trial Brief, paras 1102-1111.

¹⁶⁶⁷ Prosecution Final Trial Brief, paras 1115-1134.

¹⁶⁶⁸ Prosecution Final Trial Brief, paras 1079-1081.

¹⁶⁶⁹ Prosecution Final Trial Brief, para. 1078.

¹⁶⁷⁰ Ćorić Defence Final Trial Brief, paras 453, 457, 462 and 467 (Heliodrom) and paras 571-574 (Gabela and Dretelj prisons). As to Ljubuški Prison and the Vitina-Otok Camp, the Ćorić Defence contends that the security of the detainees in these two centres did not fall within the remit of the Military Police Administration before 1 September 1993: paras 529 and 534.

¹⁶⁷¹ Ćorić Defence Final Trial Brief, paras 463-466 (Heliodrom) and 561-569 (Gabela and Dretelj prisons). As to Ljubuški Prison and the Vitina-Otok Camp, the Ćorić Defence contends that the maintenance of these two centres did not fall within the remit of the Military Police Administration before 1 September 1993: paras 529 and 534.

¹⁶⁷² Ćorić Defence Final Trial Brief, para. 474.

¹⁶⁷³ Ćorić Defence Final Trial Brief, para. 475.

¹⁶⁷⁴ Ćorić Defence Final Trial Brief, paras 468-472 (Heliodrom), 384 and 540-544 (Ljubuški Prison and Vitina-Otok Camp) and paras 570, 574 and 577-578 (Dretelj and Gabela prisons).

Ćorić Defence submits that the Vojno Detention Centre did not fall under the authority of the Military Police Administration.¹⁶⁷⁵

890. As a preliminary matter, the Chamber considers that the phrase "network of Herceg-Bosna/HVO prisons, concentration camps and detention facilities" used by the Prosecution refers not only to the Heliodrom, the prisons in Dretelj, Gabela and Ljubuški, the Vitina-Otok Camp and the Vojno Detention Centre¹⁶⁷⁶ but also to the other detention centres, whose existence the Chamber established in the factual parts of the Judgement.¹⁶⁷⁷

891. The Chamber will examine, in turn, Valentin Ćorić's authority over (a) the administration of all the detention centres, (b) the work performed by the detainees, (c) the transfer of detainees from one detention centre to another and (d) the release of detainees.

a) Administration of HVO Detention Centres

892. In this part, the Chamber will more specifically analyse Valentin Ćorić's involvement in (i) the establishment and management of the HVO detention centre, (ii) the security in these centres, (iii) the logistical aspect of the detention conditions and (iv) access to the centres.

i. Valentin Ćorić's Involvement in the Establishment and Management of HVO Detention Centres

893. The Chamber recalls that Valentin Ćorić ordered the setting up of the Heliodrom on 22 September 1992;¹⁶⁷⁸ that the same day he issued the house rules for that detention centre;¹⁶⁷⁹ and that he appointed one of its wardens, Stanko Božić, on 21 December 1992, and the commander of security, Ante Smiljanić, on 1 October 1992.¹⁶⁸⁰ It also recalls that from 7 February to 22 March 1993, the *de facto* deputy warden of the Heliodrom, Josip Praljak, was not authorised to issue

¹⁶⁷⁵ Ćorić Defence Final Trial Brief, para. 516.

¹⁶⁷⁶ Indictment, para. 39 (d).

¹⁶⁷⁷ Namely, the detention centres in Prozor Municipality as well as the houses in the Podgrađe neighbourhood in Prozor and the villages of Lapsunj and Duge where Muslim women from Prozor Municipality were detained; the furniture factory in Trnovača in Gornji Vakuf Municipality; the school in Sovići, the houses in the hamlet of Junuzovići and the fish farm near Doljani in Jablanica Municipality; the Tobacco Institute, the Mechanical Engineering Faculty and the MUP building in Mostar Municipality; the school in Aladinići/Crnići, the TGA factory, the VPD and the Koštana hospital in Stolac Municipality; the Grabovina barracks and the Silos in Čapljina Municipality; the secondary school in Vareš, the primary school in Vareš and the Vareš-Majdan Prison in Vareš Municipality.

¹⁶⁷⁸ See "Establishment of a Detention Facility at the Site of the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

¹⁶⁷⁹ See "Management of the Heliodrom" and "Authorities in Charge of Security at the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

¹⁶⁸⁰ See "Management of the Heliodrom" and "Authorities in Charge of Security at the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

orders without prior authorisation from Valentin Ćorić.¹⁶⁸¹ The Chamber further recalls that the warden and the *de facto* deputy warden of the Heliodrom were directly subordinated to Valentin Ćorić from the time of the establishment of the Heliodrom until the appointment of Valentin Ćorić to the post of Minister of the Interior on 10 November 1993.¹⁶⁸²

894. The Military Police Administration, under Valentin Ćorić's direction, also set up Ljubuški Prison sometime in June 1992.¹⁶⁸³ Specifically, it was involved in managing and operating that prison between May and at least September 1993.¹⁶⁸⁴ Moreover, the Military Police platoon attached to the 4th Brigade in charge of security at the prison¹⁶⁸⁵ was accountable to the Military Police Administration.¹⁶⁸⁶

895. In view of the above, the Chamber finds that Valentin Ćorić established the Heliodrom and Ljubuški Prison, and that he was hierarchically superior to the wardens of these two detention centres. The Chamber, however, is not in a position to establish that Valentin Ćorić was involved in establishing and managing the other detention centres.

ii. Valentin Ćorić's Involvement Regarding Security inside HVO Detention Centres

896. On 22 September 1992, Valentin Ćorić issued rules on security inside the Heliodrom.¹⁶⁸⁷ On 1 October 1992, he appointed the commander of security¹⁶⁸⁸ and on 21 December 1992, the Heliodrom warden, who was also responsible for security matters and was directly subordinated to Valentin Ćorić throughout the period he was the Chief of the Military Police Administration.¹⁶⁸⁹ The Chamber also observed that the house rules at the Heliodrom obliged the warden to send frequent reports to Valentin Ćorić on the situation inside the prison.¹⁶⁹⁰ In view of the above, the Chamber finds that from the establishment of the Heliodrom in September 1992 until 10 November

¹⁶⁸¹ See "Management of the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

¹⁶⁸² After Valentin Ćorić left the Military Police Administration, Stanko Božić continued to be subordinated to that Administration. See "Management of the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

¹⁶⁸³ See "Command Structure in Ljubuški Prison" in the Chamber's factual findings with regard to Ljubuški Municipality and detention centres.

¹⁶⁸⁴ See "Command Structure in Ljubuški Prison" in the Chamber's factual findings with regard to Ljubuški Municipality and detention centres.

¹⁶⁸⁵ See "Command Structure in Ljubuški Prison" in the Chamber's factual findings with regard to Ljubuški Municipality and detention centres.

¹⁶⁸⁶ See "Command Structure in Ljubuški Prison" in the Chamber's factual findings with regard to Ljubuški Municipality and detention centres.

¹⁶⁸⁷ See "Authorities in Charge of Security at the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

¹⁶⁸⁸ See "Authorities in Charge of Security at the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

¹⁶⁸⁹ Even after Valentin Ćorić left the Military Police Administration, Stanko Božić remained subordinated to that Administration. See "Management of the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

1993, the security of the detainees in that detention centre was ultimately the responsibility of Valentin Ćorić.

897. The Chamber recalls its observation that, in addition to the *Domobrani*, a Military Police unit – the 3rd Company of the 3rd (later the 5th) Military Police Battalion – was also in charge of guarding the detainees at Dretelj Prison¹⁶⁹¹ and that at least between July and August 1993, the commanders of that company and of the 3rd and 5th battalions sent daily reports to the Military Police Administration on the situation in Dretelj Prison.¹⁶⁹² Furthermore, the Chamber notes that after an inspection of Dretelj Prison on 11 July 1993, the Assistant Chief of the Military Police Administration for Security, Branimir Tucak, indicated to Valentin Ćorić that, due to a shortage of personnel, the number of military policemen maintaining security in the prison needed to be urgently increased.¹⁶⁹³ In view of this evidence, the Chamber holds that Valentin Ćorić had power regarding the security of the detainees in Dretelj Prison.

898. The Chamber recalls that it received no evidence which would allow it to find that the Military Police had any responsibility for the security of the detainees at Gabela Prison.¹⁶⁹⁴ Therefore, it is not in a position to find that Valentin Ćorić was responsible for the security of the detainees in that prison.

899. However, the Chamber observed that the Military Police Administration, under Valentin Ćorić's direction, played a leading role in the running of Ljubuški Prison¹⁶⁹⁵ and that insofar as the warden of that prison, subordinated to Valentin Ćorić,¹⁶⁹⁶ was responsible for security and surveillance measures, the Military Police Administration was ultimately responsible for security and surveillance at Ljubuški Prison as provided by members of the Military Police.¹⁶⁹⁷ The Chamber also observed that at least between May and August 1993, the warden of Ljubuški Prison drew up daily reports for, among others, the Military Police Administration, on the activities of the

¹⁶⁹⁰ See "The Military Police Administration as a Security Organ of the Department of Defence" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

¹⁶⁹¹ See "Authorities Responsible for Guarding Detainees and Ensuring Their Security" in the Chamber's factual findings with regard to Dretelj Prison.

¹⁶⁹² See "3rd Company of the 3rd and then 5th Battalion of the Military Police" in the Chamber's factual findings with regard to Dretelj Prison.

¹⁶⁹³ P 03377, p. 1; P 03794.

¹⁶⁹⁴ See "Authorities Responsible for Guarding Detainees and Ensuring Their Security" in the Chamber's factual findings with regard to Gabela Prison.

¹⁶⁹⁵ See "Command Structure in Ljubuški Prison" in the Chamber's factual findings with regard to Ljubuški Municipality and detention centres.

¹⁶⁹⁶ See "Head of the Department of Defence's Power of Appointment to Posts within the Military Police" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

¹⁶⁹⁷ The Chamber notes that, in the case at issue, these were the members of the Military Police platoon attached to the 4th Brigade. See "Head of the Department of Defence's Power of Appointment to Posts within the Military Police" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

Military Police platoon at Ljubuški Prison.¹⁶⁹⁸ In view of the above, the Chamber finds that from the establishment of Ljubuški Prison in June 1992 until 10 November 1993, the security of the detainees at that prison was ultimately the responsibility of Valentin Ćorić.

900. The Chamber recalls its observation that although the Military Police platoon attached to the 4th Brigade controlled the conduct of the *Domobrani* towards the detainees, the orders on security at the Vitina-Otok Camp were issued by the SIS and the 4th Brigade Commander.¹⁶⁹⁹ Therefore, the Chamber is not in a position to find that Valentin Ćorić was responsible for the security of the detainees in that camp.

901. The Chamber recalls its observation that the Vojno Detention Centre came under the sole responsibility of the 2nd Brigade of the HVO.¹⁷⁰⁰ Therefore, the Chamber is not in a position to find that Valentin Ćorić was responsible for the security of the detainees at that detention centre.

902. Finally, the Chamber recalls its observation that the security of the detainees at the Secondary School in Prozor was provided by civilian policemen, the *Domobrani* and military policemen,¹⁷⁰¹ while the successive wardens of the detention centre – including a member of the Military Police – were under the commander of the *Rama* Brigade.¹⁷⁰² Therefore, the Chamber is not in a position to find that Valentin Ćorić was responsible for the security of the detainees at the Secondary School in Prozor or the other detention centres in Prozor.

903. The Chamber received no evidence confirming that either Valentin Ćorić or the Military Police Administration had any responsibility regarding security in the other detention centres. Therefore, the Chamber is not in a position to find that Valentin Ćorić was responsible for the security of the detainees in the other detention centres.

iii. Valentin Ćorić's Involvement in the Logistical Aspect of Detention Conditions

904. In view of the conditions of confinement whose existence at the HVO detention centres the Chamber established, the Chamber notes that no evidence shows that either Valentin Ćorić or the Military Police Administration intervened in any way with regard to the logistical aspect of the

¹⁶⁹⁸ See "Command Structure in Ljubuški Prison" in the Chamber's factual findings with regard to Ljubuški Municipality and detention centres.

¹⁶⁹⁹ See "Organisation of Vitina-Otok Camp" in the Chamber's factual findings with regard to Ljubuški Municipality and detention centres.

¹⁷⁰⁰ See "Authorities Responsible for Operation of the Vojno Detention Centre" in the Chamber's factual findings with regard to the Vojno Detention Centre.

¹⁷⁰¹ See "Description, Organisation and Operation of Prozor Secondary School as a Detention Site" in the Chamber's factual findings with regard to the Municipality of Prozor.

detainees' conditions of confinement.¹⁷⁰³ Therefore, the Chamber cannot find that the logistical aspect of the conditions of confinement at the HVO detention centres came under Valentin Ćorić's authority.

iv. Valentin Ćorić's Involvement Regarding Access to HVO Detention Centres

905. The Chamber observed that between February and October 1993, Valentin Ćorić granted representatives of international organisations access to the Heliodrom,¹⁷⁰⁴ Dretelj Prison,¹⁷⁰⁵ Ljubuški Prison¹⁷⁰⁶ and the MUP buildings in Prozor.¹⁷⁰⁷ In view of the above, the Chamber finds that, together with other people, Valentin Ćorić had the power to grant representatives of international organisations access to those detention sites.

906. Furthermore, the Chamber found that Valentin Ćorić supervised access to the Heliodrom by members of the HVO between March and July 1993.¹⁷⁰⁸ The Chamber, however, received no evidence in this sense for the other HVO detention centres.

b) Work Performed by Detainees

907. As a preliminary matter, the Chamber notes that the allegations in the Indictment about the work performed by the detainees of the HVO detention centres relate to the Heliodrom, Ljubuški Prison, the Vitina-Otok Camp, the Vojno Detention Centre and the detention centres in Prozor.

¹⁷⁰² See "Description, Organisation and Operation of Prozor Secondary School as a Detention Site" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁷⁰³ Namely, the distribution of food and access to water, medicine and bedding. See "Authorities in Charge of Logistics" and "Authorities Responsible for Medical Care and Health of Detainees" in the Chamber's factual findings with regard to the Heliodrom; "1st Knez Domagoj Brigade", "Authorities Controlling Detainee Access to Water and Food" and "Authorities Responsible for Medical Care" in the Chamber's factual findings with regard to Dretelj Prison; "Authorities Controlling Detainee Access to Water and Food" and "Authorities Responsible for Organising and Dispensing Medical Care" in the Chamber's factual findings with regard to Gabela Prison; "Command Structure in Ljubuški Prison" and "Organisation of the Vitina-Otok Camp" in the Chamber's factual findings with regard to Ljubuški Municipality and detention centres; "Authorities Responsible for Operation of the Vojno Detention Centre" in the Chamber's factual findings with regard to the Vojno Detention Centre; "Description, Organisation and Operation of Prozor Secondary School as a Detention Site" in the Chamber's factual findings with regard to the Municipality of Prozor. As to Ljubuški Prison, the Military Police Administration provided only items of basic necessity, while the 4th Brigade provided food. See "Command Structure in Ljubuški Prison" in the Chamber's factual findings with regard to Ljubuški Municipality and detention centres.

¹⁷⁰⁴ See "Access to the Heliodrom for Representatives of International Organisations and Journalists" in the Chamber's factual findings with regard to the Heliodrom.

¹⁷⁰⁵ See "Restrictions on Access to Dretelj Prison" in the Chamber's factual findings with regard to Dretelj Prison.

¹⁷⁰⁶ See "Visits to Ljubuški Prison by International Organisations and Joint Commissions" in the Chamber's factual findings with regard to Ljubuški Municipality and detention centres.

¹⁷⁰⁷ See "Treatment of Detainees at Prozor MUP Buildings" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁷⁰⁸ See "Access to the Heliodrom for HVO Members" in the Chamber's factual findings with regard to the Heliodrom.

908. Evidence attests to Valentin Ćorić's direct involvement in September and November 1992 in establishing the procedures for sending the detainees from the Heliodrom to work on the front line and to his direct involvement in August 1993 in sending the detainees from the Vitina-Otok Camp to work outside that detention centre.¹⁷⁰⁹ The Chamber also notes that on 8 August 1993, Milivoj Petković considered that "prisoners and detained Muslims" might be used by the brigade commanders for fortifying the front line on condition that the commanders obtained prior authorisation from the Military Police Administration which was responsible for "utilising prisoners".¹⁷¹⁰ The Chamber notes that this order was put into effect.¹⁷¹¹

909. Furthermore, the Chamber recalls its observation that on 14 October 1993, Milivoj Petković sent an order to all the brigades of the South-East OZ prohibiting the use of detainees for any kind of work in the zones of responsibility of the brigades and indicating that, if such activity needed to be authorised, prior approval had to be obtained from the Main Staff.¹⁷¹²

910. In view of the above, the Chamber finds that from September 1992 to 14 October 1993, Valentin Ćorić had the power to authorise the use of detainees for work, notably on the front line.

¹⁷⁰⁹ P 00514, pp. 8 and 10; P 00352, p. 15; P 00740, p. 3; P 04030, p. 1; P 04068.

¹⁷¹⁰ P 04020/P 04039.

¹⁷¹¹ P 04030, p. 1.

¹⁷¹² See "Attempts to Restrict Use of Heliodrom Detainees for Work" in the Chamber's factual findings with regard to the Heliodrom. On 15 October 1993, the Heliodrom Warden, Stanko Božić, reproduced Milivoj Petković's order in an order he sent to the "prison" and the "school", that is, two of the Heliodrom buildings in which the detainees were confined (P 05874). On 23 November 1993, Stanko Božić issued an order stating that Milivoj Petković's order of 14 October 1993 "becomes effective again" as of that date (P 06819; Josip Praljak, T(F), p. 14905). In view of the provisions of Milivoj Petković's order and how it was carried out by the Heliodrom warden, the Chamber holds that Valentin Ćorić's power of authorisation did not extend beyond 14 October 1993.

c) Transfer of Detainees from One Detention Centre to Another

911. The Chamber observed that between May and September 1993, Valentin Ćorić personally ordered the transfer of detainees from or to the Heliodrom,¹⁷¹³ Dretelj Prison,¹⁷¹⁴ Gabela Prison,¹⁷¹⁵ Ljubuški Prison¹⁷¹⁶ and the Secondary School in Prozor.¹⁷¹⁷ In view of these observations, the Chamber finds that as Chief of the Military Police Administration, Valentin Ćorić had the power to order the transfer of detainees in these detention centres. The Chamber received no evidence attesting to such an involvement of Valentin Ćorić in the other detention centres.

d) Release of Detainees

912. The Chamber observed that in May 1993, Valentin Ćorić personally ordered the release of detainees from the Heliodrom.¹⁷¹⁸ It also observed that on 6 July 1993, invoking the exclusive authority of the Military Police Administration to release detainees from "military prisons", Valentin Ćorić demanded of Nedeljko Obradović, Commander of the 1st *Knez Domagoj* Brigade, that he rescind his order of 5 July 1993 which prevented the wardens of Heliodrom and the Ljubuški, Dretelj and Gabela prisons from releasing anyone without his personal approval.¹⁷¹⁹ On 12 July 1993, Zvonko Vidović sent instructions to the Heliodrom warden, Stanko Božić, and the *de facto* deputy warden, Josip Praljak, stating that henceforth any release from the Heliodrom was to be authorised by either Valentin Ćorić or Radoslav Lavrić.¹⁷²⁰ Lastly, the Chamber noted that in August 1993, Valentin Ćorić ordered the release from the detention centres of all Muslim detainees in possession of a letter of guarantee and a transit visa – except for those with a prior criminal record - so they could leave Herzegovina with their families for third countries via Croatia. In this regard, the Chamber observed that some detainees from the Heliodrom, Dretelj Prison, Gabela Prison, Ljubuški Prison and the Vitina-Otok Camp were released further to this order.¹⁷²¹ In view of

¹⁷¹³ See "Authorities Responsible for Transfer of Detainees" in the Chamber's factual findings with regard to the Heliodrom.

¹⁷¹⁴ See "Authorities Responsible for Managing the Departure of Detainees" in the Chamber's factual findings with regard to Dretelj Prison.

¹⁷¹⁵ See "Authorities Responsible for Managing the Departure of Detainees" in the Chamber's factual findings with regard to Gabela Prison.

¹⁷¹⁶ See "Arrival and Transfer of Detainees of Ljubuški Prison" in the Chamber's factual findings with regard to Ljubuški Municipality and detention centres.

¹⁷¹⁷ See "Arrivals, Transfers and Releases of Detainees from the Prozor Secondary School" in the Chamber's factual findings with regard to the Municipality of Prozor.

¹⁷¹⁸ See "Authorities Responsible for Release of Detainees" in the Chamber's factual findings with regard to the Heliodrom.

¹⁷¹⁹ See "Authorities Responsible for Release of Detainees" in the Chamber's factual findings with regard to the Heliodrom.

¹⁷²⁰ See "Authorities Responsible for Release of Detainees" in the Chamber's factual findings with regard to the Heliodrom.

¹⁷²¹ See "Authorities Responsible for Release of Detainees" in the Chamber's factual findings with regard to the Heliodrom; "Authorities in Charge of Managing the Departures of Detainees" in the Chamber's factual findings with

these observations, the Chamber finds that as Chief of the Military Police Administration, Valentin Čorić had the authority to order the release of detainees from the Heliodrom, the Dretelj, Gabela and Ljubuški prisons, and the Vitina-Otok Camp. The Chamber received no evidence attesting to such an involvement of Valentin Čorić in the other detention centres.

5. Valentin Čorić's Authority over the KB Units

913. In its Final Trial Brief, the Prosecution contends that Valentin Čorić had authority over the KB units.¹⁷²² In its Closing Arguments, the Čorić Defence criticises the Prosecution for having made this claim so late.¹⁷²³ It also notes that the only document the Prosecution uses to substantiate its claim does not support a finding that Valentin Čorić had any authority over the KB.¹⁷²⁴

914. The Chamber observes that the Indictment does not allege that Valentin Čorić had a power of command over the KB and, consequently, the Chamber decides not to consider this allegation.

6. The Chamber's Findings on Valentin Čorić's Powers

915. In view of the above analysis, the Chamber finds that Valentin Čorić, as Chief of the Military Police Administration, had some power of command and control over the Military Police units, in particular the power to re-subordinate them; that he had the power to organise the Military Police and define the rules governing its operation, but that his power to make appointments was nonetheless limited; that he was responsible for the recruitment and the basic and advanced training of HVO military policemen; that he had the ability to participate in fighting crime within the HVO but that his power was limited to investigating the perpetrators of crimes; and, finally, that he had the power to control the freedom of movement of people and goods in the territory of the HZ(R) H-B, including that of humanitarian convoys.

916. More specifically regarding the HVO detention centres, and in view of the above discussions, the Chamber finds that Valentin Čorić ordered the establishment of the Heliodrom and Ljubuški Prison; that, as Chief of the Military Police Administration, he was hierarchically superior to the wardens of those two detention centres and that he was ultimately responsible for the security

regard to Gabela Prison; P 10187; "Organisation of the Departure of the Muslims from Ljubuški Municipality" in the Chamber's factual findings with regard to Ljubuški Municipality and detention centres. The Chamber also observed that Tomislav Šakota, Warden of Dretelj Prison, sent a request to the Commander of the 1st *Knez Domagoj* Brigade, Nedeljko Obradović, for the release of one detainee, following a request to that effect by Valentin Čorić, Chief of the Military Police Administration. See "Authorities Responsible for Managing the Departure of Detainees" in the Chamber's factual findings with regard to Dretelj Prison. However, the Chamber does not know when that request was submitted.

¹⁷²² Prosecution Final Trial Brief, para. 1028, citing Exhibit P 01517.

¹⁷²³ Čorić Defence Closing Arguments, T(F), pp. 52674-52675.

of the detainees. The Chamber further finds that Valentin Ćorić was involved in the security of the detainees at Dretelj Prison. Moreover, the Chamber finds that in his capacity as Chief of the Military Police Administration, Valentin Ćorić had the power to grant representatives of international organisations access to the Heliodrom, Dretelj Prison, Ljubuški Prison and the MUP buildings in Prozor; that he supervised access to the Heliodrom for members of the HVO; that from September 1992 until 14 October 1993, he had the power to authorise the use of detainees for work on the front line; that he had the power to order the transfer of detainees at the Heliodrom, Dretelj, Gabela and Ljubuški prisons and the Secondary School in Prozor; and that he had the authority to order the release of detainees from the Heliodrom, Dretelj, Gabela and Ljubuški prisons and the Vitina-Otok Camp.

917. Furthermore, the Chamber finds that Valentin Ćorić, as Minister of the Interior, still had the ability to participate in fighting crime within the HVO and that he still had the power to control the freedom of movement of people and goods in the territory of the HZ(R) H-B, including that of humanitarian convoys.

C. Valentin Ćorić's Responsibility under JCE 1

918. The Chamber will now attempt to establish if, while exercising his powers, Valentin Ćorić acted or failed to act, although he had the ability to do so, with a view to contributing significantly to the achievement of the common criminal purpose. The Chamber will first assess some of Valentin Ćorić's acts and omissions in (1) Gornji Vakuf, (2) Mostar and (3) Ljubuški, and will then consider (4) Valentin Ćorić's involvement in the crimes committed in the HZ(R) H-B detention centres.

1. Municipality of Gornji Vakuf

919. On 15 January 1993, Jadranko Prlić signed a decision adopted at an extraordinary session of the HVO that same day, whereby all the ABiH units stationed in provinces 3, 8 and 10, declared Croatian provinces under the "Geneva accords", were to submit to the Command of the HVO Main Staff within five days.¹⁷²⁵ Bruno Stojić was responsible for implementing the decision.¹⁷²⁶ The same day, Bruno Stojić ordered the HVO Main Staff and the Military Police Administration, led by Valentin Ćorić, to carry out the HVO order signed by Jadranko Prlić.¹⁷²⁷

¹⁷²⁴ Ćorić Defence Closing Arguments, T(F), p. 52675.

¹⁷²⁵ P 01146; P09545, pp. 77 and 78.

¹⁷²⁶ P 01146; P09545, pp. 77 and 78.

¹⁷²⁷ P 01140; Bruno Pinjuh, T(F), pp. 37341-34344.

920. The Chamber recalls that according to a report sent by Valentin Ćorić to Bruno Stojić on 5 January 1993, the 1st Active Battalion – which was under the direct command of Valentin Ćorić¹⁷²⁸ – and the units of the 2nd Military Police Battalion of the HVO were sent as reinforcements to Gornji Vakuf.¹⁷²⁹ Two reports by Valentin Ćorić, one dated 9 March 1993 sent to Mate Boban and another more detailed one in July 1993 about the activities of the Military Police from January to June 1993 – the Chamber does not know to whom it was addressed – indicate that between 11 and 22 January 1993 the units participated in combat missions in the Municipality of Gornji Vakuf and in particular in the capture of several villages, including Uzričje on 18 January 1993.¹⁷³⁰ Based on the evidence, the Chamber can find only that the Military Police were present in the attack on Uzričje.

921. That evidence shows that Valentin Ćorić facilitated the HVO operations in Gornji Vakuf in January 1993 by sending Military Police units to take part in them. Inasmuch as Valentin Ćorić himself referred to this participation in his reports, the Chamber holds that he knew about the course of the HVO operations in Gornji Vakuf in January 1993 and must have been aware of the crimes resulting from this campaign.

922. The Chamber recalls that on 18 January 1993, HVO troops launched an attack on the town of Gornji Vakuf and the villages of Duša, Hrasnica, Uzričje and Ždrimci. The HVO operations, especially in the four villages, were carried out in exactly the same manner: the HVO first shelled the localities, killing several people who were not members of any armed force and were not taking part in the fighting in Duša, and destroying several Muslim houses in all of the localities; it then entered the villages and arrested all the people there; separated the men from the women, children and elderly people; detained all the Muslims from those villages at various locations in the municipality and destroyed the houses. Lastly, the HVO removed most of the civilians detained in the municipality.¹⁷³¹ Given the perfect similarity between those crimes, the Chamber holds that they were part of a preconceived plan and were not acts of a few undisciplined soldiers. This is confirmed by Milivoj Petković's report of 18 January 1993 – the Chamber does not know to whom

¹⁷²⁸ See "First Reorganisation of the Military Police Administration and its Units: October 1992 – July 1993" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

¹⁷²⁹ P 01053; P 01635, p. 1, and P 03090, p. 6.

¹⁷³⁰ P 01635, p. 1; P 03090, pp. 6 and 7. See also Andrew Williams, T(F), pp. 8499-8500, 8502, 8507.

¹⁷³¹ See "Attack on Several Villages of Gornji Vakuf Municipality and the Alleged Crimes Resulting from this Attack" and "Alleged Criminal Events following the HVO Attack and Takeover of the Villages in the Municipality of Gornji Vakuf" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

it was addressed – on the situation in Gornji Vakuf, which indicated that the offensive operations in the direction of Gornji Vakuf had been carried out as planned.¹⁷³²

923. The Chamber holds that by deploying Military Police units for the operations in Uzričje, Valentin Ćorić participated in the HVO military operations in that area and, consequently, knew of the HVO plan for the whole area and not only for Uzričje where he sent the Military Police units. Therefore, the only inference the Chamber can reasonably draw is that Valentin Ćorić knew that the murders, detention and removals of Muslims not belonging to any armed force as well as the destruction of property, including mosques, formed part of the HVO military operations. The Chamber infers that by having facilitated those operations, Valentin Ćorić intended to have these crimes committed.

2. Municipality of Mostar

924. The Chamber will address the evidence relating to (a) Valentin Ćorić's role in the campaign of arrests in the first half of May 1993 in West Mostar, (b) Valentin Ćorić's participation in the operations to evict the Muslim population of West Mostar as of June 1993 and (c) Valentin Ćorić's role in the siege of East Mostar. Lastly, Chamber will (d) set out its findings.

a) Valentin Ćorić's Role in the Campaign of Arrests in the First Half of May 1993 in West Mostar

925. According to a consolidated report by Valentin Ćorić on Military Police activities from January to June 1993, 600 military policemen took part in the fighting in Mostar between 9 and 30 May 1993.¹⁷³³ In view of the logbook of the *de facto* deputy warden of the Heliostrom, Josip Praljak, the Chamber notes that on or about 9 May 1993, Valentin Ćorić informed the warden, Stanko Božić, that a large number of people would be arriving at the Heliostrom and asked him to let them in.¹⁷³⁴ The Chamber further recalls that between 9 and 11 May 1993, members of the HVO, specifically, members of the *Vinko Škrobo* ATG and the Military Police,¹⁷³⁵ forced the Muslim inhabitants of West Mostar to leave their flats, arrested them and transported them to the Heliostrom.¹⁷³⁶ The Chamber notes that the Muslims who had been arrested and detained were

¹⁷³² P 01193, pp. 1 and 2.

¹⁷³³ P 03090, p. 5.

¹⁷³⁴ P 00352, p. 26.

¹⁷³⁵ P 10033, paras 6 and 7; P 10032, para. 9.

¹⁷³⁶ See "Round-up of Muslims from West Mostar, their Placement in Detention in Various Locations and Departure of Some to ABiH-Controlled Areas or Other Countries in the First Half of May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

members of the ABiH, members of the HVO and people who did not belong to any armed force.¹⁷³⁷ They were incarcerated at the Heliodrom for several days before being released and allowed to return to their homes.¹⁷³⁸

926. The Chamber recalls that while the Muslims of West Mostar were being evicted from their flats in May 1993, members of the HVO, specifically, members of the *Benko Penavić* ATG, threatened and intimidated them, kicked them with their boots, struck them with the butts of their rifles, and punched them; that the members of the HVO took all the valuables the Muslims from West Mostar had on them and in their flats either while they were evicting them from their flats or when they returned later in the night; and that the HVO also appropriated the flats vacated in this way and allocated them to HVO members or Croatian families.¹⁷³⁹ Therefore, these crimes were not random acts of undisciplined servicemen, but were an integral part of the preconceived plan of the common criminal purpose.

927. The Chamber holds that given their scale and organisation, the campaigns to arrest Muslims in West Mostar around 9 May 1993 were the result of a preconceived plan of the HZ H-B authorities.

928. The evidence thus indicates that Valentin Ćorić contributed to planning the arrest campaigns in West Mostar in May 1993 by providing Military Police units and by alerting the Heliodrom warden to the arrival of a huge number of people at the Heliodrom. The only reasonable inference the Chamber can draw on the basis of the above is that Valentin Ćorić intended to have the Muslims of West Mostar arrested around 9 May 1993 – arrests which were accompanied by acts of violence.

b) Valentin Ćorić's Participation in Operations to Evict the Muslim Population of West Mostar Beginning in June 1993

929. The Chamber recalls that around mid-June 1993, HVO soldiers, including members of the KB under Mladen Naletilić's command, expelled Muslims from West Mostar; that the Muslims were subjected to intimidation, threats and blows; that Muslim women were raped; that the HVO soldiers also confiscated their property and forced them across the front line into East Mostar; and

¹⁷³⁷ See "Round-up of Muslims from West Mostar, their Placement in Detention in Various Locations and Departure of Some to ABiH-Controlled Areas or Other Countries in the First Half of May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁷³⁸ See "Round-up of Muslims from West Mostar, their Placement in Detention in Various Locations and Departure of Some to ABiH-Controlled Areas or Other Countries in the First Half of May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁷³⁹ See "Violence and Thefts Committed against Muslims Arrested, Evicted from their Flats, Placed in Detention and Displaced in May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

that some Muslims had to sign statements confirming they were leaving West Mostar voluntarily.¹⁷⁴⁰ The Chamber notes that Valentin Ćorić, Berislav Pušić, Bruno Stojić and Jadranko Prlić were informed of these events in mid-June 1993.¹⁷⁴¹ HVO soldiers and members of the Military Police then moved into their flats with Valentin Ćorić's consent.¹⁷⁴² The Chamber recalls that the rapes and thefts committed during the eviction campaigns were not part of the common criminal purpose.¹⁷⁴³ It will analyse Valentin Ćorić's responsibility for these crimes later under JCE 3.

930. Furthermore, in the same period, according to a report sent by the HVO Military Police stationed in Prozor, among others, to Bruno Stojić and Valentin Ćorić on 20 June 1993, Slobodan Praljak and Željko Šiljeg had to intervene personally to put an end to the violent actions of Mladen Naletilić and his men against the HVO Military Police in Prozor.¹⁷⁴⁴ This evidence confirms that Valentin Ćorić knew of the recurrent violent behaviour of Mladen Naletilić and his men.

931. On 3 August 1993, an officer of the Mostar centre of the Department for Criminal Investigations of the Military Police Administration, Toni Ramljak, asked Valentin Ćorić about the scope of the order¹⁷⁴⁵ he had issued to Zvonko Vidović to disregard "certain acts" committed by "certain people" from the *Vinko Škrobo* and *Benko Penavić* ATGs.¹⁷⁴⁶ Asked about this letter, *Zvonko Vidović* explained that he had received Valentin Ćorić's order to collect information about the crimes committed by soldiers of the *Vinko Škrobo* and *Benko Penavić* ATGs in Mostar with a view to using it in a "comprehensive operation" whose purpose would be to arrest the perpetrators and institute proceedings against them.¹⁷⁴⁷ The Ćorić Defence asserts that the operation in question was Operation "Spider".¹⁷⁴⁸

932. The Chamber notes that Operation "Spider" was launched on 21 June 1994 by Jadranko Prlić in order to prosecute all persons, including members of the HVO, suspected of having committed criminal acts during or after the conflict, to initiate criminal investigations and

¹⁷⁴⁰ See "Crimes Allegedly Committed in June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁷⁴¹ See "Crimes Allegedly Committed in June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁷⁴² See "Crimes Allegedly Committed in June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar. See also P 02879; Witness BB, T(F), p. 17295, closed session.

¹⁷⁴³ See "Existence of a Common Criminal Plan" in the Chamber's findings with regard to the JCE.

¹⁷⁴⁴ P 02863, p. 3.

¹⁷⁴⁵ The Chamber does not know the date of the order in question.

¹⁷⁴⁶ P 03928.

¹⁷⁴⁷ Zvonko Vidović, T(F), pp. 51705-51710.

¹⁷⁴⁸ Ćorić Defence Final Trial Brief, para. 286, and Ćorić Defence Closing Arguments, T(F), pp. 52676 and 52677. In its Final Trial Brief, the Ćorić Defence uses the B/C/S word "*Pauk*".

proceedings against them and to restore public order.¹⁷⁴⁹ Operation "Spider" brought together the key figures of the judicial system, including the Minister of the Interior, Valentin Ćorić.¹⁷⁵⁰ Insofar as the operation was launched on 21 June 1994, that is, nearly a year after Valentin Ćorić's order, and since no large-scale crime fighting operations took place before June 1994,¹⁷⁵¹ the Chamber holds that the argument of the Ćorić Defence regarding the nature of the order of 3 August 1993 that Valentin Ćorić issued to Zvonko Vidović – namely, that it was issued within the framework of Operation "Spider" – is not credible.

933. The Chamber is satisfied that in August 1993, Valentin Ćorić ordered Zvonko Vidović not to investigate the crimes committed in Mostar by "some people" from the *Vinko Škrobo* and *Benko Penavić* ATGs. In so doing, as of August 1993, Valentin Ćorić knowingly failed to fight the crimes committed by members of the KB and thus contributed to creating a climate of impunity which undoubtedly favoured and encouraged the commission of other crimes, as attested to by the numerous crimes committed by members of the KB after 3 August 1993.¹⁷⁵²

934. This evidence shows that from at least mid-June 1993, Valentin Ćorić was aware that members of the HVO were committing crimes during the eviction operations in Mostar. By avoiding to take measures against those HVO members, Valentin Ćorić facilitated and encouraged the commission of crimes which continued until February 1994.

c) Valentin Ćorić's Role in the Siege of East Mostar

935. In this part, the Chamber will look into (i) Valentin Ćorić's involvement in the HVO campaign of fire and shelling against East Mostar and (ii) his involvement in isolating the population of East Mostar and blocking humanitarian aid.

i. Valentin Ćorić's Involvement in the HVO Campaign of Fire and Shelling in East Mostar

936. The Chamber observes that Valentin Ćorić assisted in the HVO campaign of fire and shelling against East Mostar by, in particular, re-subordinating Military Police units, including light assault battalions, to the command of the Main Staff and/or the commanders of the OZs between

¹⁷⁴⁹ 1D 01249, p. 1.

¹⁷⁵⁰ 1D 01249, p. 2.

¹⁷⁵¹ This is shown by the decision on carrying out Operation "Spider": 1D 01249, p. 1.

¹⁷⁵² See "Attack on the Village of Raštani, the Mostar Hydro-Electric Plant and the *Tihomir Mišić* Barracks" and "Crimes Alleged to Have Been Committed from September 1993 to April 1994" in the Chamber's factual findings with regard to the Municipality of Mostar.

July and at least October 1993;¹⁷⁵³ by sending part of the 4th Light Assault Battalion to Mostar on 13 August 1993 to assist other HVO units fighting there;¹⁷⁵⁴ and by subordinating 100 military policemen to the Mostar Town Defence Commander, Zlatan Mijo Jelić, on 5 October 1993, after visiting the front line in Mostar himself.¹⁷⁵⁵

937. The Chamber recalls that East Mostar was subjected to a sustained HVO military attack over several months which consisted of intensive and continuous firing and shelling, including sniping, on a cramped and densely-populated residential area and resulted in the killing and wounding of many inhabitants of East Mostar; that during the campaign, the HVO deliberately targeted members of international organisations, killing and wounding some of them; and that the HVO destroyed the Old Bridge and destroyed or severely damaged ten mosques in East Mostar.¹⁷⁵⁶

938. In view of Valentin Ćorić's participation in the war effort and the long duration and systematic nature of the military operations, the Chamber holds that he must have been aware of the HVO campaign of fire and shelling against East Mostar. Furthermore, given the systematic nature of the HVO sniper campaign against East Mostar civilians between May 1993 and February 1994 and by personally participating in the investigation into the death of Francisco Aguilar Fernández,¹⁷⁵⁷ Valentin Ćorić must have been aware of the HVO snipers in West Mostar who were targeting East Mostar. The Chamber is thus satisfied that Valentin Ćorić had knowledge of the HVO campaign of fire and shelling against the population of East Mostar and the crimes committed during that campaign. Inasmuch as he lent his support to the campaigns, the Chamber holds that Valentin Ćorić intended to facilitate the crimes directly linked to the HVO military operations against East Mostar, that is, the murders and destruction of property, including mosques, resulting from the shelling.

ii. Isolation of the Population of East Mostar and Blocking of Humanitarian Aid

939. The Chamber recalls that as of June 1993, the Muslim population of East Mostar, which was under intensive HVO shelling and sniper fire and was living in extremely harsh conditions, could

¹⁷⁵³ See "First Reorganisation of the Military Police Administration and its Units: October 1992 – July 1993" and "Authority of the Chief of the Military Police Administration to Re-subordinate Military Police Units" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

¹⁷⁵⁴ See "Authority of the Chief of the Military Police Administration to Re-subordinate Military Police Units" in the Chamber's findings with regard to the military structure of the HZ(R) H-B. See also P 05478.

¹⁷⁵⁵ P 05657.

¹⁷⁵⁶ See "Chamber's Findings on the Existence of a Siege in East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁷⁵⁷ See "Targeting Members of International Organisations" in the Chamber's factual findings with regard to the Municipality of Mostar.

not really leave the area.¹⁷⁵⁸ The HVO did not allow the Muslims to cross its positions and blocked access for the Muslims of East Mostar by way of checkpoints which were still in place in February 1994.¹⁷⁵⁹ Moreover, the Chamber observed that between June and December 1993, the HVO impeded and at times completely blocked the passage of humanitarian aid to East Mostar, particularly by imposing administrative restrictions and through checkpoints.¹⁷⁶⁰ From June 1993 and until at least the end of February 1994, nobody could pass through the HVO checkpoints¹⁷⁶¹ unless in possession of an HVO entry authorisation.¹⁷⁶²

940. The Chamber previously found that between August 1992 and October 1993, by way of checkpoints which he directed, Valentin Ćorić had a general power to control the freedom of movement of people and goods in the territory of the HZ(R) H-B, including the movement of members of international organisations and humanitarian convoys, particularly in Mostar.¹⁷⁶³ On 1 June 1993, Valentin Ćorić knew about the humanitarian situation of the Muslim population in East Mostar, more specifically, the deteriorating sanitary conditions and the difficulties in getting food.¹⁷⁶⁴ The Chamber recalls that the population of East Mostar had to live in extremely harsh conditions, as it was deprived of food, water, electricity and appropriate medical care.¹⁷⁶⁵

¹⁷⁵⁸ See "Isolation of the Population of East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁷⁵⁹ Witness BB, T(F), pp. 17221, 17222 and 17229, closed session; 5D 02113; Witness BD, T(F), p. 20697, closed session; P 03311 under seal, p. 8.

¹⁷⁶⁰ See "Blocking of International Organisations and Humanitarian Aid" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁷⁶¹ Witness BD, T(F), pp. 20783 and 20784, closed session; Witness BB, T(F), p. 17229, closed session; P 03666, pp. 3 and 4; Witness BC, T(F), p. 18509, closed session.

¹⁷⁶² Larry Forbes, T(F), p. 21339; Witness CB, T(F), pp. 10147 and 10148; Ratko Pejanović, T(F), p. 1257.

¹⁷⁶³ See "Valentin Ćorić's Powers Regarding Freedom of Movement of People and Goods" in the Chamber's findings with regard to Valentin Ćorić's responsibility under the JCE.

¹⁷⁶⁴ P 02601.

¹⁷⁶⁵ See "Living Conditions for the Population of East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

941. *Witness BA* stated that during a meeting on 10 June 1993, Mate Boban, Jadranko Prlić and Bruno Stojić informed her that an ODPR decision – which the Chamber does not have – had come into force, imposing administrative requirements and stricter conditions for the movement of humanitarian aid convoys, notably requiring that each convoy be individually approved by "the HVO authorities".¹⁷⁶⁶ The Chamber notes that a document from the 3rd Company of the 1st Military Police Battalion dated 10 June 1993 makes reference to an order by Valentin Ćorić prohibiting the transport and distribution of humanitarian aid in the territory of the HZ H-B without an ODPR certificate.¹⁷⁶⁷

942. Between 30 June 1993, when the ABiH attacked the *Tihomir Mišić* barracks, and 21 August 1993, when the first humanitarian convoy in two months reached East Mostar, the HVO did not permit international and humanitarian organisations to enter Mostar and especially East Mostar.¹⁷⁶⁸ The Chamber notes in particular that on 13 August 1993, further to a Main Staff order, Valentin Ćorić ordered the commander of the 5th Military Police Battalion to prohibit access to the town of Mostar to anyone but members of the HVO, including foreign journalists and television crews, until otherwise ordered.¹⁷⁶⁹

943. The Chamber recalls that limited deliveries of humanitarian aid to East Mostar could resume after 25 August 1993.¹⁷⁷⁰ On 26 August 1993, pursuant to a joint order by the Department of Defence and the Main Staff, Valentin Ćorić ordered the commanders of the 5th and 6th Military Police battalions to allow foreign journalists and personnel of humanitarian organisations to move freely around the territory of the HZ H-B only if they had a special permit that could be signed, among others, by Bruno Stojić, Slobodan Praljak or Milivoj Petković.¹⁷⁷¹ On the same day, the commander of the 5th Military Police Battalion, Ivan Ančić, reproduced that rule in an order addressed to the commander of the 1st Company of the 5th Battalion.¹⁷⁷²

¹⁷⁶⁶ P 09712 under seal, para. 64.

¹⁷⁶⁷ P 02706. The Chamber recalls its finding that the document referring to Valentin Ćorić's order is authentic. *See* "Valentin Ćorić's Powers Regarding Freedom of Movement of People and Goods" in the Chamber's findings with regard to Valentin Ćorić's responsibility under the JCE.

¹⁷⁶⁸ *See* "Blocking of International Organisations and Humanitarian Aid" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁷⁶⁹ P 04174.

¹⁷⁷⁰ *See* "Blocking of International Organisations and Humanitarian Aid" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁷⁷¹ P 04529, p. 1.

¹⁷⁷² P 04527.

944. The Chamber finds that Valentin Ćorić participated in the blockade of the Muslim population of East Mostar and impeded the delivery of humanitarian aid to East Mostar in the summer of 1993, which deprived the population of basic necessities. He thus knowingly contributed to the siege of that part of the town of Mostar and to the creation of unbearable living conditions for the population of East Mostar.

d) The Chamber's Findings on Valentin Ćorić's Involvement in the Crimes in Mostar

945. In view of the above, the Chamber finds that Valentin Ćorić contributed to planning the arrest campaign in West Mostar around 9 May 1993 and to the violence inflicted during that campaign by making members of the Military Police available to carry out the operations and by coordinating the detention of Muslims at the Heliodrom; from mid-June 1993 onwards, he facilitated and encouraged the crimes committed by members of the HVO during the operations aimed at evicting Muslims in Mostar – including mistreatment – by avoiding to take measures against the perpetrators of those crimes; facilitated and accepted the crimes linked to the HVO military operations against East Mostar, that is, the murders and the destruction of property, including mosques, resulting from shelling, by taking part in these operations; and participated in blocking the Muslim population in East Mostar and the delivery of humanitarian aid to East Mostar in the summer of 1993, which deprived the inhabitants of East Mostar of basic necessities, thus knowingly contributing to the siege of that part of the town of Mostar and the creation of unbearable living conditions for the population of East Mostar.

3. Municipality of Ljubuški

946. The Chamber recalls that in August 1993, Valentin Ćorić ordered the release of all Muslims from the Municipality of Ljubuški held in the HVO detention centres and in possession of a letter of guarantee and a transit visa – except for those with a prior criminal record – so they could leave BiH with their families for third countries via Croatia.¹⁷⁷³

947. As the Chamber established, in August 1993, the HVO did indeed organise the release of Muslim men from the Municipality of Ljubuški whom it was holding at various locations, more specifically, the Heliodrom, Ljubuški Prison, the Vitina-Otok Camp and the prisons at Dretelj and

¹⁷⁷³ See "Authorities Responsible for Release of Detainees" in the Chamber's factual findings with regard to the Heliodrom; "Authorities Responsible for Managing the Departure of Detainees" in the Chamber's factual findings with regard to Gabela Prison; P 10187; "Organisation of Departure of the Muslims from Ljubuški Municipality" in the Chamber's factual findings with regard to the Municipality of Ljubuški.

Gabela,¹⁷⁷⁴ on condition that they guarantee they would leave the territory of BiH with their families within 24 hours.¹⁷⁷⁵ In this way, in late August 1993, hundreds of Muslims from the Municipality of Ljubuški arrived in Zagreb, Croatia, from where they were to leave for other countries.¹⁷⁷⁶

948. In view of the above, the Chamber finds that in August 1993, Valentin Ćorić ordered the forced departure from the territory of BiH of Muslims from the Municipality of Ljubuški with a view to their departure to third countries via Croatia together with their families.

4. Detention Centres

949. The Prosecution alleges that Valentin Ćorić contributed to the alleged JCE by playing an integral role in various aspects of the management of the HVO detention centres; by obstructing access to those facilities for international organisations; by directing, facilitating and promoting the use of Bosnian Muslim detainees as unlawful forced labour; and by arranging the release of Bosnian Muslim detainees, their transport to various locations and the handover of such persons to the Croatian authorities.¹⁷⁷⁷

950. The Chamber will address, in turn, Valentin Ćorić's involvement in the HVO detention centres over which he had authority, namely (a) the Heliodrom, (b) Ljubuški Prison and the Vitina-Otok Camp, (c) Dretelj Prison, (d) Gabela Prison and (e) the Secondary School in Prozor. Lastly, it will (f) set out its findings about Valentin Ćorić's involvement in the HVO detention centres.

a) Heliodrom

951. In this part, the Chamber will analyse Valentin Ćorić's role in (i) the detention of Muslim civilians at the Heliodrom, (ii) the security of the detainees, (iii) the granting of access to the Heliodrom, (iv) Valentin Ćorić's knowledge of the detention conditions of the detainees at the Heliodrom, (v) the detainees' work on the front line, and finally (vi) the release of the detainees from the Heliodrom. It will then (vii) set out its findings on Valentin Ćorić's involvement in the crimes committed at the Heliodrom.

¹⁷⁷⁴ See "Valentin Ćorić's Involvement in the Release of Detainees from the Heliodrom with a view to Their Removal to Third Countries", "Valentin Ćorić's Involvement in the Release of Detainees from Ljubuški Prison and Vitina-Otok Camp", "Valentin Ćorić's Involvement in the Release of Detainees from Dretelj Prison" and "Valentin Ćorić's Involvement in the Release of Detainees from Gabela Prison" in the Chamber's findings with regard to Valentin Ćorić's responsibility under the JCE.

¹⁷⁷⁵ See "Organisation of the Departure of the Muslims from Ljubuški Municipality" and "The Chamber's Factual Findings" in the Chamber's factual findings with regard to Ljubuški Municipality and detention centres.

i. Valentin Ćorić's Role in the Detention of Muslim Civilians at the Heliodrom

952. The Chamber recalls that between 9 and 11 May 1993, the HVO arrested and detained at the Heliodrom Muslim men, women and children from West Mostar, including members of the ABiH and the HVO, and people not belonging to any armed force.¹⁷⁷⁸ The Muslims from West Mostar were imprisoned at the Heliodrom for several days before being released and allowed to return to their homes.¹⁷⁷⁹ In view of the logbook of the *de facto* deputy warden of the Heliodrom, Josip Praljak, the Chamber notes that on or about 9 May 1993, Valentin Ćorić informed the warden, Stanko Božić, that a large number of people would be coming to the Heliodrom and asked him to let them in.¹⁷⁸⁰ The evidence further shows that members of the Military Police themselves participated in the arrests.¹⁷⁸¹ The Chamber also recalls that Valentin Ćorić himself had several detainees released on 11 May 1993.¹⁷⁸² In view of the above, the Chamber finds that Valentin Ćorić participated in planning the campaign to arrest Muslims from West Mostar in the first half of May 1993 by coordinating the arrival of the arrestees at the Heliodrom, thus facilitating the unlawful confinement of Muslims who did not belong to any armed force.

953. Furthermore, the Chamber recalls that following Jadranko Prlić and Bruno Stojić's joint proclamation of 30 June 1993 instructing the Croatian people in BiH to defend itself against the Muslim aggression following the ABiH attack on HVO positions, Bruno Stojić ordered the mobilisation of all Croatian conscripts and imposed a curfew in the HZ H-B.¹⁷⁸³ On 1 July 1993, further to that order and on behalf of Valentin Ćorić, Radoslav Lavrić sent an order to all the departments and sections of the Military Police Administration and to all Military Police battalions demanding, *inter alia*, the arrest of all conscripts who had not "regulated their status".¹⁷⁸⁴ The evidence indicates that following the attack by ABiH forces on 30 June 1993, the HVO began a widespread and extensive campaign to arrest Muslim men – including those who did not belong to

¹⁷⁷⁶ See "Organisation of Departure of the Muslims from Ljubuški Municipality" in the Chamber's factual findings with regard to Ljubuški Municipality and detention centres.

¹⁷⁷⁷ Indictment, para. 17.5 (g), (h), (i) and (j).

¹⁷⁷⁸ See "Round-up of Muslims from West Mostar, their Placement in Detention in Various Locations and Departure of Some to ABiH-Controlled Areas or Other Countries in the First Half of May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁷⁷⁹ See "Round-up of Muslims from West Mostar, their Placement in Detention in Various Locations and Departure of Some to ABiH-Controlled Areas or Other Countries in the First Half of May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁷⁸⁰ P 00352, p. 26.

¹⁷⁸¹ P 10033, paras 6 and 7; P 10032, para. 9.

¹⁷⁸² P 02285; P 02289; P 02297. See also P 00285, p. 81.

¹⁷⁸³ P 03038.

¹⁷⁸⁴ P 03077. The Chamber notes that the order bears the name of Valentin Ćorić and the signature of Radoslav Lavrić. The Chamber already found that Radoslav Lavrić could sign orders on Valentin Ćorić's behalf. See "Valentin Ćorić's Powers Regarding Freedom of Movement of People and Goods" in the Chamber's findings with regard to Valentin Ćorić's responsibility under the JCE.

any armed force – in and around the town of Mostar and that the 1st *Knez Domagoj* Brigade of the HVO and the HVO Military Police, particularly the 3rd Company of the 3rd Battalion on orders from the 1st *Knez Domagoj* Brigade, made the said arrests;¹⁷⁸⁵ that as of 1 or 2 July 1993, the Military Police and the 1st *Knez Domagoj* Brigade of the HVO carried out an extensive and systematic campaign to disarm and arrest Muslim men of military age, including people who did not belong to any armed force, in the Municipality of Stolac;¹⁷⁸⁶ and that between 30 June 1993 and mid-July 1993, the 3rd Company of the 3rd Military Police Battalion of the HVO (which became the 5th Battalion in mid-July) and the 1st *Knez Domagoj* Brigade, in cooperation with the Čapljina MUP, carried out a campaign to arrest Muslim men, some of whom did not belong to any armed force, in the Municipality of Čapljina.¹⁷⁸⁷ The HVO then detained several of the arrested Muslim men at the Heliodrom.¹⁷⁸⁸ In view of the above, the Chamber finds that by ordering the Military Police units to arrest all "conscripts", Valentin Ćorić facilitated the arrest and the detention at the Heliodrom of Muslim men who did not belong to any armed force in July 1993.

ii. Valentin Ćorić's Involvement Regarding the Security of Detainees inside the Heliodrom

954. In its Final Trial Brief, the Prosecution contends that Valentin Ćorić knew of the mistreatment of detainees by his "subordinates" in the HVO detention centres, particularly in the Heliodrom, and did nothing to stop it.¹⁷⁸⁹ The Ćorić Defence argues that Valentin Ćorić was not informed of the events at the Heliodrom.¹⁷⁹⁰

955. The Chamber recalls that the security of the detainees at the Heliodrom was ultimately the responsibility of Valentin Ćorić.¹⁷⁹¹ The Chamber observed that from May 1993 to mid-April 1994, the members of the Military Police in charge of guarding the detainees regularly and severely beat the detainees, sometimes for hours on end, using various instruments and until the detainees lost

¹⁷⁸⁵ See "Arrests and Detention of Muslim Men following the Attack on 30 June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁷⁸⁶ See "Arrest and Incarceration of the Muslim Men of Military Age in Stolac Municipality in July 1993" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁷⁸⁷ See "Arrest and Incarceration of Muslim Men in the Municipality of Čapljina in July 1993" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁷⁸⁸ See "Arrests and Detention of Muslim Men following the Attack on 30 June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar; "Arrests and Incarceration of the Muslim Men of Military Age in Stolac Municipality in July 1993" in the Chamber's factual findings with regard to the Municipality of Stolac; "Arrest and Incarceration of Muslim Men in the Municipality of Čapljina in July 1993" in the Chamber's factual findings with regard to the Municipality of Čapljina; and "Arrivals of Detainees following Waves of Arrests after 30 June 1993" in the Chamber's factual findings with regard to the Heliodrom.

¹⁷⁸⁹ Prosecution Final Trial Brief, paras 1112-1114.

¹⁷⁹⁰ Ćorić Defence Final Trial Brief, paras 504-509.

¹⁷⁹¹ See "Valentin Ćorić's Involvement Regarding Security inside HVO Detention Centres" in the Chamber's findings with regard to Valentin Ćorić's responsibility under the JCE.

consciousness; they also insulted, threatened and humiliated them.¹⁷⁹² Members of the HVO armed forces, including the professional units of the KB and the *Bruno Bušić* Regiment, also violently and regularly beat the Heliodrom detainees.¹⁷⁹³ The Chamber, however, received no evidence confirming that Valentin Ćorić was informed of these incidents. Nevertheless, the Chamber holds that Valentin Ćorić had reason to believe that the Heliodrom detainees were being mistreated during detention. At least in July, August and September 1993, Valentin Ćorić was indeed informed by the Heliodrom warden, Stanko Božić, about the problems of detainee security inside the Heliodrom.¹⁷⁹⁴ The Chamber, however, does not know the details of these incidents. Moreover, from July 1993 to at least October 1993, Valentin Ćorić was regularly informed that the Heliodrom detainees were being mistreated, wounded or killed while working on the front line.¹⁷⁹⁵ Regarding the circumstances of the detainees inside the Heliodrom, warden Stanko Božić asked Valentin Ćorić several times to increase the number of military policemen in charge of the security of the Heliodrom detainees. On 5 July 1993, after reporting to him that HVO soldiers accommodated at the Heliodrom had fired at the windows of the "halls" and the former military school where detainees were being housed,¹⁷⁹⁶ Stanko Božić asked Valentin Ćorić to send him another 16 "soldiers", in addition to the 16 military policemen already there, to ensure the security of the detainees.¹⁷⁹⁷ Following that incident, on 7 July 1993, Valentin Ćorić issued an order prohibiting all "unauthorised" personnel from entering the Heliodrom¹⁷⁹⁸ but did not supply the requested soldiers.¹⁷⁹⁹ The request for reinforcement with military policemen was repeated at least once, on 4 August 1993.¹⁸⁰⁰ According to Stanko Božić, on 10 October 1993, there were still not enough military policemen to ensure the security of the detainees at the Heliodrom.¹⁸⁰¹

956. The Chamber holds that these events, which were reported to Valentin Ćorić were alarming enough for him to be concerned about the security of the detainees inside the Heliodrom.

957. Consequently, the Chamber is satisfied that as of July 1993, while avoiding to intervene to improve the security of the Heliodrom detainees although he had reason to know that some of them

¹⁷⁹² See "Treatment of the Men Detained at the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

¹⁷⁹³ See "Treatment of the Men Detained at the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

¹⁷⁹⁴ P 00285, p. 99; P 03942, p. 2; P 05008, p. 1.

¹⁷⁹⁵ See "Authorities Informed about Incidents during Work" in the Chamber's factual findings with regard to the Heliodrom.

¹⁷⁹⁶ P 03209, p. 1; Josip Praljak, T(F), pp. 14732-14734.

¹⁷⁹⁷ P 03209, p. 2; Josip Praljak, T(F), pp. 14732-14735.

¹⁷⁹⁸ P 03254; Josip Praljak, T(F), p. 14942.

¹⁷⁹⁹ Josip Praljak, T(F), p. 14735.

¹⁸⁰⁰ P 03942, p. 3.

¹⁸⁰¹ P 05792, p. 3.

were being mistreated and had the ability to act, Valentin Čorić continued to exercise his functions in the Military Police Administration and thus accepted their mistreatment.

iii. Valentin Čorić's Involvement in Authorising Access to the Heliodrom

958. The Prosecution submits that Valentin Čorić obstructed access to the Heliodrom for international organisations and implemented the HVO policy of granting representatives of international organisations limited access to the detention centres at certain times while refusing any access at other times, thereby denying any assistance to detainees and concealing the criminal nature of the HVO "detention system".¹⁸⁰² The Čorić Defence asserts that the Prosecution did not prove that Valentin Čorić prevented, obstructed and/or limited access to the HVO detention centres and detainees for international organisations and relief groups.¹⁸⁰³

959. The Chamber recalls that Valentin Čorić had the power to grant representatives of international organisations access to the Heliodrom.¹⁸⁰⁴ However, it received no evidence confirming that Valentin Čorić refused to allow representatives of international organisations to go to the Heliodrom.

960. On 8 July 1993, Valentin Čorić granted a representative of an international organisation access to the Heliodrom, Dretelj Prison and Ljubuški Prison, but only for one visit.¹⁸⁰⁵ The Chamber notes that *Witness BA* stated that during the visit, the representative of the international organisation was not able to talk to the detainees at the Heliodrom or assess their needs.¹⁸⁰⁶ In the absence of any other evidence about the circumstances of that visit, the Chamber cannot however find that Valentin Čorić personally ordered that access to the detainees be restricted.

961. In view of the evidence, the Chamber cannot find that Valentin Čorić obstructed access to the Heliodrom for international organisations.

iv. Valentin Čorić's Knowledge of Detention Conditions for Detainees at the Heliodrom

962. The Chamber notes that on 14 August 1993, Valentin Čorić received a copy of a report that the Heliodrom warden, Stanko Božić, addressed to Bruno Stojić, which described logistical

¹⁸⁰² Indictment, para. 17.5 (h); Prosecution Final Trial Brief, paras 1082-1086.

¹⁸⁰³ Čorić Defence Final Trial Brief, para. 380.

¹⁸⁰⁴ See "Valentin Čorić's Involvement in the Logistical Aspect of Detention Conditions" in the Chamber's findings with regard to Valentin Čorić's responsibility under the JCE.

¹⁸⁰⁵ P 03292 under seal.

¹⁸⁰⁶ Witness BA, T(E), pp. 7225 and 7226, closed session.

problems, particularly regarding the provision of food for the detainees.¹⁸⁰⁷ On 2 October 1993, in a report on the events at the Heliodrom in September 1993, Stanko Božić informed Valentin Ćorić that the arrival on 9 September 1993 of 351 detainees from Ljubuški had exacerbated the problem of overcrowding and the provision of food at the Heliodrom and, consequently, increased the risk of illnesses.¹⁸⁰⁸ In the report, Stanko Božić also informed Valentin Ćorić that the Heliodrom lacked "technical equipment", which was hindering the proper running of the prison.¹⁸⁰⁹ In view of the above, the Chamber finds that Valentin Ćorić must have been aware that detention conditions at the Heliodrom were bad and that by continuing to exercise his functions in the HVO, he accepted this.

v. Valentin Ćorić's Involvement in Work on the Front Line by Heliodrom Detainees

963. In its Final Trial Brief, the Prosecution alleges that Valentin Ćorić and the Military Police Administration organised and administered the HVO "forced labour" programme and that Valentin Ćorić, although informed that some detainees had been wounded or killed while working, took no action to put a stop to that practice.¹⁸¹⁰ The Ćorić Defence, however, asserts that Valentin Ćorić played no role in sending detainees to work outside the Heliodrom.¹⁸¹¹

964. The Chamber recalls that Valentin Ćorić had the power to authorise the sending of Heliodrom detainees to do work from September 1992 to October 1993.¹⁸¹² The fact that other people also had the power to authorise the sending of detainees for work has no bearing on Valentin Ćorić's role.

965. The evidence indicates that from July 1993 to at least October 1993, Valentin Ćorić was regularly informed that the Heliodrom detainees were being mistreated, wounded or killed while working on the front line.¹⁸¹³ Moreover, on 4 August 1993, the Heliodrom warden, Stanko Božić, informed Valentin Ćorić that he would refuse to supply detainees for work if they were beaten up again.¹⁸¹⁴ Nonetheless, Heliodrom detainees continued to be used for work after that date¹⁸¹⁵ and continued to be beaten up during their work.¹⁸¹⁶ The Chamber further notes that on 13 October

¹⁸⁰⁷ P 04186, p. 1.

¹⁸⁰⁸ P 05563.

¹⁸⁰⁹ P 05563.

¹⁸¹⁰ Prosecution Final Trial Brief, paras 1115-1134.

¹⁸¹¹ See Ćorić Defence Final Trial Brief, paras 474-503.

¹⁸¹² See "Work Performed by Detainees" in the Chamber's findings with regard to Valentin Ćorić's responsibility under the JCE.

¹⁸¹³ See "Authorities Informed about Incidents during Work" in the Chamber's factual findings with regard to the Heliodrom.

¹⁸¹⁴ P 03939.

¹⁸¹⁵ See "Attempts to Restrict Use of Heliodrom Detainees for Work" in the Chamber's factual findings with regard to the Heliodrom.

¹⁸¹⁶ See, for example, P 08428, pp. 8 and 26.

1993, Mate Boban instructed Valentin Ćorić to sort out the problems raised by the Heliodrom warden, Stanko Božić, regarding the sending of detainees for work,¹⁸¹⁷ which confirms that Valentin Ćorić still had responsibility for this at that time.

966. Based on the fact that the Heliodrom detainees continued to be sent outside the detention centre to work on the front line, that they were beaten, wounded and killed during their work and that, despite the information he received, Valentin Ćorić did nothing to prevent the practice, the Chamber infers that Valentin Ćorić facilitated the sending of detainees for work on the front line and thereby intended to have the crimes linked to that work committed.

vi. Valentin Ćorić's Involvement in the Release of Detainees from the Heliodrom with a View to Their Removal to Third Countries

967. In its Final Trial Brief, the Prosecution argues that Valentin Ćorić controlled the procedure for the release of detainees and personally ordered the release of detainees, more specifically, those from the Heliodrom.¹⁸¹⁸ The Prosecution also submits that Valentin Ćorić oversaw the "letter of guarantee scheme", a method of deporting Muslims from the territory of BiH.¹⁸¹⁹ The Ćorić Defence responds that it was not established that Valentin Ćorić personally ordered the release of detainees.¹⁸²⁰

968. The Chamber notes that in July 1993, Valentin Ćorić participated in establishing the procedure for the release of detainees from the Heliodrom. On 3 July 1993, the Heliodrom warden, Stanko Božić, informed the *de facto* deputy warden, Josip Praljak, that Valentin Ćorić had told him that the "chief" of the Department for Criminal Investigations of the Military Police Administration, Zvonko Vidović, could release detainees with approval by the SIS.¹⁸²¹ On 12 July 1993, Zvonko Vidović sent to Stanko Božić and Josip Praljak Valentin Ćorić's instructions setting out that any release from the Heliodrom was henceforth to be approved by Valentin Ćorić or his deputy, Radoslav Lavrić.¹⁸²²

969. The Chamber further recalls that in August 1993, Valentin Ćorić ordered the release of all Muslims from the Municipality of Ljubuški held in the HVO detention centres and in possession of

¹⁸¹⁷ P 05792, pp. 1 and 5.

¹⁸¹⁸ Prosecution Final Trial Brief, para. 1081.

¹⁸¹⁹ Prosecution Final Trial Brief, paras 1153-1163.

¹⁸²⁰ Ćorić Defence Final Trial Brief, paras 470 and 472.

¹⁸²¹ P 00352, p. 27. The Chamber recalls that Zvonko Vidović was one of the people in charge of that department: T(F), pp. 51438-51439.

a letter of guarantee and a transit visa – except for those with a prior criminal record - so that they could leave BiH with their families for third countries via Croatia.¹⁸²³ The Chamber notes that, by the implementation of that order, Muslims from the Municipality of Ljubuški being held at the Heliodrom were indeed released in August 1993 and transferred to third countries via Croatia.¹⁸²⁴

970. The Chamber finds that Valentin Ćorić planned and facilitated the forced departure of Muslims from the territory of BiH by participating in establishing the procedure for the release of detainees from the Heliodrom in July 1993 and by ordering the release of all Muslims from the Municipality of Ljubuški in August 1993 with a view to their departure for third countries via Croatia.

vii. The Chamber's Findings on Valentin Ćorić's Involvement in the Crimes at the Heliodrom

971. In view of the above, the Chamber finds that in May and July 1993, Valentin Ćorić facilitated the detention at the Heliodrom of Muslims not belonging to any armed force; as of July 1993, he accepted the mistreatment of the Heliodrom detainees by not intervening to improve their security although he had reason to believe that some of them were being mistreated and he had the ability to act; accepted the bad detention conditions in which the Heliodrom detainees were held; as of July 1993, he facilitated the commission of the crimes of murder and mistreatment during work on the front line by doing nothing to prevent this practice although he knew that the detainees were being mistreated, wounded or killed; and he planned and facilitated the forced departure of Muslims from the territory of BiH by participating in establishing the procedure for the release of detainees from the Heliodrom in July 1993 and, in August 1993, by ordering the release of all Muslims from the Municipality of Ljubuški held at the Heliodrom and in possession of a letter of guarantee and a transit visa with a view to their removal to third countries via Croatia.

¹⁸²² P 03411, p. 1. The Chamber notes that in the document, Zvonko Vidović uses the pronoun "we". Given the subordinate-superior relationship between Zvonko Vidović and Valentin Ćorić, the Chamber has no doubt that the instructions came from Valentin Ćorić.

¹⁸²³ See "Authorities Responsible for Release of Detainees" in the Chamber's factual findings with regard to the Heliodrom; "Authorities Responsible for Managing the Departures of Detainees" in the Chamber's factual findings with regard to Gabela Prison; P 10187; "Organisation of the Departure of the Muslims from Ljubuški Municipality" in the Chamber's factual findings with regard to Ljubuški Municipality and detention centres.

¹⁸²⁴ P 04263; P 04299; P 04404; P 10188; P 04443; P 10178; P 10191. See also P 04846, pp. 22-24 and 28. See also "Departure of Detainees from the Heliodrom to Croatia between about 17 July 1993 and November 1993" in the Chamber's factual findings with regard to the Heliodrom.

b) Ljubuški Prison and Vitina-Otok Camp

972. In this part, the Chamber will address (i) Valentin Ćorić's involvement in the detention at Ljubuški Prison of Muslim men not belonging to any armed force, (ii) the security of the detainees at Ljubuški Prison, (iii) the granting of access to Ljubuški Prison, (iv) the work of detainees from the Vitina-Otok Camp on the front line, (v) the relocation of detainees to and from Ljubuški Prison and finally (vi) the release of detainees from Ljubuški Prison and the Vitina-Otok Camp. It will then (vii) set out its findings on Valentin Ćorić's involvement in the crimes committed at Ljubuški Prison and the Vitina-Otok Camp.

i. Detention at Ljubuški Prison of Muslim Men Not Belonging to Any Armed Force

973. The Chamber recalls that on 1 July 1993, on behalf of Valentin Ćorić, Radoslav Lavrić sent an order to all the departments and sections of the Military Police Administration and to all Military Police battalions demanding, *inter alia*, the arrest of all conscripts who had not "regulated their status".¹⁸²⁵ The evidence indicates that as of 1 or 2 July 1993, the Military Police and the 1st *Knez Domagoj* Brigade of the HVO carried out an extensive and systematic campaign to disarm and arrest Muslim men of military age, including people who did not belong to any armed force, in the Municipality of Stolac and that some of them were then held at Ljubuški Prison.¹⁸²⁶ In view of the above, the Chamber finds that in July 1993, Valentin Ćorić ordered and facilitated the arrest and the detention at Ljubuški Prison of Muslim men from Stolac who did not belong to any armed force.

ii. Valentin Ćorić's Involvement in the Security of Detainees inside Ljubuški Prison

974. The Chamber recalls that the security of detainees at Ljubuški Prison was ultimately the responsibility of Valentin Ćorić.¹⁸²⁷ The Chamber observed that between April 1993 and March 1994, the detainees at Ljubuški Prison were regularly insulted, punched and beaten by HVO soldiers who entered the prison and by members of the Military Police attached to the 4th Brigade in charge of guarding the prison.¹⁸²⁸ However, the Chamber received no evidence showing that Valentin Ćorić was informed about these problems. Therefore, the Chamber is not in a position to

¹⁸²⁵ P 03077. The Chamber notes that the order bears the name of Valentin Ćorić and the signature of Radoslav Lavrić. The Chamber has already found that Radoslav Lavrić could sign orders on Valentin Ćorić's behalf. *See* "Valentin Ćorić's Powers Regarding Freedom of Movement of People and Goods" in the Chamber's findings with regard to Valentin Ćorić's responsibility under the JCE.

¹⁸²⁶ *See* "Arrest and Incarceration of the Muslim Men of Military Age in Stolac Municipality in July 1993" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁸²⁷ *See* "Valentin Ćorić's Involvement Regarding Security inside HVO Detention Centres" in the Chamber's findings with regard to Valentin Ćorić's responsibility under the JCE.

¹⁸²⁸ *See* "Factual Findings of the Chamber relating to Ljubuški Municipality and Detention Centres" in the Chamber's factual findings with regard to Ljubuški Municipality and detention centres.

find that Valentin Ćorić deliberately avoided putting an end to the mistreatment of the detainees at Ljubuški Prison.

iii. Valentin Ćorić's Involvement in Authorising Access to Ljubuški Prison

975. The Chamber recalls its finding that Valentin Ćorić had the power to grant representatives of international organisations access to Ljubuški Prison.¹⁸²⁹

976. The Prosecution criticises Valentin Ćorić for having limited the permit of 8 July 1993 granting a representative of an international organisation access to Ljubuški Prison to one visit only, noting that a single visit was insufficient to monitor the detention conditions.¹⁸³⁰ The Chamber, however, does not know whether that representative visited Ljubuški Prison. Therefore, the Chamber cannot find that Ćorić limited access to Ljubuški Prison for representatives of international organisations.

iv. Valentin Ćorić's Involvement in the Work of Detainees from Vitina-Otok Camp on the Front Line

977. On 8 August 1993, invoking Milivoj Petković's order of the same day authorising the Posušje, Široki Brijeg and Grude brigades to use detainees to reinforce the front lines,¹⁸³¹ the commander of the Posušje Brigade asked Valentin Ćorić to supply him with 100 Muslim detainees of a strong build.¹⁸³² The Chamber observed that pursuant to the said request by the brigade commander, on 10 August 1993 the Military Police platoon of the Posušje Brigade took charge of 100 detainees from the Vitina-Otok Camp.¹⁸³³ The Chamber holds that the only reasonable inference that can be drawn from the above is that Valentin Ćorić authorised the use of detainees from the Vitina-Otok Camp on 8 August 1993 for work on the front line and thus facilitated the commission of that crime.

v. Valentin Ćorić's Involvement in the Relocation of Detainees to and from Ljubuški Prison

978. In its Final Trial Brief, the Prosecution submits that the numerous transfers of detainees ordered by Valentin Ćorić show that the HVO detention centres operated as a unified system under

¹⁸²⁹ See "Valentin Ćorić's Involvement Regarding Access to HVO Detention Centres" in the Chamber's findings with regard to Valentin Ćorić's responsibility under the JCE.

¹⁸³⁰ Prosecution Final Trial Brief, para. 1085, citing P 03292 under seal.

¹⁸³¹ P 04020/P 04039.

¹⁸³² P 04030.

¹⁸³³ P 04068.

Valentin Ćorić's direction.¹⁸³⁴ The Ćorić Defence submits that Valentin Ćorić's role in the transfer of detainees was limited to the transfer of military detainees under criminal investigation to Ljubuški Prison in September 1993.¹⁸³⁵

979. The Chamber recalls that during 1993, Ljubuški Prison was a collection centre for prisoner exchanges from where prisoners were distributed to various exchange locations, including the Heliodrom.¹⁸³⁶ On 27 May 1993, Valentin Ćorić ordered the relocation of 106 detainees from Ljubuški Prison to the Heliodrom.¹⁸³⁷ The evidence shows that these detainees were taken to the Heliodrom with a view to organising their exchange with the ABiH,¹⁸³⁸ but some of them were exchanged as late as March 1994.¹⁸³⁹ On 11 July 1993, Valentin Ćorić authorised the relocation to Dretelj Prison of 237 detainees from Prozor described as "not prisoners of war [...] detained for security reasons", who had first been taken to Ljubuški Prison, but there was no space to accommodate them there any more.¹⁸⁴⁰ The Chamber also recalls that in September 1993, Valentin Ćorić ordered the relocation of at least twenty or so detainees from the Heliodrom and the Dretelj and Gabela prisons to Ljubuški Prison.¹⁸⁴¹

980. In view of the above, Ljubuški Prison was at the centre of the unified network of HVO detention centres and that Valentin Ćorić contributed to the operational dynamics of that network.

vi. Valentin Ćorić's Involvement in the Release of Detainees from Ljubuški Prison and Vitina-Otok Camp

981. The Chamber recalls that in August 1993, Valentin Ćorić ordered the release of all Muslims from the Municipality of Ljubuški detained in the HVO detention centres and in possession of a letter of guarantee and a transit visa – except for those with a prior criminal record – so that they

¹⁸³⁴ Prosecution Final Trial Brief, para. 1078.

¹⁸³⁵ Ćorić Defence Final Trial Brief, paras 384 and 544. The Ćorić Defence also argues that whenever Valentin Ćorić wanted to transfer detainees as part of an investigation, he had to send a request to that effect to Nedeljko Obradović. See Ćorić Defence Final Trial Brief, para. 570.

¹⁸³⁶ See "Arrival and Transfer of Detainees of Ljubuški Prison" in the Chamber's factual findings with regard to Ljubuški Municipality and detention centres.

¹⁸³⁷ P 02541.

¹⁸³⁸ 2D 00285, p. 4.

¹⁸³⁹ For example, the detainees Muharem Ćilić, Ibro Junuzović, Ibro Kukić and Ismet Poljarević, who were transferred from Ljubuški Prison to the Heliodrom on 27 May 1993 (P 02541/P 02535), were all exchanged on 1 March 1994: P 07985.

¹⁸⁴⁰ Witness E, T(F), pp. 22076 and 22077, closed session; P 03380; P 03401; P 09715 under seal, p. 2; P 09989, p. 5; P 09925, p. 3.

¹⁸⁴¹ For detainees from the Heliodrom, see P 05146; Witness CU, T(F), pp. 12314 and 12315, closed session; P 05193 (the Chamber notes that this order was carried out: P 05194; P 05214). For detainees from Dretelj Prison, see P 05312; Witness C, T(F), p. 22500, closed session. For detainees from Gabela Prison, see P 04838; P 05302 (*Huso Marić*, whose name appears in this order, confirmed that he was taken to Ljubuški Prison where he remained in detention until 19 March 1994: P 10138, paras 30-33).

could leave BiH with their families for third countries via Croatia.¹⁸⁴² The Chamber notes that, by the implementation of that order, the Muslims from the Municipality of Ljubuški detained at Ljubuški Prison and the Vitina-Otok Camp were released in August 1993 and transferred to third countries via Croatia.¹⁸⁴³ The Chamber finds that Valentin Ćorić ordered the removal of Muslim detainees from the Municipality of Ljubuški in possession of a letter of guarantee and a transit visa to third countries via Croatia together with their families.

vii. The Chamber's Findings on Valentin Ćorić's Involvement in the Crimes at Ljubuški Prison and Vitina-Otok Camp

982. In view of the above, the Chamber finds that in July 1993, Valentin Ćorić ordered and facilitated the arrest and the detention at Ljubuški Prison of Muslim men from Stolac who did not belong to any armed force; that he was one of the architects of the unified network of HVO detention centres as of May 1993; that on 8 August 1993, he facilitated the work of detainees from the Vitina-Otok Camp on the front line; and that in August 1993, he ordered and facilitated the forced departure from the territory of BiH – together with their families – of Muslims from the Municipality of Ljubuški who were being held at Ljubuški Prison and the Vitina-Otok Camp.

c) Dretelj Prison

983. In this part, the Chamber will examine (i) Valentin Ćorić's involvement in the detention of Muslim civilians at Dretelj Prison and the detention conditions in which they were held, (ii) the security of the detainees, (iii) access to Dretelj Prison for international organisations and (iv) the release of detainees from Dretelj Prison. It will then (v) set out its findings on Valentin Ćorić's involvement in the crimes committed at Dretelj Prison.

i. Valentin Ćorić's Involvement in the Detention of Muslim Civilians and the Detention Conditions at Dretelj Prison

984. The Chamber recalls that on 1 July 1993, on behalf of Valentin Ćorić, Radoslav Lavrić sent an order to all the departments and sections of the Military Police Administration and to all Military Police battalions demanding, *inter alia*, the arrest of all conscripts who had not "regulated their

¹⁸⁴² See "Authorities Responsible for Release of Detainees" in the Chamber's factual findings with regard to the Heliodrom; "Authorities Responsible for Managing the Departures of Detainees" in the Chamber's factual findings with regard to Gabela Prison; P 10187; "Organisation of the Departure of the Muslims from Ljubuški Municipality" in the Chamber's factual findings with regard to Ljubuški Municipality and detention centres.

¹⁸⁴³ For Ljubuški Prison, *see*, for example, P 10175. For the Vitina-Otok Camp, *see* Witness E, T(F), pp. 22106 and 22107, closed session; P 04572. *See* also "Organisation of the Departure of the Muslims from Ljubuški Municipality" in the Chamber's factual findings with regard to Ljubuški Municipality and detention centres.

status".¹⁸⁴⁴ The evidence indicates that following the attack by ABiH forces on 30 June 1993, the HVO began a widespread and extensive campaign to arrest Muslim men – including those who did not belong to any armed force – in and around the town of Mostar and that the 1st *Knez Domagoj* Brigade of the HVO and the HVO Military Police, particularly the 3rd Company of the 3rd Battalion on orders from the 1st *Knez Domagoj* Brigade, made the arrests;¹⁸⁴⁵ that as of 1 or 2 July 1993, the Military Police and the 1st *Knez Domagoj* Brigade of the HVO carried out an extensive and systematic campaign to disarm and arrest Muslim men of military age, including people who did not belong to any armed force, in the Municipality of Stolac;¹⁸⁴⁶ and that between 30 June 1993 and mid-July 1993, the 3rd Company of the 3rd Military Police Battalion of the HVO (which became the 5th Battalion in mid-July) and the 1st *Knez Domagoj* Brigade, in cooperation with the Čapljina MUP, carried out a campaign to arrest Muslim men, some of whom did not belong to any armed force, in the Municipality of Čapljina.¹⁸⁴⁷ The HVO then held several of the arrested Muslim men at Dretelj Prison.¹⁸⁴⁸

985. On 9 July 1993, during a meeting at the command post of the 3rd Company of the 5th Military Police Battalion, which was in a building at the entrance to the Dretelj camp,¹⁸⁴⁹ Valentin Ćorić was informed that all the Muslims aged between 18 and 60 arrested in Čapljina were being held at Dretelj Prison for "security" reasons.¹⁸⁵⁰ The Chamber further recalls that on the night of 10 to 11 July 1993, 237 Muslims held at the Secondary School in Prozor and described as "not prisoners of war [...] detained for security reasons" were relocated to Ljubuški Prison.¹⁸⁵¹ As there was no room there,¹⁸⁵² they were quickly sent along to Dretelj Prison with Valentin Ćorić's authorisation.¹⁸⁵³ The Chamber recalls its findings that in the summer of 1993, the HVO *Rama*

¹⁸⁴⁴ P 03077. The Chamber notes that the order bears the name of Valentin Ćorić and the signature of Radoslav Lavrić. The Chamber already found that Radoslav Lavrić could sign orders on Valentin Ćorić's behalf. See "Valentin Ćorić's Powers Regarding Freedom of Movement of People and Goods" in the Chamber's findings with regard to Valentin Ćorić's responsibility under the JCE.

¹⁸⁴⁵ See "Arrests and Detention of Muslim Men following the Attack on 30 June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁸⁴⁶ See "Arrest and Incarceration of the Muslim Men of Military Age in Stolac Municipality in July 1993" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁸⁴⁷ See "Arrest and Incarceration of Muslim Men in the Municipality of Čapljina in July 1993" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁸⁴⁸ See "Arrests and Detention of Muslim Men following the Attack on 30 June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar; "Arrest and Incarceration of the Muslim Men of Military Age in Stolac Municipality in July 1993" in the Chamber's factual findings with regard to the Municipality of Stolac; "Arrest and Incarceration of Muslim Men in the Municipality of Čapljina in July 1993" in the Chamber's factual findings with regard to the Municipality of Čapljina and "Arrivals of Detainees at Dretelj Prison" in the Chamber's factual findings with regard to Dretelj Prison.

¹⁸⁴⁹ See "Description of Dretelj Prison" in the Chamber's factual findings with regard to Dretelj Prison.

¹⁸⁵⁰ P 03347, pp. 1-2.

¹⁸⁵¹ Witness E, T(F), pp. 22075 and 22076, closed session; P 03380; P 09989, p. 5; P 09925, p. 3; P 03418.

¹⁸⁵² Witness E, T(F), pp. 22076 and 22077, closed session; P 03401.

¹⁸⁵³ Witness E, T(F), pp. 22076 and 22077, closed session; P 03380; P 03401; P 09715 under seal, p. 2; P 09989, p. 5; P 09925, p. 3.

Brigade unlawfully imprisoned civilians at the Secondary School in Prozor.¹⁸⁵⁴ According to a report sent by the commander of the 5th Military Police Battalion to Valentin Ćorić on 5 August 1993, more than 2,500 Muslims were being held at Dretelj Prison between 30 June 1993 and 5 August 1993.¹⁸⁵⁵

986. The Chamber holds that this evidence shows that Valentin Ćorić facilitated the detention at Dretelj Prison of Muslims not belonging to any armed force.

987. Furthermore, the Chamber holds that Valentin Ćorić, who personally visited the Dretelj camp on 9 July 1993, must have known that Dretelj Prison was overcrowded at that time.¹⁸⁵⁶ The Chamber holds that as he did nothing to rectify the situation, while continuing to exercise his functions in the HVO, Valentin Ćorić accepted the bad detention conditions at that prison. Inasmuch as the death of a Muslim detainee resulting from the bad detention conditions was not part of the common criminal purpose, the Chamber will analyse Valentin Ćorić's responsibility for that crime under JCE 3.

ii. Valentin Ćorić's Involvement Regarding the Security of Detainees at Dretelj Prison

988. The Chamber recalls its finding that Valentin Ćorić had powers regarding the security of the detainees in Dretelj Prison.¹⁸⁵⁷ After an inspection of Dretelj Prison on 11 July 1993, the Assistant Chief of the Military Police Administration for Security, Branimir Tucak, indicated to Valentin Ćorić that, due to a shortage of personnel, the number of military policemen maintaining security in the prison needed to be increased urgently.¹⁸⁵⁸ In mid-July 1993, Valentin Ćorić was informed that members of the Military Police in charge of the security of the detainees at Dretelj Prison had fired at some detainees, wounding two and killing one.¹⁸⁵⁹ The Chamber notes that a report sent by Branimir Tucak to Valentin Ćorić on 29 July 1993 mentions that security at Dretelj Prison was "satisfactory".¹⁸⁶⁰ However, in the same report, Valentin Ćorić was informed of the death of five prisoners, three of whom had been shot dead, while two had apparently died of "natural causes".¹⁸⁶¹

¹⁸⁵⁴ See "Municipality of Prozor" in the Chamber's legal findings with regard to Count 10 (imprisonment, a crime against humanity) and Count 11 (unlawful confinement of a civilian, a grave breach of the Geneva Conventions).

¹⁸⁵⁵ P 03960, pp. 1-2.

¹⁸⁵⁶ See "Lack of Space and Air" in the Chamber's factual findings with regard to Dretelj Prison.

¹⁸⁵⁷ See "Valentin Ćorić's Involvement Regarding Security inside HVO Detention Centres" in the Chamber's findings with regard to Valentin Ćorić's responsibility under the JCE.

¹⁸⁵⁸ P 03377, p. 1. See also P 03794.

¹⁸⁵⁹ P 03446; P 03476.

¹⁸⁶⁰ P 03794.

¹⁸⁶¹ P 03794.

989. The Chamber recalls that it could not establish that the murders linked to mistreatment in the HVO detention centres were part of the common criminal purpose. Therefore, it will analyse Valentin Ćorić's responsibility for these crimes under JCE 3.

990. The Chamber holds that the evidence makes it possible to establish that as of July 1993, Valentin Ćorić knew that the detainees at Dretelj Prison were being mistreated. There is no evidence that Valentin Ćorić took any real measures to have the perpetrators of those crimes investigated and punished. The Chamber holds that by continuing to exercise his functions in the HVO, Valentin Ćorić accepted this mistreatment.

iii. Valentin Ćorić's Involvement Regarding Access to Dretelj Prison for International Organisations

991. The Chamber recalls its finding that Valentin Ćorić had the power to grant representatives of international organisations access to Dretelj Prison.¹⁸⁶²

992. The Prosecution criticises Valentin Ćorić for having limited to one visit only the permit of 8 July 1993 granting a representative of an international organisation access to the Heliodrom, Dretelj Prison and Ljubuški Prison, noting that a single visit was insufficient to monitor the detention conditions.¹⁸⁶³ The Chamber recalls that it was not in a position to establish whether the representative of an international organisation in fact visited Dretelj Prison following that authorisation.¹⁸⁶⁴ Therefore, the Chamber cannot find that Valentin Ćorić limited access to Dretelj Prison for international organisations.

iv. Valentin Ćorić's Involvement in the Release of Detainees from Dretelj Prison

993. The Chamber recalls that in August 1993, Valentin Ćorić ordered the release of all Muslims from the Municipality of Ljubuški held in the HVO detention centres and in possession of a letter of guarantee and a transit visa – except for those with a prior criminal record – so that they could leave BiH with their families for third countries via Croatia.¹⁸⁶⁵ The Chamber notes that, further to that order, the Muslims from the Municipality of Ljubuški held at Dretelj Prison were released in

¹⁸⁶² See "Valentin Ćorić's Involvement Regarding Access to HVO Detention Centres" in the Chamber's findings with regard to Valentin Ćorić's responsibility under the JCE.

¹⁸⁶³ Prosecution Final Trial Brief, para. 1085, citing P 03292 under seal.

¹⁸⁶⁴ See "Restrictions on Access to Dretelj Prison" in the Chamber's factual findings with regard to Dretelj Prison.

¹⁸⁶⁵ See "Authorities Responsible for Release of Detainees" in the Chamber's factual findings with regard to the Heliodrom; "Authorities Responsible for Managing the Departures of Detainees" in the Chamber's factual findings with regard to Gabela Prison; "Organisation of the Departure of the Muslims from Ljubuški Municipality" in the Chamber's factual findings with regard to Ljubuški Municipality and detention centres.

August 1993 and transferred to third countries via Croatia together with their families.¹⁸⁶⁶ The Chamber finds that Valentin Ćorić ordered the removal of Muslim detainees from the Municipality of Ljubuški in possession of a letter of guarantee and a transit visa to third countries via Croatia, together with their families.

v. The Chamber's Findings on Valentin Ćorić's Involvement in the Crimes at Dretelj Prison

994. In view of the above, the Chamber finds that in July 1993, Valentin Ćorić facilitated the unlawful confinement at Dretelj Prison of Muslims not belonging to any armed force; that as of July 1993, Valentin Ćorić must have known that Dretelj Prison was overcrowded and that by having done nothing to rectify the situation, accepted the bad detention conditions there; that as of mid-July 1993, while being aware of the mistreatment of detainees at Dretelj Prison and doing nothing to prevent it, Valentin Ćorić accepted that mistreatment; and that in August 1993, Valentin Ćorić facilitated the forced departure from the territory of BiH of Muslims from the Municipality of Ljubuški who were being held at Dretelj Prison.

d) Gabela Prison

995. In this part, the Chamber will examine (i) Valentin Ćorić's involvement in the detention of Muslim civilians at Gabela Prison and (ii) the release of detainees.

i. Valentin Ćorić's Involvement in the Detention of Muslim Civilians at Gabela Prison

996. The Chamber recalls that on 1 July 1993, on behalf of Valentin Ćorić, Radoslav Lavrić sent an order to all the departments and sections of the Military Police Administration and to all Military Police battalions demanding the arrest of all conscripts who had not "regulated their status".¹⁸⁶⁷ The evidence indicates that as of 1 or 2 July 1993, the Military Police and the 1st *Knez Domagoj* Brigade of the HVO carried out an extensive and systematic campaign to disarm and arrest Muslim men of military age, including people who did not belong to any armed force, in the Municipality of Stolac;¹⁸⁶⁸ and that between 30 June 1993 and mid-July 1993, the 3rd Company of the 3rd Military Police Battalion of the HVO (which became the 5th Battalion in mid-July) and the 1st *Knez*

¹⁸⁶⁶ P 04297; P 10187. See also "Departure of Detainees from Dretelj Prison to the Croatian Islands" in the Chamber's factual findings with regard to Dretelj Prison.

¹⁸⁶⁷ P 03077. The Chamber notes that the order bears the name of Valentin Ćorić and the signature of Radoslav Lavrić. The Chamber already found that Radoslav Lavrić could sign orders on Valentin Ćorić's behalf. See "Valentin Ćorić's Powers Regarding Freedom of Movement of People and Goods" in the Chamber's findings with regard to Valentin Ćorić's responsibility under the JCE.

Domagoj Brigade, in cooperation with the Čapljina MUP, carried out a campaign to arrest Muslim men, some of whom did not belong to any armed force, in the Municipality of Čapljina.¹⁸⁶⁹ Several of the arrested men were then taken to Gabela Prison by the people who had made the arrests.¹⁸⁷⁰ In view of the above, the Chamber finds that in July 1993, Valentin Ćorić facilitated the arrest and the detention at Gabela Prison of Muslim men from Stolac and Čapljina who did not belong to any armed force.

ii. Valentin Ćorić's Involvement in the Release of Detainees from Gabela Prison

997. The Chamber recalls that in August 1993, Valentin Ćorić ordered the release of all Muslims from the Municipality of Ljubuški held in the HVO detention centres and in possession of a letter of guarantee and a transit visa – except for those with a prior criminal record – so that they could leave BiH with their families for third countries via Croatia.¹⁸⁷¹ The Chamber notes that, further to that order, the Muslims from the Municipality of Ljubuški held at Gabela Prison and in possession of a letter of guarantee and a transit visa were released in August 1993 and transferred to third countries via Croatia together with their families.¹⁸⁷² The Chamber, therefore, finds that in August 1993, Valentin Ćorić facilitated the forced departure of those Muslims from the territory of BiH.

e) Prozor Secondary School

998. The Chamber recalls that in the night of 10 to 11 July 1993, 237 Muslims held at the Secondary School in Prozor and described as "not prisoners of war [...] detained for security reasons" were relocated to Ljubuški Prison.¹⁸⁷³ As there was no room there,¹⁸⁷⁴ they were quickly sent on to Dretelj Prison with Valentin Ćorić's authorisation.¹⁸⁷⁵ The Chamber holds that the only inference it can reasonably draw from Valentin Ćorić's authorisation is that he knew that Muslims

¹⁸⁶⁸ See "Arrest and Incarceration of the Muslim Men of Military Age in Stolac Municipality in July 1993" in the Chamber's factual findings with regard to the Municipality of Stolac.

¹⁸⁶⁹ See "Arrest and Incarceration of Muslim Men in the Municipality of Čapljina in July 1993" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁸⁷⁰ See "Arrest and Incarceration of the Muslim Men of Military Age in Stolac Municipality in July 1993" in the Chamber's factual findings with regard to the Municipality of Stolac; "Arrest and Imprisonment of Muslim Men in the Municipality of Čapljina in July 1993" in the Chamber's factual findings with regard to the Municipality of Čapljina; and "Arrival of Detainees at Gabela Prison" in the Chamber's factual findings with regard to Gabela Prison.

¹⁸⁷¹ See "Authorities Responsible for Release of Detainees" in the Chamber's factual findings with regard to the Heliodrom; "Authorities Responsible for Managing the Departures of Detainees" in the Chamber's factual findings with regard to Gabela Prison. See also exhibit P 10187 and "Organisation of Departure of the Muslims from Ljubuški Municipality" in the Chamber's factual findings with regard to Ljubuški Municipality and detention centres.

¹⁸⁷² P 10190. See also "Gabela Detainees Transferred to Ljubuški Prison or the Heliodrom in Order to Leave for Third Countries" in the Chamber's factual findings with regard to Gabela Prison.

¹⁸⁷³ Witness E, T(F), pp. 22075 and 22076, closed session; P 03380; P 09989, p. 5, and P 09925, p. 3; P 03418.

¹⁸⁷⁴ Witness E, T(F), pp. 22076 and 22077, closed session; P 03401.

¹⁸⁷⁵ Witness E, T(F), pp. 22076-22077, closed session; P 03380; P 03401; P 09715 under seal, p. 2; P 09989, p. 5, and P 09925, p. 3.

not belonging to any armed force had been arrested in the Municipality of Prozor and detained at the Secondary School in Prozor by the HVO. The Chamber, therefore, finds that Valentin Ćorić accepted the detention of these people at the Secondary School in Prozor.

f) The Chamber's Findings on Valentin Ćorić's Involvement in the Detention Centres

999. The Chamber recalls that in order to implement the common criminal purpose, the members of the JCE set up a system to expel the Muslim population which, more specifically, consisted of detaining civilians, holding detainees in bad detention conditions, sending some detainees to work on the front line and removing detainees and their families from the territory of the HZ(R) H-B on their release.¹⁸⁷⁶ Valentin Ćorić's involvement in the HVO detention centres undoubtedly made a significant contribution to one of the key aspects of the implementation of the common criminal plan.

5. The Chamber's Findings on Valentin Ćorić's Responsibility under JCE 1

1000. In view of these observations, the Chamber is satisfied beyond reasonable doubt that from January 1993 until 10 November 1993, Valentin Ćorić, as Chief of the HVO Military Police Administration, had command and control power over the Military Police units, including the power to re-subordinate them to the HVO OZs. As the evidence shows, Valentin Ćorić knowingly engaged Military Police units in the eviction operations in the Municipality of Gornji Vakuf in January 1993, in the municipalities of Stolac and Čapljina in the summer of 1993 and in Mostar from 9 May 1993 until at least October 1993, during which crimes that were part of the common goal were committed. Moreover, the Chamber holds that the only inference it can reasonably draw from the fact that Valentin Ćorić personally participated in planning the operations to evict Muslims from Mostar on 9 May 1993 by organising the placing of Muslims in detention and holding them in detention the following days, and from the fact that in the summer of 1993, while he had the duty to fight crime in the territory of the HZ(R)H-B, he knowingly turned a blind eye to the crimes perpetrated by HVO members against Muslims in West Mostar during the eviction operations and did so with the awareness that their guilty conduct would result in criminal acts, which continued to be carried out with impunity until September 1993, is that Valentin Ćorić intended to have these crimes committed.

1001. The Chamber is also satisfied beyond reasonable doubt that by his acts and omissions, Valentin Ćorić, as Chief of the Military Police Administration, occupied a key role in the operation

¹⁸⁷⁶ See "Existence of a Common Criminal Plan" in the Chamber's findings with regard to the JCE.

of the network of HVO detention centres until 10 November 1993. Valentin Ćorić contributed to the arrest and detention of thousands of Muslims. He knowingly contributed to keeping them detained in harsh conditions where they were mistreated, beaten and abused; he used them or allowed them to be used for work on the front line and transferred them from one detention centre to another and released them on condition that they leave the territory of the HZ(R)H-B together with their families.

1002. Moreover, while performing his functions, Valentin Ćorić was informed of many crimes committed by members of the HZ(R) H-B armed forces, including members of the Military Police, or, given his hierarchical position, must have been aware of them. Although he had this knowledge, he continued to exercise his functions at the head of the Military Police Administration.

1003. Furthermore, as Chief of the Military Police Administration and later Minister of the Interior, Valentin Ćorić had the power to control the freedom of movement of people and goods in the territory of the HZ(R) H-B, including the movement of humanitarian convoys, until April 1994 in particular by way of HVO checkpoints. Valentin Ćorić achieved part of the common plan by a blockade of the Muslim population of East Mostar and of humanitarian aid, although he was fully aware what impact this would have on the population of East Mostar.

1004. In view of the above, the Chamber finds that Valentin Ćorić significantly contributed to the JCE and intended that all the crimes part of the common criminal purpose be committed. Insofar as he was also informed that the HVO actions essentially targeted the Muslims, the Chamber is satisfied that Valentin Ćorić's intent was discriminatory and aimed at persecuting the Muslim population. The Chamber holds that the only possible inference it can reasonably draw is that Valentin Ćorić intended to expel the Muslim population from the HZ(R) H-B. As the Chamber will make clear, Valentin Ćorić shared this intent with the other members of the JCE,¹⁸⁷⁷ notably the other members of the HVO/Government of the HZ(R) H-B and the chiefs and commanders of the HVO Main Staff.

1005. Regarding Valentin Ćorić's knowledge of the factual circumstances that allowed the Chamber to find – by a majority, with Judge Antonetti dissenting – that there was an international armed conflict between the HVO and the ABiH, the evidence indicates that Valentin Ćorić was not

¹⁸⁷⁷ See also the Chamber's final findings with regard to the responsibility of Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković and Berislav Pušić, and "Plurality of Persons Supporting the Common Criminal Purpose" in the Chamber's findings with regard to the JCE.

only informed of the HVO military operations against the ABiH,¹⁸⁷⁸ but that he also participated in planning some of them, more specifically, by ordering the re-subordination of some Military Police units for combat operations.¹⁸⁷⁹ Therefore, Valentin Ćorić knew that an armed conflict was taking place between the HVO and the ABiH during the time he held the post of the Chief of the Military Police Administration. Moreover, the evidence indicates that Valentin Ćorić had knowledge of and facilitated the participation of Croatia in the conflict between the HVO and the ABiH in Bosnia.¹⁸⁸⁰ Therefore, he knew that the conflict was international in character.

1006. In view of the above and pursuant to the counts charged for the acts described above, the Chamber is satisfied beyond reasonable doubt that Valentin Ćorić is guilty – by his participation in a JCE¹⁸⁸¹ – of having committed the following crimes:

Municipality of Prozor (only the Secondary School in Prozor):

Count 1: persecutions on political, racial and religious grounds, under Article 5 of the Statute.

Count 10: imprisonment, under Article 5 of the Statute.

Count 11: unlawful confinement of a civilian, under Article 2 of the Statute.

Municipality of Gornji Vakuf:

Count 1: persecutions on political, racial and religious grounds, under Article 5 of the Statute.

Count 2: murder, under Article 5 of the Statute.

Count 3: wilful killing, under Article 2 of the Statute.

Count 8: inhumane acts (forcible transfer), under Article 5 of the Statute.

Count 9: unlawful transfer of a civilian, under Article 2 of the Statute.

Count 10: imprisonment, under Article 5 of the Statute.

Count 11: unlawful confinement of a civilian, under Article 2 of the Statute.

¹⁸⁷⁸ See "Crimes Allegedly Committed in June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁸⁷⁹ See, for example, P 03068; P 03762; P 03778/P 03763 (identical documents); P 04010; P 04151.

¹⁸⁸⁰ P 00927; P 05542; Marijan Biškić, T(F), pp. 15073 and 15074.

¹⁸⁸¹ Judge Antonetti dissents as to the mode of responsibility – participation in a JCE – held by the majority of the Chamber. Nevertheless, he considers that the evidence supports a finding that Valentin Ćorić was responsible for the

Count 15: inhumane acts, under Article 5 of the Statute.

Count 16: inhuman treatment, under Article 2 of the Statute.

Count 17: cruel treatment, under Article 3 of the Statute.

Count 19: extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly, under Article 2 of the Statute.

Count 20: wanton destruction of cities, towns or villages, or devastation not justified by military necessity, under Article 3 of the Statute.

Municipality of Mostar:

Count 1: persecutions on political, racial and religious grounds, under Article 5 of the Statute.

Count 2: murder, under Article 5 of the Statute.

Count 3: wilful killing, under Article 2 of the Statute.

Count 6: deportation, under Article 5 of the Statute.

Count 7: unlawful deportation of a civilian, under Article 2 of the Statute.

Count 8: inhumane acts (forcible transfer), under Article 5 of the Statute.

Count 9: unlawful transfer of a civilian, under Article 2 of the Statute.

Count 10: imprisonment, under Article 5 of the Statute.

Count 11: unlawful confinement of a civilian, under Article 2 of the Statute.

Count 15: inhumane acts, under Article 5 of the Statute.

Count 16: inhuman treatment, under Article 2 of the Statute.

Count 17: cruel treatment, under Article 3 of the Statute.

Count 20: wanton destruction of cities, towns or villages, or devastation not justified by military necessity, under Article 3 of the Statute.

crimes under the counts cited in this paragraph by virtue of other modes of responsibility provided for in the Statute, as he states in his dissenting opinion annexed to this Judgement.

Count 21: destruction or wilful damage done to institutions dedicated to religion or education, under Article 3 of the Statute.

Count 24: unlawful attack on civilians, under Article 3 of the Statute.

Count 25: unlawful infliction of terror on civilians (Mostar), under Article 3 of the Statute.

Municipality of Ljubuški:

Count 1: persecutions on political, racial and religious grounds, under Article 5 of the Statute.

Count 6: deportation, under Article 5 of the Statute.

Count 7: unlawful deportation of a civilian, under Article 2 of the Statute.

Count 8: inhumane acts (forcible transfer), under Article 5 of the Statute.

Count 9: unlawful transfer of a civilian, under Article 2 of the Statute.

The Heliodrom:

Count 1: persecutions on political, racial and religious grounds, under Article 5 of the Statute.

Count 2: murder, under Article 5 of the Statute.

Count 3: wilful killing, under Article 2 of the Statute.

Count 6: deportation, under Article 5 of the Statute.

Count 7: unlawful deportation of a civilian, under Article 2 of the Statute.

Count 8: inhumane acts (forcible transfer), under Article 5 of the Statute.

Count 9: unlawful transfer of a civilian, under Article 2 of the Statute.

Count 10: imprisonment, under Article 5 of the Statute.

Count 11: unlawful confinement of a civilian, under Article 2 of the Statute.

Count 12: inhumane acts (conditions of confinement), under Article 5 of the Statute.

Count 13: inhuman treatment (conditions of confinement), under Article 2 of the Statute.

Count 14: cruel treatment (conditions of confinement), under Article 3 of the Statute.

Count 15: inhumane acts, under Article 5 of the Statute.

Count 16: inhuman treatment, under Article 2 of the Statute.

Count 17: cruel treatment, under Article 3 of the Statute.

Count 18: unlawful labour, under Article 3 of the Statute.

Ljubuški Prison and Vitina-Otok Camp:

Count 1: persecutions on political, racial and religious grounds, under Article 5 of the Statute.

Count 6: deportation, under Article 5 of the Statute.

Count 7: unlawful deportation of a civilian, under Article 2 of the Statute.

Count 8: inhumane acts (forcible transfer), under Article 5 of the Statute.

Count 9: unlawful transfer of a civilian, under Article 2 of the Statute.

Count 10: imprisonment, under Article 5 of the Statute (for Ljubuški Prison only).

Count 11: unlawful confinement of a civilian, under Article 2 of the Statute (for Ljubuški Prison only).

Count 18: unlawful labour, under Article 3 of the Statute (for Vitina-Otok Camp only).

Dretelj and Gabela Prisons:

Count 1: persecutions on political, racial and religious grounds, under Article 5 of the Statute.

Count 10: imprisonment, under Article 5 of the Statute.

Count 11: unlawful confinement of a civilian, under Article 2 of the Statute.

Count 12: inhumane acts (conditions of confinement), under Article 5 of the Statute (for Dretelj Prison only).

Count 13: inhumane treatment (conditions of confinement), under Article 2 of the Statute (for Dretelj Prison only).

Count 14: cruel treatment (conditions of confinement), under Article 3 of the Statute (for Dretelj Prison only).

Count 15: inhumane acts, under Article 5 of the Statute (for Dretelj Prison only).

Count 16: inhuman treatment, under Article 2 of the Statute (for Dretelj Prison only).

Count 17: cruel treatment, under Article 3 of the Statute (for Dretelj Prison only).

1007. Inasmuch as Valentin Ćorić committed these crimes in order to achieve the common criminal goal, he is held responsible not only for the aforementioned crimes but also for all the crimes forming part of the common criminal plan.

D. Valentin Ćorić's Responsibility under JCE 3

1008. The Chamber established that the killings, sexual abuse and thefts committed during the eviction campaigns, the destruction of institutions dedicated to religion in the Municipality of Jablanica in April 1993 and the murders resulting from the bad detention conditions and the acts of violence inflicted on the Muslim detainees in the HVO detention centres were not part of the common criminal purpose. Even though these crimes fell outside the scope of that purpose, the Chamber will analyse whether Valentin Ćorić could reasonably have foreseen that they would be committed and took that risk.

1. Thefts in Gornji Vakuf

1009. The Chamber recalls that, having facilitated the HVO operations in Gornji Vakuf in January 1993 and having knowledge of them, Valentin Ćorić must have been aware of the crimes resulting from those operations.¹⁸⁸² The Chamber observed, among other things, that HVO members committed acts of theft following the operations in Hrasnica, Uzričje and Ždrimci.¹⁸⁸³ Inasmuch as the military operations and the capture of these localities by the HVO took place in a climate of extreme violence, the Chamber holds that Valentin Ćorić could have foreseen that members of the HVO would commit acts of theft in these localities. The Chamber infers that by having facilitated the HVO operations in Gornji Vakuf, Valentin Ćorić knowingly took the risk that acts of theft would be committed.

¹⁸⁸² See "Municipality of Gornji Vakuf" in the Chamber's findings with regard to Valentin Ćorić's responsibility under the JCE.

¹⁸⁸³ See "Allegations of Burned Houses and Theft of Muslim Property in the Village of Hrasnica", "Allegations of Burned Houses and Theft of Muslim Property in the Village of Uzričje" and "Burned Houses, Thefts of Muslim Property in the Village of Ždrimci and Burning of the *Mekteb*" in the Chamber's factual findings with regard to the Municipality of Gornji Vakuf.

2. Sexual Abuse and Thefts During Eviction Operations in Mostar

1010. Regarding the acts of theft in the Municipality of Mostar, the Chamber established that in May and June 1993 and from August 1993 to February 1994, during the operations to evict the Muslims of West Mostar from their flats, the HVO soldiers took all the valuables belonging to the Muslims and also appropriated property from the flats.¹⁸⁸⁴ Following the eviction operations, the flats of the Muslims expelled from West Mostar were allocated to HVO soldiers, members of the Military Police and sometimes even to Croatian families.¹⁸⁸⁵

1011. The Chamber recalls that it established that Valentin Ćorić intended to have the Muslims of West Mostar removed around 9 May 1993 – with acts of violence – and that as of mid-June 1993, he also knew that HVO soldiers were confiscating Muslim property during the evictions in West Mostar.¹⁸⁸⁶ The Chamber also recalls that after evicting the Muslims of West Mostar, HVO soldiers and members of the Military Police moved into their flats with Valentin Ćorić's consent.¹⁸⁸⁷ Inasmuch as the Muslims were evicted in a climate of extreme violence, the Chamber holds that as of May 1993, Valentin Ćorić could have foreseen that HVO members would steal and appropriate Muslim property during the eviction operations in Mostar. The Chamber finds that by having contributed to the campaigns to remove the Muslims of West Mostar as of May 1993, Valentin Ćorić knowingly took the risk that these acts of theft would be committed as of that time.

1012. As to sexual assaults, the Chamber has established that members of the HVO sexually abused Muslim women during the operations aimed at expelling the Muslims from West Mostar in June,¹⁸⁸⁸ July¹⁸⁸⁹ and September 1993.¹⁸⁹⁰ It also established that Valentin Ćorić participated in

¹⁸⁸⁴ See "Violence and Thefts Committed against Muslims Arrested, Evicted from Their Flats, Placed in Detention and Displaced in May 1993", "Crimes Allegedly Committed in June 1993", "Rapes, Sexual Assaults, Thefts, Threats and Intimidation of Muslims during the Eviction Operations in West Mostar in July and August 1993" and "Crimes Alleged to Have Been Committed from September 1993 to April 1994" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁸⁸⁵ See "Violence and Thefts Committed against Muslims Arrested, Evicted from Their Flats, Placed in Detention and Displaced in May 1993", "Crimes Allegedly Committed in June 1993", "Rapes, Sexual Assaults, Thefts, Threats and Intimidation of Muslims during the Eviction Operations in West Mostar in July and August 1993" and "Crimes Alleged to Have Been Committed from September 1993 to April 1994" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁸⁸⁶ See "Valentin Ćorić's Role in the Campaign of Arrests in the First Half of May 1993 in West Mostar" and "Valentin Ćorić's Participation in Operations to Evict the Muslim Population of West Mostar as of June 1993" in the Chamber's findings with regard to Valentin Ćorić's responsibility under the JCE.

¹⁸⁸⁷ See "Crimes Allegedly Committed in June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar. See also P 02879; Witness BB, T(F), p. 17295, closed session.

¹⁸⁸⁸ See "Crimes Allegedly Committed in June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁸⁸⁹ See "Rapes, Sexual Assaults, Thefts, Threats and Intimidation of Muslims during Eviction Operations in West Mostar in July and August 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

¹⁸⁹⁰ See "Crimes Alleged to Have Been Committed from September 1993 to April 1994" in the Chamber's factual findings with regard to the Municipality of Mostar.

planning the operations to evict the Muslims from West Mostar as of May 1993.¹⁸⁹¹ Therefore, he knew that the eviction operations were being carried out in a climate of extreme violence.

1013. Furthermore, on 3 August 1993, in a report addressed directly to Valentin Ćorić, Toni Ramljak, an officer of the Mostar centre of the Department for Criminal Investigations of the Military Police Administration, indicated that members of the *Vinko Škrobo* and *Benko Penavić* ATGs, both of which formed part of the KB,¹⁸⁹² were responsible for a large share of the crimes in Mostar; however, he did not specify the nature of the crimes.¹⁸⁹³ The Chamber further notes that on 9 August 1993, Valentin Ćorić signed a report on the work of the Mostar centre of the Department for Criminal Investigations of the Military Police Administration for the period 1 to 31 July 1993, which mentions, *inter alia*, an increase in the number of crimes committed in Mostar in the context of the campaigns to evict the Muslims – more specifically, "crimes against property", crimes of "rape" and "crimes against life" – and the discovery of bodies probably of Muslims who had died of gunshot wounds.¹⁸⁹⁴

1014. Thus, since the eviction campaigns in Mostar were carried out in a climate of extreme violence, the Chamber holds that Valentin Ćorić could have reasonably foreseen that the HVO members participating in these operations would commit acts of sexual violence. The Chamber is satisfied that by, having contributed to the campaigns, Valentin Ćorić deliberately took the risk that these crimes would be committed as of May 1993.

3. Murders and Thefts during the Eviction Operations in Stolac and Čapljina

1015. The Chamber recalls its finding that Valentin Ćorić ordered and facilitated the arrest and the detention of Muslim men from Stolac and Čapljina who did not belong to any armed force in July 1993.¹⁸⁹⁵ The Chamber recalls that it could not establish that murders took place during the arrests of these men. The Chamber could only establish that murders and thefts were committed during the operations to evict Muslim women, children and elderly people in those municipalities in mid-July 1993.¹⁸⁹⁶

¹⁸⁹¹ See "Valentin Ćorić's Role in the Campaign of Arrests in the First Half of May 1993 in West Mostar" in the Chamber's findings with regard to Valentin Ćorić's responsibility under the JCE.

¹⁸⁹² P 07009. See also "Organisation of the KB and ATGs" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

¹⁸⁹³ P 03928.

¹⁸⁹⁴ P 04058, pp. 3, 4, 7 and 14.

¹⁸⁹⁵ See, for example, "Valentin Ćorić's Role in the Detention of Muslim Civilians at the Heliodrom" in the Chamber's findings with regard to Valentin Ćorić's responsibility under the JCE.

¹⁸⁹⁶ See "Removal of the Muslim Population and Death of a Young Woman at Pješivac Greda" and "Theft of Property Belonging to the Muslims of the Village of Pješivac Greda" in the Chamber's factual findings with regard to

1016. Inasmuch as the evidence did not enable the Chamber to establish any contribution by Valentin Ćorić to the operations to remove women, children and elderly people from these municipalities, the Chamber is not in a position to find that Valentin Ćorić could have foreseen the murders and thefts committed during these operations. Consequently, the Chamber does not hold Valentin Ćorić responsible for those crimes.

4. Murders Resulting from Bad Conditions and Mistreatment in Detention Centres

1017. The Chamber established that six Muslim detainees died while being held at Dretelj Prison.¹⁸⁹⁷ In mid-July 1993, a Muslim man called Plavuškić died of dehydration after HVO soldiers deprived the detainees of food and water further to an order from Neđeljko Obradović, Commander of the 1st *Knez Domagoj* Brigade.¹⁸⁹⁸ In mid-July 1993, three detainees died when HVO military policemen fired shots at the sheet-metal hangars in which the detainees were being interned.¹⁸⁹⁹ Finally, Omer Kohnić and Emir Repak died in August 1993 as a result of beatings by HVO members and other detainees carried out on orders of military policemen.¹⁹⁰⁰

1018. The Chamber recalls its finding that Valentin Ćorić facilitated the detention of Muslims not belonging to any armed force at Dretelj Prison in July 1993.¹⁹⁰¹ The Chamber further recalls that in mid-July 1993, Valentin Ćorić was informed that members of the Military Police in charge of the security of the detainees at Dretelj Prison had fired at some detainees, wounding two and killing one.¹⁹⁰² The Chamber notes that a report sent by Branimir Tucak to Valentin Ćorić on 29 July 1993 mentions that security at Dretelj Prison was "satisfactory".¹⁹⁰³ However, in the same report, Valentin Ćorić was informed of the death of five prisoners, three of whom had been shot dead, while two had apparently died of "natural causes".¹⁹⁰⁴ The Chamber, therefore, finds that as of mid-July 1993, Valentin Ćorić was informed that HVO members were mistreating the detainees at Dretelj Prison by firing at them and that they had caused the death of some of them.

the Municipality of Stolac; "Death of Two Young Women in the Village of Domanovići" and "Thefts of Muslim Property in and around the Village of Bivolje Brdo" in the Chamber's factual findings with regard to the Municipality of Čapljina.

¹⁸⁹⁷ See "Events of Mid-July 1993 Leading to the Death of at Least One Detainee" and "Deaths of Several Detainees" in the Chamber's factual findings with regard to Dretelj Prison.

¹⁸⁹⁸ See "Events of Mid-July 1993 Leading to the Death of at Least One Detainee" in the Chamber's factual findings with regard to Dretelj Prison.

¹⁸⁹⁹ See "Deaths of Several Detainees" in the Chamber's factual findings with regard to Dretelj Prison.

¹⁹⁰⁰ See "Deaths of Several Detainees" in the Chamber's factual findings with regard to Dretelj Prison.

¹⁹⁰¹ See "Valentin Ćorić's Involvement in the Detention of Muslim Civilians and the Detention Conditions at Dretelj Prison" in the Chamber's findings with regard to Valentin Ćorić's responsibility under the JCE.

¹⁹⁰² P 03446; P 03476.

¹⁹⁰³ P 03794.

¹⁹⁰⁴ P 03794.

1019. Even if Valentin Ćorić facilitated the detention of Muslims not belonging to any armed force as of early July 1993, the evidence does not support a finding that he knew that the detention of people at Dretelj Prison was taking place in a climate of extreme violence. Therefore, the Chamber cannot find that Valentin Ćorić could have foreseen the murders of detainees at that time.

1020. Nonetheless, the Chamber holds that from the moment Valentin Ćorić learned of the murder of detainees at Dretelj Prison following mistreatment by HVO members in mid-July 1993, it became possible for him to foresee that murders might be committed during detention. By failing to act and by continuing to exercise his functions in the Military Police Administration, Valentin Ćorić deliberately took the risk that more detainees might be killed as a result of the mistreatment, as indeed occurred in August 1993.

1021. Valentin Ćorić is therefore responsible under JCE 3 for the following crimes:

Municipality of Gornji Vakuf:

Count 22: extensive appropriation of property, not justified by military necessity and carried out unlawfully and wantonly, under Article 2 of the Statute.

Count 23: plunder of public or private property, under Article 3 of the Statute.

Municipality of Mostar:

Count 4: rape, under Article 5 of the Statute.

Count 5: inhuman treatment (sexual assault), under Article 2 of the Statute.

Count 22: appropriation of property, not justified by military necessity and carried out unlawfully and wantonly, under Article 2 of the Statute.

Count 23: plunder of public or private property, under Article 3 of the Statute.

Dretelj Prison:

Count 2: murder, under Article 5 of the Statute.

Count 3: wilful killing, under Article 2 of the Statute.

1022. The Chamber received no evidence showing that Valentin Ćorić was informed of the other crimes not part of the common criminal purpose, except for those set out above.

VI. Berislav Pušić

1023. The Indictment alleges that as a result of his various powers and functions, *de jure* and/or *de facto*, Berislav Pušić was a high-level official who played a decisive role in the Herceg-Bosna/HVO system to detain, use, release, exchange, transfer and deport Bosnian Muslims from BiH by exercising effective control and substantial influence over various components and personnel in this system.¹⁹⁰⁵ It is alleged that Berislav Pušić issued orders and decisions, signed authorisations and gave instructions for the treatment of Bosnian Muslim detainees, thereby controlling their continued detention and/or their transfer or deportation to other areas or countries.¹⁹⁰⁶

1024. The Chamber recalls, furthermore, that the Prosecution does not charge Berislav Pušić with any crimes related to the events that took place in the Municipality of Prozor in October 1992, or in the Municipality of Gornji Vakuf in January 1993.¹⁹⁰⁷

1025. As a preliminary matter, the Chamber specifies that it will address only those events for which it has evidence that may be relevant to its analysis of Berislav Pušić's responsibility.

1026. The Chamber will first examine the evidence relating to (A) the functions of Berislav Pušić and (B) evidence concerning his powers. It will then examine the evidence relating to (C) his responsibility under JCE 1 and (D) JCE 3.

A. Functions of Berislav Pušić

1027. Berislav Pušić, son of Andrija, was born on 8 June 1952 in Mostar, Municipality of Mostar, in the RSBiH.¹⁹⁰⁸

1028. The Chamber has several items of evidence showing that, between February and July 1993, Berislav Pušić occupied various positions within the HVO Military Police. The Chamber established that, from at least February 1993 and until 3 July 1993, Berislav Pušić was a "control officer" within the Department of Criminal Investigations of the Military Police Administration.¹⁹⁰⁹

¹⁹⁰⁵ Indictment, paras 14, 17 and 17.6.

¹⁹⁰⁶ Indictment, paras 14, 17 and 17.6.

¹⁹⁰⁷ Indictment, para. 230.

¹⁹⁰⁸ *The Prosecutor v. Berislav Pušić*, Case No. IT-04-74-I, "Warrant of Arrest and Order for Surrender", under seal, 4 March 2004, p. 2; T(F), p. 2.

¹⁹⁰⁹ See "Responsibility of the Military Police with Respect to "Prisoner of War" Exchanges" in the Chamber's findings regarding the military structure of the HZ(R) H-B. See also P 01393; P 01605; 2D 00008, pp. 2 and 7; P 02214; P 02778; P 02895; P 03008; P 03133.

1029. Alongside his function within the Department of Criminal Investigations, Berislav Pušić represented the Military Police Administration or the HVO in negotiations for the exchange of detainees or bodies,¹⁹¹⁰ such as, for example, with the Serbian armed forces in February 1993,¹⁹¹¹ and subsequently with the ABiH, in Mostar, following clashes in April 1993,¹⁹¹² in Jablanica on 4 May 1993,¹⁹¹³ and in Stolac on 29 May 1993.¹⁹¹⁴ The Chamber notes, furthermore, that Berislav Pušić was responsible for missions with international organisations on an ad hoc basis.¹⁹¹⁵

1030. The Chamber recalls, furthermore, that from at least 25 May 1993, Berislav Pušić was a member of the Exchange Commission, whose existence the HVO confirmed on 5 July 1993.¹⁹¹⁶ Also on 5 July 1993, the HVO created the Exchange Service as an executive organ of the Exchange Commission, and Berislav Pušić was appointed as head.¹⁹¹⁷

1031. With respect to the HVO detention centres, the Chamber notes that on 19 July 1993, following a meeting of the HZ H-B chaired by Jadranko Prlić, Prlić signed an order creating a working group composed of Zoran Buntić,¹⁹¹⁸ Darinko Tadić,¹⁹¹⁹ and Berislav Pušić, who were instructed to visit the Municipality of Čapljina, inspect detention sites and propose measures to improve detention conditions.¹⁹²⁰ A short time later, on 6 August 1993, Bruno Stojić, who was the head of the HVO Department of Defence at the time, appointed Berislav Pušić as the head of a new

¹⁹¹⁰ Witness BB, T(F), pp. 25267-25269 and 25272, closed session.

¹⁹¹¹ P 01523; P 02214.

¹⁹¹² P 01773; P 02020; p. 2.

¹⁹¹³ See "Context of the Removal of the Women, Children and Elderly People from the Sovići School and the Houses in the Hamlet of Junuzovići to Gornji Vakuf" and "Blocking of International Observers and Peace-Keeping Forces on 17 April 1993 and in the Days that Followed" in the Chamber's factual findings with regard to the municipality of Jablanica.

¹⁹¹⁴ P 02561, p. 10.

¹⁹¹⁵ For example, on 11 May 1993, Bruno Stojić put Berislav Pušić in charge of liaising between the HVO and Spabat regarding bringing blood supplies to the Mostar hospital. See P 02291; Witness BJ, T(F), pp. 5671 and 5672. Nevertheless, based on the testimony of *Witness BJ*, the Chamber deems, like the Pušić Defence and unlike what the Prosecution appears to claim in the Indictment, that the appointment on 11 May 1993 did not place Berislav Pušić in the post of *permanent* representative of the HVO to UNPROFOR. On 29 May 1993, Berislav Pušić negotiated, on behalf of Valentin Ćorić, access for the ICRC to the Heliodrom and to Ljubuški, Dretelj and Gabela prisons. See P 02601.

¹⁹¹⁶ As established by the Chamber, evidence shows that Berislav Pušić and Valentin Ćorić were appointed to the Exchange Commission on 25 May 1993. See "Service and Commission for the Exchange of Detainees and Other Persons" in the Chamber's findings with regard to the political and administrative structure of the HZ(R) H-B.

¹⁹¹⁷ See "Responsibility of the Military Police in Matters of Prisoner Transfer" in the Chamber's findings with regard to the military structure of the HZ(R) H-B. See also "The Powers of the Exchange Service and Commission" in the Chamber's findings with regard to the political and administrative structure of the HZ(R) H-B; P 07102; P 06805, p. 2; Witness E, T(F), p. 22007, closed session; Josip Praljak, T(F), pp. 14726 and 14919; Amor Mašović, T(F), pp. 25115 and 25116 and 25021-25029; Philip Watkins, T(F), pp 18762, 18790 and 18819; Edward Vulliamy, T(F), p. 1594; P 07769 under seal, p. 5.

¹⁹¹⁸ Zoran Buntić was at the time the Head of the Department of General Administration and Justice of the HZ H-B, from 20 June 1992 until 28 August 1993. Zoran Buntić, T(F), pp. 30243, 30244 and 30249.

¹⁹¹⁹ At the time, Darinko Tadić was the head of the ODPR HR H-B. See "ODPR" in the Chamber's findings with regard to the political and administrative structure of the HZ(R) H-B.

¹⁹²⁰ P 03565; P 03560; P 03573.

commission "authorised to take charge of all detention units and prisons in which detainees of war and military detainees were held": the Commission for HVO Prisons and Detention Centres.¹⁹²¹

1032. The Chamber has the statement of *Amor Mašović*, member, Deputy President and subsequently President of the RBiH State Commission responsible for the exchange of detainees of war and persons deprived of their freedom between August 1992 and December 1995,¹⁹²² and according to him the last exchange of detainees took place on 21 April 1994. From that date on, he and Berislav Pušić focused on the fate of persons reported missing.¹⁹²³ The Chamber does not have any evidence allowing it to determine the date until which the Exchange Commission and Service functioned and whether Berislav Pušić remained at the head of these bodies after 21 April 1994.

B. Powers of Berislav Pušić

1033. In its Final Trial Brief, the Prosecution contends that Berislav Pušić had the authority to decide who would be held in HVO detention centres and coordinated detainee exchanges; that the responsibilities of Berislav Pušić related to the imprisonment of Bosnian Muslims and their deportation from HVO-held territory; and that he was tasked with rooting out crimes and dealing with prisoner issues.¹⁹²⁴

1034. In its Final Trial Brief, the Pušić Defence responds that Berislav Pušić was a low-ranking civil servant involved in a technical and administrative capacity in the exchange and release of detainees; that he did not possess *de jure* or *de facto* powers to give orders to anyone else or to interfere in the operation of HVO detention centres, and that he could not exert control over the practices and policies of the HVO.¹⁹²⁵ In its Final Trial Brief, the Pušić Defence also argues that Berislav Pušić did not have decision-making powers, especially not during negotiations on the exchange of detainees.¹⁹²⁶

1035. In its closing arguments, the Prosecution replied to the arguments of the Pušić Defence by tendering evidence which, according to the Prosecution, proves that the authority and powers bestowed upon Berislav Pušić, notably by Valentin Ćorić, did not correspond to a low-level

¹⁹²¹ See "Authorities Responsible for Release of Detainees" in the Chamber's factual findings with regard to the Heliodrom; "Commission for Prisons and Detention Centres" in the Chamber's factual findings with regard to the political and administrative structure of the HZ(R) H-B.

¹⁹²² Amor Mašović, T(F), pp. 25006-25012;

¹⁹²³ Amor Mašović, T(F), pp. 25052 and 25053.

¹⁹²⁴ Prosecution Final Trial Brief, paras 1190 to 1193.

¹⁹²⁵ Pušić Defence Final Trial Brief, para. 1.

¹⁹²⁶ Pušić Defence Final Trial Brief, para. 185.

rank.¹⁹²⁷ With respect to Berislav Pušić's powers during negotiations on the exchange of detainees, the Prosecution contends that the arguments of the Pušić Defence, set out in its Final Trial Brief, contradict the statement made by Berislav Pušić during an interview with *Slobodna Dalmacija* on 19 October 1993, according to which he held "all powers to make decisions on the issues of exchange and release of detainees".¹⁹²⁸

1036. In light of these arguments, the Chamber will analyse the powers of Berislav Pušić in connection with the functions listed in the previous section. The Chamber will thus study the evidence related to Berislav Pušić's powers regarding (1) HVO detention centres, (2) his powers regarding the exchange of persons, (3) his powers regarding representing the HVO before the international community and, lastly, (4) his interactions with high-ranking HVO officials.

1. Berislav Pušić's Powers Regarding HVO Detention Centres

1037. In its Final Trial Brief, the Prosecution contends that the HVO of the HZ-HB delegated authority to Berislav Pušić over the HVO detention centres and that his role in the JCE increased in August 1993 when his power was centralised within the Commission for HVO Prisons and Detention Centres.¹⁹²⁹ The Prosecution argues that pursuant to Bruno Stojić's order creating the said Commission, it was in charge of compiling a list of detainees, sorting them into categories, releasing them or exchanging them, and other questions relating to the work and functioning of the detention centres and prisons.¹⁹³⁰ According to the Prosecution, Berislav Pušić had decision-making powers regarding the detention and movement of detainees.¹⁹³¹

1038. The Pušić Defence submits on the contrary that the evidence shows that he had no power over the detainees detained in any of the HVO detention centres whatsoever and calls into question the testimony of *Josip Praljak* regarding Berislav Pušić's role in the HVO detention centres.¹⁹³²

¹⁹²⁷ Closing Arguments by the Prosecution, T(F), pp. 52148 and 52149.

¹⁹²⁸ Closing Arguments by the Prosecution, T(F), pp. 52149 to 52151.

¹⁹²⁹ Prosecution Final Trial Brief, para. 1202.

¹⁹³⁰ Prosecution Final Trial Brief, para. 1203.

¹⁹³¹ Prosecution Final Trial Brief, paras 1206, 1209 and 1211.

¹⁹³² Pušić Defence Final Trial Brief, paras 347 to 398.

1039. The Chamber recalls that the Commission for HVO Prisons and Detention Centres came under the authority of the Department of Defence and was responsible for resolving problems related to the detention centres where "detainees of war" were being held – such as security or drawing up a list of all the detainees – and addressing issues relating to prisoner release and exchange.¹⁹³³ The Chamber recalls, furthermore, that it found that this Commission did indeed exist, contrary to what the Pušić Defence submits.¹⁹³⁴ Nevertheless, the Chamber found that it was not aware of any evidence showing that the Commission for HVO Prisons and Detention Centres accomplished the tasks assigned to it.¹⁹³⁵ The Chamber also has *Josip Praljak's* diary according to which this Commission never met on 24 November 1993.¹⁹³⁶

1040. On the other hand, although the Commission for HVO Prisons and Detention Centres did not accomplish the tasks that were assigned to it, the Chamber has several items of evidence showing that Berislav Pušić acted on issues concerning HVO detention centres, which attest to his having and using the powers conferred on him by virtue of his position as the president of this Commission.

1041. Therefore, the Chamber will examine below the evidence about Berislav Pušić's powers regarding (a) the registration and sorting into categories of persons detained by the HVO and (b) their release. The Chamber will then examine Berislav Pušić's powers regarding (c) access to detention centres, (d) the use of detainees for work on the front line and, lastly, (e) the treatment of detainees.

a) Berislav Pušić's Powers Regarding the Registration and Sorting into Categories of Persons Detained by the HVO

1042. The Prosecution contends that Berislav Pušić confirmed the *de jure* authority conferred upon him by the order issued by Bruno Stojić on 6 August 1993 regarding the detainees and the personnel in charge of holding them, by collecting information about the detainees and their classification and that, in this sense, contrary to what the Pušić Defence contends, the creation of the Commission for HVO Prisons and Detention Centres did indeed serve its purpose.¹⁹³⁷ The Prosecution also submits that, with regard to the classification of detainees inside the HVO

¹⁹³³ See "Commission for Prisons and Detention Centres" in the Chamber's findings with regard to the political and administrative structure of the HZ(R) H-B.

¹⁹³⁴ See "Commission for Prisons and Detention Centres" in the Chamber's findings with regard to the political and administrative structure of the HZ(R) H-B.

¹⁹³⁵ See "Commission for Prisons and Detention Centres" in the Chamber's findings with regard to the political and administrative structure of the HZ(R) H-B.

¹⁹³⁶ P 00352, p. 32.

¹⁹³⁷ Prosecution Final Trial Brief, para. 1203; Closing Arguments by the Prosecution, T(F), p. 51925

detention centres, Berislav Pušić's authority extended to civilian detainees because according to his proposal for the Exchange Service, the service would centralise data and deal with the exchange of both military detainees and civilians.¹⁹³⁸

1043. The Pušić Defence disputes the authenticity of the document marked as P 04141 which contains a proposal by Berislav Pušić on 12 August 1993 to organise the work of the Commission for HVO Prisons and Detention Centres because it has no probative value.¹⁹³⁹ It submits that no evidence proves that the proposal was followed up in any way, or that anyone at the HVO took any actions in response to it.¹⁹⁴⁰ The Pušić Defence also submits that with regard to the classification of detainees, *Josip Praljak* confirmed that only the SIS and the Department of Criminal Investigations of the Military Police Administration could distinguish the detainees of war from the civilian detainees.¹⁹⁴¹

1044. With regard to document P 04141, the Chamber notes that this is a decision taken by Berislav Pušić on 12 August 1993 to organise the work of the Commission for HVO Prisons and Detention Centres and not a proposal, as suggested by the Pušić Defence. The Chamber notes that this document was put to Witness *Josip Praljak* who confirmed a portion of the document which the Chamber admitted by way of this witness.¹⁹⁴² The Pušić Defence has until now not raised any objection regarding the authenticity of the document. The format of the document is very similar to other documents produced by the HVO and admitted by the Chamber. Lastly, it was signed by Berislav Pušić. In light of the above, the Chamber deems that document P 04141 ("Decision of 12 August 1993") is authentic.

1045. The Chamber recalls that the Exchange Service, headed by Berislav Pušić, had the task of setting up a database of detainees and other persons and that the Commission for HVO Prisons and Detention Centres, of which Berislav Pušić was the president, had the role of compiling a list of all the HVO detainees and sorting them into categories.¹⁹⁴³ It notes, furthermore, that in the Decision of 12 August 1993, Berislav Pušić stated that by that date, the registration and classification of detainees in Mostar, at Ljubuški Prison and at the Vitina-Otok Camp had been completed and

¹⁹³⁸ Prosecution Final Trial Brief, paras 1216 to 1219.

¹⁹³⁹ Pušić Defence Final Trial Brief, para. 106.

¹⁹⁴⁰ Pušić Defence Final Trial Brief, para. 106; Closing Arguments by the Pušić Defence, T(F), pp. 52766-52767.

¹⁹⁴¹ Pušić Defence Final Trial Brief, para. 372.

¹⁹⁴² "Order to Admit Evidence Regarding Witness Josip Praljak", 3 April 2007.

¹⁹⁴³ P 03191, Article 2; P 03995, p. 2.

requested that the release of detainees from Dretelj and Gabela prisons be suspended until the detainees had been correctly registered and classified.¹⁹⁴⁴

1046. The Chamber notes that, in fact, Berislav Pušić regularly received or compiled lists of Muslims detained at various HVO detention centres between August 1993 and April 1994.¹⁹⁴⁵ The Chamber notes, furthermore, that some of these lists mention categories of detainees, such as "detainees of war", "civilians", "women", and "persons born before 1933".¹⁹⁴⁶ The Chamber finds, therefore, that Berislav Pušić had the power to organise the registration and classification of HVO detainees and that he exercised this power between August 1993 and April 1994.¹⁹⁴⁷

b) Berislav Pušić's Powers to Release Detainees

1047. The Prosecution submits that Berislav Pušić was among the few individuals who had the "key" to the HVO detention centres and prisons, and that he personally authorised numerous releases; that the majority of release orders at the Heliodrom were signed by him or by one of his colleagues, and that he authorised releases in writing without the approval of others.¹⁹⁴⁸

1048. The Pušić Defence, on the other hand, argues that Berislav Pušić merely communicated orders coming from superiors and produced discharge papers or certificates to some of the detainees who were released,¹⁹⁴⁹ and did so after receiving approval from the other HVO law enforcement agencies.¹⁹⁵⁰ The Pušić Defence maintains that Berislav Pušić did not have any authority to issue orders to personnel at HVO detention centres and describes him as a simple messenger.¹⁹⁵¹

1049. The Chamber notes that as of May 1993, Berislav Pušić, at the time a member of the Department of Criminal Investigations of the Military Police Administration, had the power to release detainees.¹⁹⁵² The Chamber notes, furthermore, that, using the powers conferred upon him as the President of the Commission for HVO Prisons and Detention Centres, Berislav Pušić had the role of regulating the release of detainees.¹⁹⁵³ It also notes that in a decision dated 12 August 1993, Berislav Pušić specified the procedure to be followed for the "release" of detainees. Therefore, a

¹⁹⁴⁴ P 04141, points 1 and 2.

¹⁹⁴⁵ P 04500; P 04862; P 05107; P 06977; P 07327; P 08198.

¹⁹⁴⁶ See for example: P 05102; P 02163; P 05107; P 05106.

¹⁹⁴⁷ As the Chamber will subsequently recall in detail, the classification of detainees in the HVO detention centres was not actually carried out and those detainees who were members of an armed force were never actually separated from those who did not belong to any armed force.

¹⁹⁴⁸ Prosecution Final Trial Brief, para. 1210.

¹⁹⁴⁹ Pušić Defence Final Trial Brief, para. 262.

¹⁹⁵⁰ Pušić Defence Final Trial Brief, paras 296-312.

¹⁹⁵¹ Pušić Defence Final Trial Brief, paras 264, 265 and 273.

¹⁹⁵² See for example: P 02399; P 02386; P 03008; P 03133.

¹⁹⁵³ P 03995, p. 2.

request was to be filed by the detainee in question, which then had to be forwarded to the SIS and to the Department of Criminal Investigations of the Military Police Administration. Following approval from the SIS and the Department of Criminal Investigations, the request had to be approved by the head of the Exchange Service, Berislav Pušić himself. The approval was then forwarded to the warden of the detention centre in question.¹⁹⁵⁴ The evidence shows that up until December 1993 Berislav Pušić did approve and organise the release of numerous detainees.¹⁹⁵⁵ In analysing the evidence, the Chamber notes on the one hand that in the majority of cases, he issued these approvals in his capacity as head of the Exchange Service although this service was not, strictly speaking, invested with such powers.¹⁹⁵⁶ The Chamber recalls, on the other hand, that his approval was often accompanied by the approval of other services, such as the SIS and the Department of Criminal Investigations of the Military Police Administration.¹⁹⁵⁷

1050. In light of the evidence, the Chamber acknowledges, like the Pušić Defence, that Berislav Pušić was not the only person with the power to authorise the release of HVO detainees, but it is satisfied that as of May 1993 – regardless of the title of his post – Berislav Pušić had significant power in organising the release of detainees, a power which increased in December 1993.

c) Berislav Pušić's Powers in Respect of Access to Detention Centres

1051. The Prosecution contends that Berislav Pušić had the power to authorise visits to detainees, even dictating how long the visits could last.¹⁹⁵⁸ The Pušić Defence argues that Berislav Pušić did not have power to grant access to any detention centres.¹⁹⁵⁹ Access to the detention centres was granted to representatives of international organisations by the warden of each detention centre.¹⁹⁶⁰

¹⁹⁵⁴ P 04141, pp. 2 and 3.

¹⁹⁵⁵ P 05949; P 07097; P 02163; P 05044; P 07142; P 07164; P 07181; P 07374.

¹⁹⁵⁶ See P 03191, pp. 3-5.

¹⁹⁵⁷ See "Departure of Detainees from the Heliodrom to Croatia Between About 17 July 1993 and November 1993" in the Chamber's factual findings with regard to the Heliodrom; "Authorities Responsible for Managing the Departures of Detainees" in the Chamber's factual findings with regard to Gabela Prison.

¹⁹⁵⁸ Prosecution Final Trial Brief, paras 1204 and 1205.

¹⁹⁵⁹ Pušić Defence Final Trial Brief, paras 388-394.

¹⁹⁶⁰ Pušić Defence Final Trial Brief, paras 388 to 398.

1052. The Chamber recalls that the Exchange Service, headed by Berislav Pušić, had the task of cooperating with international organisations on all matters regarding the exchange of detainees.¹⁹⁶¹ The Chamber notes, furthermore, that, using the powers conferred upon him as the President of the Commission for HVO Prisons and Detention Centres, Berislav Pušić took part in the functioning and security of the detention centres and prisons.¹⁹⁶² The Chamber notes that as of May 1993, Berislav Pušić had the power to authorise or prevent visits to the detention centres.¹⁹⁶³ The Chamber notes that he authorised numerous visits to detainees in the Heliodrom – both for family members of the detainees and for members of international organisations – until February 1994.¹⁹⁶⁴ The Chamber deems that in his capacity as head of the Exchange Service and President of the Commission for HVO Prisons and Detention Centres, Berislav Pušić had control over access to the HVO detention centres. It finds, furthermore, that between May 1993 and January 1994, he used his power to authorise or prevent visits to these centres.

d) Berislav Pušić's Powers in Respect of Using Detainees to Perform Labour

1053. The Prosecution submits that Berislav Pušić had the power to authorise the use of detainees for forced labour.¹⁹⁶⁵ The Pušić Defence points out that, by the virtue of his functions, Berislav Pušić did not have *de jure* power to order forced labour.¹⁹⁶⁶

1054. The Chamber recalls that, using the powers conferred upon him as the President of the Commission for HVO Prisons and Detention Centres, Berislav Pušić took part in the functioning and security of the detention centres and prisons.¹⁹⁶⁷ The Chamber established, furthermore, that between June and December 1993, Berislav Pušić was among those who had the power to authorise the sending of Heliodrom detainees to perform labour.¹⁹⁶⁸ The Chamber deems that by virtue of this, he had the power to use detainees to perform labour.

¹⁹⁶¹ P 03191.

¹⁹⁶² P 03995, p. 2.

¹⁹⁶³ P 02164, pp. 2-3; P 04292, p. 3.

¹⁹⁶⁴ See "Access to the Heliodrom for Representatives of International Organisations and Journalists" in the Chamber's factual findings with regard to the Heliodrom. See also P 02778; P 02895; P 06552; P 07466; P07478.

¹⁹⁶⁵ Prosecution Final Trial Brief, paras 1223 to 1229.

¹⁹⁶⁶ Pušić Defence Final Trial Brief, para. 401.

¹⁹⁶⁷ P 03191, Article 2; P 03995, p. 2.

¹⁹⁶⁸ See "Authorities Authorising Use of Heliodrom Detainees for Forced Labour" in the Chamber's factual findings with regard to the Heliodrom.

e) Berislav Pušić's Powers Regarding the Treatment of Detainees – Conditions of Confinement and Mistreatment

1055. The Prosecution submits in its Final Trial Brief that the substantial powers of Berislav Pušić involved responsibility over detainees and knowledge of the mistreatment they endured.¹⁹⁶⁹ The Prosecution also submits that Berislav Pušić had the power to transfer or put detainees out of harm's way, and that his position of authority enabled him to intervene to release detainees, punish those responsible for the mistreatment or attempt to improve the conditions of confinement for the detainees.¹⁹⁷⁰ The Pušić Defence submits that Berislav Pušić had no power whatsoever over the detainees held in any HVO detention centres.¹⁹⁷¹

1056. The Chamber established that Berislav Pušić had the power to transfer detainees, as shown, among others, by the order of 13 December 1993 issued by Berislav Pušić calling for the transfer of 17 detainees from Gabela Prison to Ljubuški Prison with a view to their departure to a third country,¹⁹⁷² and the memo dated 6 January 1994 signed by Berislav Pušić proposing that detainees be transferred from the Heliodrom to Gabela Prison due to overcrowding at the Heliodrom.¹⁹⁷³ The Chamber also just established that as the head of the Exchange Service and President of the Commission for HVO Prisons and Detention Centres, Berislav Pušić had the power to send detainees to work and to release them.¹⁹⁷⁴ The Chamber is mindful of the fact that he was not the only person to have such powers. It deems, however, that Berislav Pušić had a role and significant powers in the detention centres, notably the power to transfer detainees from one detention centre to another to resolve problems related to conditions of confinement and mistreatment of the detainees.

2. Berislav Pušić's Powers Regarding the Exchange of Persons

a) Berislav Pušić's Powers Regarding Detainee Exchange

1057. In its Final Trial Brief, the Prosecution submits that as of 22 April 1993, Berislav Pušić exercised primary responsibility for the exchange of HVO detainees,¹⁹⁷⁵ and that he had the power

¹⁹⁶⁹ Prosecution Final Trial Brief, para. 1193.

¹⁹⁷⁰ Prosecution Final Trial Brief, para. 1222.

¹⁹⁷¹ Pušić Defence Final Trial Brief, para. 350.

¹⁹⁷² See "Authorities Responsible for Managing Departures of Detainees" in the Chamber's factual findings with regard to Gabela Prison.

¹⁹⁷³ See "Responsibility of the Military Police in Matters of Prisoner Transfer" in the Chamber's findings with regard to the military structure of the HZ(R) H-B and "The Officials Overseeing the Departures of Detainees" in the Chamber's factual findings regarding Gabela Prison.

¹⁹⁷⁴ See "Berislav Pušić's Powers to Release Detainees" and "Berislav Pušić's Powers in Respect of Using Detainees to Perform Labour" in the Chamber's findings regarding Berislav Pušić's responsibility under the JCE.

¹⁹⁷⁵ Prosecution Final Trial Brief, para. 1196.

to approve exchanges.¹⁹⁷⁶ The Prosecution also contends that he was the contact person within the HVO for questions concerning the exchange of HVO detainees and relies on the testimony of *Philip Watkins* to support its claims.¹⁹⁷⁷

1058. The Pušić Defence argues that *Philip Watkins* was mistaken about the functions of Berislav Pušić; that he modified his testimony during cross-examination and that the Prosecution produced no evidence to corroborate his statements that Berislav Pušić had authority in this area.¹⁹⁷⁸ The Pušić Defence claims, furthermore, that the Exchange Service was a civilian body and did not fall under the military administration, and that its remit was limited to the provision of administrative support to other HVO organs in charge of prisoner exchange.¹⁹⁷⁹

1059. The Chamber notes that documents from the Exchange Service themselves attest to Berislav Pušić's role in the exchanges. Consequently, it does not deem it necessary to rely on the testimony of *Philip Watkins* as the Prosecution and the Pušić Defence have done. It will subsequently analyse the testimony of *Philip Watkins* and that of the other members of international organisations about their interactions with Berislav Pušić.¹⁹⁸⁰

1060. The Chamber established that Berislav Pušić took part in organising several exchanges before the Exchange Service was created on 5 July 1993, and did so as of October 1992.¹⁹⁸¹

1061. The Chamber recalls having found, furthermore, that the tasks of the Exchange Service were as follows: creating a database of detainees and other persons relating to detainee exchanges; establishing relationships with "other parties" on the topic of exchange of detainees; preparing methods for exchange and cooperation with international organisations and the other authorities of HZ H-B whose responsibilities involved the exchange of detainees.¹⁹⁸²

1062. The evidence shows that Berislav Pušić was very active in the exchange of detainees. He took part in negotiations with the ABiH and, under the auspices of the UNPROFOR, in the exchange of detainees and bodies on 20 August 1993 in Jablanica.¹⁹⁸³ The Chamber recalls that according to a report from Radoslav Lavrić, the chief of the Military Police Administration, dated

¹⁹⁷⁶ Prosecution Final Trial Brief, para. 1199.

¹⁹⁷⁷ Prosecution Final Trial Brief, para. 1207.

¹⁹⁷⁸ Pušić Defence Final Trial Brief, paras 149-152.

¹⁹⁷⁹ Pušić Defence Final Trial Brief, paras 11, 12, 87 and 88.

¹⁹⁸⁰ See "Berislav Pušić's Powers to Represent the HVO before the International Community" in the Chamber's findings with regard to Berislav Pušić's responsibility under the JCE.

¹⁹⁸¹ See "Responsibility of the Military Police with Respect to "Prisoner of War" Exchanges" in the Chamber's findings on the military structure of the HZ(R) H-B.

¹⁹⁸² See "Powers of the Exchange Service and Commission" in the Chamber's findings with regard to the political and administrative structure of the HZ(R) H-B.

22 November 1993, Berislav Pušić was responsible for carrying out detainee exchanges, and, in consultation with the Department of Defence, for selecting the detainees to be exchanged.¹⁹⁸⁴ Moreover, on 10 December 1993, Berislav Pušić personally sent a series of proposals to Jadranko Prlić for the organisation and work of the Exchange Service aimed at achieving the objectives of the Exchange Commission and Service, namely releasing "captured, wounded, dead and missing members of the HVO and [Croatian] civilians"; keeping records on "persons [sought] in municipalities" and HVO units and persons who were or might be exchanged; drawing up a list of persons who "voluntarily want to leave the HR H-B with the aim of reuniting with [their] families"; and cooperation with HVO organs and international organisations in order to facilitate these exchanges.¹⁹⁸⁵ Likewise, a report on the activities of this service, drafted by Berislav Pušić on 31 March 1994, shows that the Exchange Service and Berislav Pušić played a very important role in the exchange of detainees between the HVO and the ABiH, taking part in negotiations, and ensuring the cooperation not only of the ICRC and UNPROFOR but also of other HVO services such as the SIS and the Military Police Administration in the matter.¹⁹⁸⁶ Lastly, according to *Amor Mašović*, member, Vice-President and subsequently President of the RBiH State Commission responsible for the exchange of detainees of war and persons deprived of their freedom, Berislav Pušić was directly responsible for the exchange of detainees together with his counterpart from the RBiH.¹⁹⁸⁷

1063. In light of all the evidence, the Chamber is satisfied that the role of the Exchange Service was not limited to that of an administrative organ offering support, but that the service and its head, Berislav Pušić, had the power to choose which detainees would be exchanged, to designate them and to propose, negotiate and organise exchanges from October 1992 to April 1994, the date of the last prisoner exchange.

b) Berislav Pušić's Powers Regarding the Exchange of Persons not being Detained

1064. In its Final Trial Brief, the Prosecution submits that Berislav Pušić's Muslim counterparts and HVO leaders considered him as the person who could facilitate departures from BiH through HVO-held territory.¹⁹⁸⁸ It submits, furthermore, that Berislav Pušić extended his one-for-one

¹⁹⁸³ P 04380.

¹⁹⁸⁴ See "Powers of the Exchange Service and Commission" in the Chamber's findings with regard to the political and administrative structure of the HZ(R) H-B.

¹⁹⁸⁵ P 07102; P 03052.

¹⁹⁸⁶ P 08136.

¹⁹⁸⁷ Amor Mašović, T(F), pp. 25021-25029.

¹⁹⁸⁸ Prosecution Final Trial Brief, para. 1207.

prisoner exchange policy to humanitarian aid and medical evacuations.¹⁹⁸⁹ The Pušić Defence submits that Berislav Pušić was not one of the figures responsible for medical evacuations or the free passage of humanitarian aid.¹⁹⁹⁰

1065. The Chamber recalls that, even if he was not the only person with this power, Berislav Pušić was authorised to issue permits for the humanitarian evacuation of people from East Mostar, in accordance with the HVO exchange policy that one Muslim would be exchanged for one Croat.¹⁹⁹¹

1066. In particular, the Chamber heard several witnesses, representatives of the international community, confirm that Berislav Pušić played an important role in humanitarian evacuations and more generally in the removal of persons.¹⁹⁹² According to *Witness DZ*, Berislav Pušić was thus in charge of checking the lists of persons to be evacuated.¹⁹⁹³ *Philip Watkins*¹⁹⁹⁴ also had meetings with Berislav Pušić on the removal of Bosnian Croats from Central Bosnia to Herceg-Bosna via Serbian territories.¹⁹⁹⁵

1067. The Chamber is aware that the witnesses, representatives of the international community such as *Philip Watkins*, may at times have been mistaken about the exact title or functions of Berislav Pušić.¹⁹⁹⁶ Nevertheless, it is satisfied in light of all their testimony that Berislav Pušić was one of the people they had dealings with on the issue of humanitarian evacuation and movement of the population and that, therefore, he had certain powers in this field, thereby rejecting the argument of the Pušić Defence about the credibility of *Philip Watkins* concerning Berislav Pušić's functions.

3. Berislav Pušić's Powers to Represent the HVO before the International Community

1068. In its Final Trial Brief, the Prosecution submits that Berislav Pušić served as a liaison between the HVO and international organisations and the press.¹⁹⁹⁷ The Prosecution argues that this gave him extensive authority to engage in multi-party negotiations on behalf of the HVO regarding

¹⁹⁸⁹ Prosecution Final Trial Brief, paras 1252-1255.

¹⁹⁹⁰ Pušić Defence Final Trial Brief, paras 505 and 510.

¹⁹⁹¹ See "Powers of the Exchange Service and Commission" in the Chamber's findings with regard to the political and administrative structure of the HZ(R) H-B and "Blocking of International Organisations and Humanitarian Aid" in the Chamber's factual findings with regard to the Municipality of Mostar. See also *Witness BC*, T(F), pp. 18325 and 18326, closed session.

¹⁹⁹² *Witness BD*, T(F), p. 20801, closed session; *Grant Finlayson*, T(F), pp. 18057 and 18058, 18278 and 18279, private session; P 09848 under seal; *Witness BC*, T(F), pp. 25205, 25213-25215, closed session.

¹⁹⁹³ *Witness DZ*, T(F), p. 26511, closed session; P 10367 under seal, para. 41. *Witness DZ*, closed session, T(F), p. 26469.

¹⁹⁹⁴ ECMM observer between 1993 and 1995; *Philip Watkins*, T(F), p. 18749.

¹⁹⁹⁵ *Philip Watkins*, T(F), p. 18819.

¹⁹⁹⁶ For example, *Philip Watkins* stated that in late 1993, Berislav Pušić was the head of the office for refugees and displaced persons; *Philip Watkins*, T(F), p. 18790.

¹⁹⁹⁷ Prosecution Final Trial Brief, para. 1204. See also Prosecution Final Trial Brief, paras 1192, 1197, 1207 and 1261.

detainees.¹⁹⁹⁸ The Prosecution argues, furthermore, that Berislav Pušić had the power to authorise representatives of international organisations to have access to detainees in detention centres, including the Heliodrom,¹⁹⁹⁹ as well as to checkpoints, in particular to enter West Mostar and leave besieged East Mostar.²⁰⁰⁰ It mentions, furthermore, that Berislav Pušić also signed a cease-fire agreement on behalf of the HVO, promising to protect civilian populations during the conflict.²⁰⁰¹

1069. In its Final Trial Brief, the Pušić Defence submits, with regard to the exchanges and release of detainees, that Berislav Pušić was not significantly involved in high-level negotiations between senior representatives of the HVO, the ABiH and the international community,²⁰⁰² and he was not the sole HVO representative during the negotiations on prisoner exchange that he attended.²⁰⁰³ It submits moreover that Berislav Pušić co-operated fully with the international community to release/exchange all Bosnian Muslim civilians still in detention.²⁰⁰⁴ Lastly, with regard to humanitarian aid, the Pušić Defence argues that Berislav Pušić did not have the power to guarantee the free passage of humanitarian convoys or to order the unhindered movement of international community representatives.²⁰⁰⁵

1070. The evidence shows that from May 1993 to April 1994, Berislav Pušić actively participated as a representative of the HVO, and under the auspices of international community representatives, in numerous meetings and negotiations with the ABiH, in particular on the issue of the exchange and release of detainees in HVO prisons, but also on other subjects.

1071. The Chamber wishes to stress that even before being appointed the head of the Exchange Service, Berislav Pušić took part in meetings dealing with issues of prisoner exchange, thus exercising *de facto* authority.²⁰⁰⁶

1072. The majority of the meetings attended by Berislav Pušić and representatives of the international community – either Spabat, UNPROFOR, the ECMM, the ICRC or other institutions – were aimed at directly negotiating with representatives of the ABiH in order to reach agreements on

¹⁹⁹⁸ Prosecution Final Trial Brief, para. 1204. *See also* Prosecution Final Trial Brief, para. 1197; Closing Arguments by the Prosecution, T(F), pp 52150-52151.

¹⁹⁹⁹ Prosecution Final Trial Brief, para. 1205. *See also* Prosecution Final Trial Brief, paras 1261 and 1262.

²⁰⁰⁰ Prosecution Final Trial Brief, para. 1205.

²⁰⁰¹ Prosecution Final Trial Brief, para. 1205.

²⁰⁰² Pušić Defence Final Trial Brief, paras 174-176, 185, 233-239, 241-246, 251 and 294.

²⁰⁰³ Pušić Defence Final Trial Brief, paras 179, 180 and 230.

²⁰⁰⁴ Pušić Defence Final Trial Brief, para. 467.

²⁰⁰⁵ Pušić Defence Final Trial Brief, paras 510 to 512 and 516.

²⁰⁰⁶ Antoon van der Grinten, T(F), pp. 21028, 21046, 21048 and 21127; P 02806 under seal, pp. 1 and 2; P 02721 under seal; Witness BB, T(F), pp. 25267-25269 and 25272, closed session. *Witness BB* stated furthermore that he may have been involved in the Joint Commission set up to implement a cease-fire.

exchanges and releases of detainees and "civilians".²⁰⁰⁷ During these negotiations, Berislav Pušić was usually part of a delegation comprising several HVO members.

1073. Berislav Pušić also participated, as an HVO representative and as part of a delegation of several HVO members, in high-level international meetings notably between August and November 1993, which took place in the presence of HVO leaders, in particular, Jadranko Prlić, representatives of the international community and representatives of the Croatian government, notably the Minister of Foreign Affairs, Mate Granić.²⁰⁰⁸ The Chamber has little information about the nature of Berislav Pušić's involvement and his degree of contribution during these meetings. It notes, however, that during a meeting on 20 September 1993,²⁰⁰⁹ Berislav Pušić expressed his disagreement with any unilateral action by the HVO regarding the release of detainees, stipulating that the closing of Dretelj Prison should be followed by the release of Croatian detainees, notably in Konjic and Zenica, and also, proposing that the ECMM cooperate in the release of the detainees.²⁰¹⁰ In any case, the Chamber notes that during these meetings Berislav Pušić was the HVO representative in charge of raising the matter of prisoner exchanges and releases.²⁰¹¹ It deems, consequently, that his presence and statements at these meetings show his position as a representative of the HVO in matters of prisoner exchange.

1074. Furthermore, the Chamber notes that Berislav Pušić and the representatives of international organisations present at the scene engaged in direct communication and cooperation as of 9 May 1993,²⁰¹² particularly during the second half of 1993. They met on many occasions and/or were in regular contact to discuss and deal specifically with the issue of prisoner exchanges and releases.²⁰¹³ Berislav Pušić attempted to secure their support on this issue as of December 1993.²⁰¹⁴

²⁰⁰⁷ Witness DZ, T(F), p. 26632, closed session; P 10367, under seal, paras 86-89, 94, 95, 99; P 05945, pp. 4 and 5; P 06373, p. 1; Philip Watkins, T(F), pp. 18823-18824; P 07012 under seal, p. 1; P 06589, p. 4; P 06894; P 02561, p. 10; P 04870, p. 8; P 06285, p. 6; P 07769, p. 5; P 08625, p. 7; P 08084; 1D 02170; P 04380; P 07417; P 08242; P 08075; P 07951.

²⁰⁰⁸ Witness DZ, T(F), pp. 26589, 26623, 26638 and 26677, closed session; P 10367, under seal, paras 82, 83, 91, 92 and 98; Witness DZ, closed session, T(F), p. 26469; P 04027 under seal, p. 1; Witness DZ, closed session, T(F), p. 26589; P 10217, under seal, para. 90; P 05219 under seal, pp. 1 and 2; P 5919; P 06965, p. 3; Witness DZ, closed session, T(F), p. 26637. *See* "Departure of Detainees from Dretelj Prison to the Croatian Islands" in the Chamber's factual findings with regard to Dretelj Prison.

²⁰⁰⁹ Meeting between Mate Granić and seven representatives of the HVO, including Jadranko Prlić, Bruno Stojić and Berislav Pušić, and representatives of the ICRC, HCR and UNPROFOR regarding the implementation of the agreement reached on 14 September 1993 between Alija Izetbegović and Franjo Tuđman on human rights and humanitarian affairs – and in particular on the question of the release of detainees.

²⁰¹⁰ P 05219, under seal, pp. 1 and 2. *See* also "Departure of Detainees from Dretelj Prison to the Croatian Islands" in the Chamber's factual findings with regard to Dretelj Prison.

²⁰¹¹ P 10367, para. 83; P 05219 under seal, p. 2.

²⁰¹² Witness BB, T(F), pp. 17178 and 17180, closed session.

²⁰¹³ Antoon van der Grinten, T(F), p. 21028; Philip Watkins, T(F), pp. 18819, 18821, 18822 and 18826; Witness BC, T(F), pp. 18325 and 18326, closed session; Witness DZ, T(F), pp. 26494-26495, closed session; P 10367 under seal,

1075. According to the representatives of international organisations who testified before the Chamber, Berislav Pušić was therefore considered the contact point in the HVO for all questions regarding prisoner exchange.²⁰¹⁵ Berislav Pušić also held a press conference on 10 September 1993 in the presence of two other HVO representatives, notably in order to present information that several thousand Croats were being held in ABiH prisons.²⁰¹⁶

1076. Aside from questions regarding the exchange and release of detainees, Berislav Pušić also took part in negotiations and was consulted by representatives of international organisations on a number of other matters. He thus took part in negotiations regarding humanitarian evacuation in the presence of representatives of the international community, notably between September and November 1993.²⁰¹⁷ *Witness DZ* – who was in contact with him during these negotiations – stated that in September 1993, Berislav Pušić represented the HVO and was the head of a delegation during a series of negotiations regarding the implementation of the agreement on the evacuation of wounded persons from Nova Bila and Mostar reached between Milivoj Petković and General Delić on 31 August 1993 at Sarajevo airport.²⁰¹⁸ Berislav Pušić was also appointed to sign, as a representative of the HVO and under the auspices of the international community, the agreement with the ABiH on the protection of the civilian population in Mostar and in other zones, dated 2 October 1993, which provided for the cessation of indiscriminate shelling not justified by military necessity and a stop to sniping activity.²⁰¹⁹ The Chamber also notes the testimony of *Philip Watkins* according to whom he attended several meetings with Berislav Pušić on the topic of population movement, notably the removal of the Croatian population from Central Bosnia to Herceg-Bosna through Serbian territories.²⁰²⁰

1077. The Chamber established, furthermore, that Berislav Pušić was authorised to issue permits for humanitarian evacuations out of East Mostar, but was not the only person so authorised.²⁰²¹ For this purpose, Berislav Pušić had a great many contacts, particularly during 1993, with members of

para. 41; P 09848; P 05976 under seal, p. 2; P 07411; P 08136, p. 4; P 07226 under seal, p. 2; P 07181; P 07185; P 07178/P 07187; P 07238; P 08070; P 07546, pp. 5 and 6; P 06557.

²⁰¹⁴ Philip Watkins, T(F), pp. 18824-18825; P 07213 under seal, p. 2; P 07226, under seal, p. 2.

²⁰¹⁵ P 10367 under seal, para. 41; *Witness DZ*, T(F), p. 26511; P 04905; Philip Watkins, T(F), pp. 18819, 19035-36; P 07226 under seal, p. 2; Grant Finlayson, T(F), pp. 18057 and 18058, 18278 and 18279, private session; *Witness DV*, T(F), pp. 22912, 22913; P 10217, under seal, para. 88; *Witness BB*, T(F), p. 25268, closed session.

²⁰¹⁶ P 04916; *see also* P 00999, p. 3.

²⁰¹⁷ P 10367 under seal, paras 89 and 99; *Witness DZ*, T(F), p. 26469, closed session; P 04857, pp. 1 to 6; P 02108 under seal, p. 42. *See also* *Witness DZ*, T(F), p. 26632, closed session.

²⁰¹⁸ P 10367 under seal, para. 89; *Witness DZ*, T(F), p. 26469, closed session; P 04857, pp. 1-6.

²⁰¹⁹ *Witness DZ*, T(F), p. 26630; closed session, P 10367 under seal, para. 43; P 05571; Grant Finlayson, T(F), p. 18059.

²⁰²⁰ Philip Watkins, T(F), p. 18819.

²⁰²¹ *See* "Powers of the Exchange Service and Commission" in the Chamber's findings with regard to the political and administrative structure of the HZ(R) H-B.

international organisations, including *Witnesses BB*²⁰²² and *BC*.²⁰²³ Likewise, a report signed by Berislav Pušić himself, dated 24 February 1994 and addressed to the highest-ranking HVO authorities, including the office of the President of the HR H-B, the office of the HR H-B government, the Minister of Defence and the HVO Main Staff, describes the meeting that same day between Berislav Pušić and Jerry Hulme, a member of the HCR who requested from Berislav Pušić approval to evacuate 51 sick Muslims from East Mostar. The report indicates that Berislav Pušić made his authorisation contingent on the evacuation of sick persons of Croatian and other nationalities.²⁰²⁴

1078. Several items of evidence also indicate that representatives of the international community addressed Berislav Pušić on matters regarding access to detention centres,²⁰²⁵ to protest against crimes committed by HVO members²⁰²⁶ and to obtain information about the fate of disappeared persons.²⁰²⁷

1079. Lastly, with regard to the question of whether and to which degree Berislav Pušić had the authority to act directly on behalf of the HVO, before and after 5 July 1993, the evidence indicates that Berislav Pušić was not an "official" *per se* but rather depended on his superiors, whom he consulted and reported to when making a decision.²⁰²⁸

1080. However, the Chamber notes several items of evidence that indicate that Berislav Pušić had significant – even decision-making – power of representation within the HVO in contacts with the international community. For instance, a Spabat report dated 11 September 1993 indicates that following negotiations on prisoner exchanges between representatives of the ABiH and the HVO in the presence of the ICRC, an agreement was finally approved by Berislav Pušić.²⁰²⁹ The Chamber notes, moreover, that on 14 October 1993, Berislav Pušić sent a letter to Mate Granić, Croatia's Minister of Foreign Affairs, directly informing him about the HVO's refusal to grant the ICRC

²⁰²² Witness BB, T(F), pp. 17238 and 17239, 17242 and 25271- 25277, closed session. *See also* P 06909.

²⁰²³ Witness BC, T(F), pp. 18325, 18326 and 18404, closed session. *Witness BC* stated that he encountered difficulties at checkpoints – in particular at Buna – on several occasions, despite the fact that they had procured the necessary transit documents issued by Berislav Pušić's office. *See* Witness BC, T(F), p.18537-18540, closed session.

²⁰²⁴ P 07942/P 07946; P 08017.

²⁰²⁵ P 02601.

²⁰²⁶ Antoon van der Grinten, T(F), pp. 21046 and 21048; P 02806 under seal, p. 2. *See "Crimes Allegedly Committed in June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.*

²⁰²⁷ P 08026, p. 6; P 08031 under seal, p. 1; P 08034 under seal, p. 2; P 08036 under seal; P 08039; P 08049, p. 1; P 08050 under seal; P 08075, pp. 2 and 3.

²⁰²⁸ Witness DZ, closed session, T(F), pp. 26511, 26512, 26515, 26516 and 26636; P 10367 under seal, paras 42, 45, Witness DZ, closed session, T(F), p. 26469; Witness DV, T(F), P. 22940; P 10217 under seal, para. 89; P 04623, pp. 5 and 6. *See also* P 06929 under seal; Witness BC, T(F), p. 18545; 1D 00527, para. 21.

²⁰²⁹ P 06589 pp. 3 and 4.

request to release 750 detainees from Gabela Prison in exchange for 350 Croats from Konjic.²⁰³⁰ Moreover, Berislav Pušić himself stated during a meeting on 19 October 1993 that, during negotiations with the opposite side on prisoner exchanges and releases, the Exchange Service had "all the powers to make decisions", whereas the ABiH had certain people for negotiations and others for decision-making.²⁰³¹ Lastly, Berislav Pušić also signed an agreement on behalf of the HVO on the release of detainees from the Heliodrom on 17 March 1994, following negotiations held under the auspices of the ECMM, UNPROFOR and the ICRC.²⁰³²

1081. The Chamber finds, therefore, that within the HVO Berislav Pušić had *de facto* authority before 5 July 1993, and *de jure* authority following his appointment to the post of head of the Exchange Service, to represent the HVO before the international community on matters related to the exchange and release of Muslim detainees held in HVO prisons. It finds, furthermore, that Berislav Pušić was now and then given responsibility for dealing with issues other than the exchange and release of detainees, such as humanitarian evacuations, and did so in the presence of the international community, and therefore had broad authority as an HVO representative before the international community. It deems, however, that in such cases he did not have autonomous decision-making powers.

4. Berislav Pušić's Interactions with the HVO Leadership

1082. In its Final Trial Brief, the Prosecution submits that Berislav Pušić was a trusted man with direct ties to Valentin Ćorić Milivoj Petković, Bruno Stojić and Jadranko Prlić.²⁰³³ It argues that Berislav Pušić was considered Valentin Ćorić's right-hand man,²⁰³⁴ and that he had a direct link to Jadranko Prlić and Mate Boban.²⁰³⁵ The Prosecution argues that his *de facto* powers emanated from the HZ H-B and the Croatian leadership.²⁰³⁶

1083. In its Final Trial Brief, the Pušić Defence submits that Berislav Pušić did not feature in the "cabinet" of the HVO of the HZ H-B, nor did he at any point come under its authority.²⁰³⁷ It argues that Slobodan Praljak acknowledged that he had few contacts with Berislav Pušić during the period of the conflict.²⁰³⁸ It also submits that *Milivoj Petković* stated that he did not recognise Berislav

²⁰³⁰ P 05884; P 05870; P 05877.

²⁰³¹ P 05945, p. 5.

²⁰³² P 08084.

²⁰³³ Prosecution Final Trial Brief, paras 1192 and 1206.

²⁰³⁴ Prosecution Final Trial Brief, para. 1198.

²⁰³⁵ Prosecution Final Trial Brief, paras 1198 and 1208.

²⁰³⁶ Prosecution Final Trial Brief, paras 1198 and 1208.

²⁰³⁷ Defence Final Trial Brief, para. 9.

²⁰³⁸ Defence Final Trial Brief, para. 14.

Pušić the first time he saw him in the United Nations Detention Unit²⁰³⁹ and that, furthermore, he testified that he rarely had contact with Berislav Pušić during the period relevant to the Indictment.²⁰⁴⁰ Lastly, the Pušić Defence submits that the Prosecution failed to show that Berislav Pušić had any contact with many of the key "leaders" of the JCE, including Franjo Tuđman, Gojko Šušak, Janko Bobetko, Mate Boban, Dario Kordić, Tihomir Blaškić and Mladen Naletilić.²⁰⁴¹

1084. The Chamber recalls first that Berislav Pušić was appointed to various functions by the HVO leadership in July and August 1993. Jadranko Prlić, as the President of the HVO of the HZ-HB, appointed him to the post of head of the Exchange Service on 5 July 1993; Bruno Stojić appointed him as the head of the Commission for HVO Prisons and Detention Centres created on 6 August 1993.²⁰⁴²

1085. The Chamber recalls that the HVO leadership, including Jadranko Prlić and Valentin Ćorić, also entrusted Berislav Pušić with a number of tasks prior to and following his appointment to the posts of head of the Exchange Service and president of the Commission for HVO Prisons and Detention Centres regarding issues similar to those that would subsequently come under the said Service and Commission.²⁰⁴³

1086. The evidence also shows that Berislav Pušić was occasionally in direct contact with the HVO leadership, notably within the organs of the HZ(R) H-B and during specific missions. Consequently, he was appointed as one of the eight members of the Exchange Commission – created on 25 May 1993 and ratified on 5 July 1993 – in the same way as Valentin Ćorić, both as representatives of the Military Police.²⁰⁴⁴ The Chamber, however, does not know the frequency of contacts between Berislav Pušić and Valentin Ćorić in this Commission. Together with Milivoj Petković, then chief of the HVO Main Staff, Berislav Pušić was also a member of the Croatian-Muslim Commission of Inquiry, created on 4 May 1993 following a meeting between representatives of the HVO and the ABiH and tasked with going to Doljani and Sovići²⁰⁴⁵ to inquire

²⁰³⁹ Defence Final Trial Brief, para. 14.

²⁰⁴⁰ Defence Final Trial Brief, para. 107.

²⁰⁴¹ Defence Final Trial Brief, para. 70.

²⁰⁴² See "Functions of Berislav Pušić" in the Chamber's factual findings with regard to Berislav Pušić's responsibility under the JCE.

²⁰⁴³ P 02020, p. 2; P 02291; Witness BJ, T(F), pp. 5671 and 5672; P 03565; P 03560; P 03573.

²⁰⁴⁴ See "Functions of Berislav Pušić" in the Chamber's factual findings with regard to Berislav Pušić's responsibility under the JCE.

²⁰⁴⁵ The delegation was composed as follows: Hasan Rizvić, Sefer Halilović, Commander-in-Chief of the ABiH Main Staff, Arif Pašalić, Commander of the Mostar Battalion of the ABiH, 41st Brigade, Midhat Hujdur, Deputy Commander of the Mostar Battalion of the ABiH, Enes Kovačević, Commander of the Jablanica TO Staff, Milivoj Petković, Chief of the HVO Main Staff for Herceg-Bosna, and Berislav Pušić, HVO representative and President of the Exchange Commission.

about the people who remained in the valley, and about the conditions of confinement of the detainees in Doljani and Sovići.²⁰⁴⁶

1087. Berislav Pušić also attended several meetings between June and November 1993 with Jadranko Prlić and Valentin Ćorić. The Chamber recalls that in June 1993, *Antoon van der Grinten*²⁰⁴⁷ met with Valentin Ćorić and Berislav Pušić at the same time to discuss with them the conditions of confinement at the Heliodrom.²⁰⁴⁸ It also recalls that between August and November 1993, Berislav Pušić represented the HVO alongside Jadranko Prlić at four international meetings that each comprised a section dealing with the issue of exchanging detainees of war.²⁰⁴⁹ Moreover, on 28 April 1994, Berislav Pušić attended the 22nd session of the HR H-B government presided over by Jadranko Prlić, which was also attended by the HVO leadership.²⁰⁵⁰ The Chamber, however, does not know the extent of Berislav Pušić's participation and interaction with the HVO leadership during this meeting.

1088. The Chamber notes, moreover, that Berislav Pušić and Valentin Ćorić intervened jointly on 11 May 1993 to release a detainee at the Heliodrom; and that on 27 May 1993, they co-signed an order regarding the transfer of detainees from Ljubuški Prison to the Heliodrom.²⁰⁵¹

1089. The Chamber notes, however, that the majority of contacts between Berislav Pušić and the HVO leadership were conducted in writing as part of Berislav Pušić's activities as the head of the Exchange Service. For instance, between December 1993 and April 1994, Berislav Pušić sent a number of reports regarding the activities of this service, suggesting that reforms be carried out, to either Jadranko Prlić directly – on one occasion, 10 December 1993 – or to the attention of the entire HVO leadership – in particular and more generally to the office of the President of the HR H-B, to the office of the government of the HR H-B, to the Minister of Defence, and to the HVO Main

²⁰⁴⁶ P 10358, paras 35 and 37; Milivoj Petković, T(F), pp. 49485, 49486, 49500, 49902 and 49909; 4D 00447; Milivoj Petković, T(F), p. 49485; P 02187; P 04238, minutes 45 and 46; 4D 01079; Decision of 7 September 2006, Adjudicated Fact no. 57 (*Naletilić and Martinović* Case, para. 35). In this respect, the Chamber notes the testimony of Milivoj Petković according to which this was probably his only encounter with Berislav Pušić, *see* Milivoj Petković, T(F), p. 49799.

²⁰⁴⁷ ECMM observer from 23 May 1993 to the end of August 1993, Antoon van der Grinten, T(F), pp. 20999 and 21001.

²⁰⁴⁸ Antoon van der Grinten, T(F), pp. 21046-21049; P 02806 under seal, p. 2.

²⁰⁴⁹ *See* "Berislav Pušić's Powers to Represent the HVO before the International Community" in the Chamber's findings with regard to Berislav Pušić's responsibility under the JCE.

²⁰⁵⁰ P 08239, p. 3.

²⁰⁵¹ P 02535; P 02541.

Staff.²⁰⁵² Berislav Pušić also sent a letter directly to Mate Granić, Croatia's Minister of Foreign Affairs.²⁰⁵³

1090. Furthermore, the Chamber recalls that between June 1993 and March 1994, Berislav Pušić was approached – in the same way as high-ranking HVO officials – by members of the HVO and representatives of international organisations on site not only about the exchange and release of Muslims held by the HVO, but also about other subjects such as detention conditions and authorisations to visit detention centres granted to international organisations.²⁰⁵⁴

1091. The Chamber also recalls in this respect that on 16 June 1993, representatives of international organisations questioned Berislav Pušić, as they did Valentin Ćorić, Bruno Stojić and Jadranko Prlić, regarding access to the Heliodrom and the expulsion of Muslims from Mostar.²⁰⁵⁵ The Chamber recalls that Berislav Pušić was perceived and introduced as the assistant or deputy to Valentin Ćorić within the Military Police.²⁰⁵⁶

1092. The Chamber recalls, furthermore, that Berislav Pušić took part in the organisation and implementation of Mate Boban's decision of 10 December 1993 to close all the HVO detention centres. Following this decision, he immediately proposed a reorganisation of the work of the Exchange Commission and Service.²⁰⁵⁷ He also actively participated in meetings of the working group set up to organise the implementation of that decision in the following days, and did so in the presence of numerous HVO members including Minister of Defence, Perica Jukić, and chaired by Marijan Biškić.²⁰⁵⁸ He subsequently proceeded to release numerous detainees, through exchanges, pursuant to this decision.²⁰⁵⁹

²⁰⁵² P 07187; P 07102; P 07942/P 07946; P 08136; P 07185; P 07246; P 08070; P 07951; P 08242. *See also* the correspondence received by Berislav Pušić: P 07155; P 07533; P 07774. On the issue of matters other than prisoner exchanges and releases, *see*: P 07311; P 07722; P 07478.

²⁰⁵³ P 05870; P 05884; P 05877.

²⁰⁵⁴ *See* "Berislav Pušić's Powers to Represent the HVO before the International Community" in the Chamber's factual findings with regard to Berislav Pušić's responsibility under the JCE. *See also* P 02616; P 05503; P 03209; P 03171; P 03293; P 03414; P 03435; P 03468; P 03518; P 03525; P 03334; P 03349; P 07481; P 07467; P 08031 under seal, p. 2; P 07636, p. 2; P 07472; P 08031 under seal; P 03414; P 07488; P 08034 under seal, p. 2; P 07787, p. 7; P 07537 under seal; P 08050; P 08026.

²⁰⁵⁵ *See* "Berislav Pušić's Powers to Represent the HVO before the International Community" in the Chamber's findings with regard to Berislav Pušić's responsibility under the JCE. *See in particular*, Antoon van der Grinten, T(F), pp. 21046 and 21048; P 02806 under seal, p. 2; Witness BA, T(F), pp. 7201, 7202, 7206 and 7207, closed session; P 03804 under seal, para. 6.

²⁰⁵⁶ *See* "Berislav Pušić's Powers to Represent the HVO before the International Community" in the Chamber's findings with regard to Berislav Pušić's responsibility under the JCE. *See in particular*, P 02806; P 02721, 11 June 1993; Antoon van der Grinten, T(F), p. 21028.

²⁰⁵⁷ P 07102; P 03052.

²⁰⁵⁸ P 07148/P 07124; P 07214; P 07143.

²⁰⁵⁹ *See for example*: P 07178; P 07181 and P 07185.

1093. In light of all the evidence, the Chamber finds that with regard to following up the activities of the Exchange Service and more generally the issue of exchanges and releases of detainees, the interaction between Berislav Pušić and some of the HVO leaders – such as Jadranko Prlić, Perica Jukić and Valentin Ćorić – took place on a regular basis, particularly between April 1993 and April 1994. It finds, furthermore, that there was interaction from time to time between Berislav Pušić and some of the HVO leaders – such as Marijan Biškić – and Croatian leaders – such as Mate Granić – on other subjects like detention conditions and access to detention centres. The Chamber specifies, furthermore, that the fact that high-ranking HVO officials entrusted Berislav Pušić with tasks regarding issues over which he did not have *de jure* authority, or even issues concerning the exchange of detainees before 5 July 1993 and detention centres more generally before 6 August 1993, shows that HVO leaders bestowed *de facto* authority upon him. It deems, moreover, that although Berislav Pušić was evidently not a high-ranking HVO official, the powers bestowed upon him by those officials allowed him, as the Chamber will make clear below, to play an important role in implementing HVO policies towards the Muslims.

C. Berislav Pušić's Responsibility under JCE 1

1094. The Chamber will now analyse the extent to which Berislav Pušić contributed to the perpetration of crimes by using his powers over HVO's detainees, and more specifically over their release and exchange, leading to their removal to ABiH-held territories and third countries.

1095. Insofar as Judge Antonetti disagrees with the majority of the Chamber regarding the existence of a JCE,²⁰⁶⁰ he dissents from all the observations and findings of the Chamber regarding Berislav Pušić's participation in the JCE. Consequently, the reasoning that follows was adopted by the majority.

1096. To do so, the Chamber will analyse the evidence it has about Berislav Pušić's contribution to the crimes committed by HVO members in the municipalities of (1) Prozor during the summer of 1993, (2) Jablanica, (3) Mostar and (4) Čapljina and (5) at the HVO detention centres. Lastly, the Chamber will examine the extent to which Berislav Pušić (6) forwarded abbreviated information to representatives of international organisations and the press with the aim of minimising or denying the crimes and (7) will draw its conclusions as to the responsibility of Berislav Pušić under JCE 1.

²⁰⁶⁰ See "Existence of a Common Criminal Plan" in the Chamber's findings with regard to the JCE.

1. Municipality of Prozor

1097. In a report sent to the HVO Main Staff, dated 18 August 1993, Željko Šiljeg, the commander of the North-West OZ, stated that Berislav Pušić called him before a scheduled visit by the ICRC to the "prison" and to some Muslim villages in Prozor so that he would not grant authorisation to the ICRC to visit the prison and the villages, arguing that the ICRC had not been effective in doing the same for Croatian detainees in Konjic, Bugojno and other regions.²⁰⁶¹ The Chamber recalls its finding that the HVO conducted large-scale eviction operations in the summer of 1993, following which HVO forces detained villagers who did not belong to any armed force at the Prozor Secondary School, the *Unis* factory in Prozor and the Tech School in Prozor, and the villages of Lapsunj, Duge and the Pođgrade neighbourhood.²⁰⁶²

1098. It is clear from Željko Šiljeg's report that Berislav Pušić had a very harsh attitude towards the ICRC and did not hesitate to hinder their work if he was not satisfied. The Chamber notes, furthermore, that Berislav Pušić's hostile attitude towards the ICRC strongly influenced Željko Šiljeg as the latter passed along his instructions to the local authorities of the Municipality of Prozor that the ICRC planned to approach.

1099. As all the Muslims in the villages attacked by the HVO in the Municipality of Prozor in this period were arrested en masse, the Chamber deems that the mass arrests must have been part of a preconceived plan. Moreover, as Berislav Pušić was aware of detentions in a prison and in villages in Prozor, the Chamber has no doubt that he knew that Muslims who did not belong to any armed force were being detained in these various locations in August 1993. By continuing to exercise his functions within the HVO despite this knowledge, Berislav Pušić accepted that Muslims who were not part of any armed force were being detained by the HVO.

2. Municipality of Jablanica (Sovići and Doljani)

1100. The Chamber established that, following the HVO attack on the villages of Sovići and Doljani on 17 April 1993, negotiations between the HVO and the ABiH culminated in the creation of a joint delegation tasked to go to Sovići and Doljani to evaluate the situation.²⁰⁶³ On 4 May 1993,

²⁰⁶¹ P 04292, p. 3.

²⁰⁶² See "Arrests, Confinement and Removal of Muslim Men, Women, Children and Elderly People from Spring 1993 to the end of that Year" in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁰⁶³ See "HVO Attacks on the Villages of Sovići and Doljani and Arrests of Men, Women, Children and Elderly People from 17 to 23 April 1993" and "Blocking of International Observers and Peace-Keeping Forces on 17 April 1993 and in the Days that Followed" in the Chamber's factual findings with regard to the Municipality of Jablanica.

Berislav Pušić was a part of this joint delegation together with Milivoj Petković, who at the time was the Chief of the HVO Main Staff.²⁰⁶⁴

1101. According to a report from the 44th Mountain Brigade of the ABiH dated 4 May 1993, during its visit the Croatian-Muslim delegation noted that the villages of Doljani and Sovići were burned down and that all men of working age and younger boys from Doljani and Sovići were being held at the Sovići School under "harsh" conditions – the report notably mentions a lack of space, electricity and water and that the detainees appeared undernourished and exhausted.²⁰⁶⁵ *Hasan Rizvić*, a Muslim member of the inquiry delegation, stated that the delegation went to Doljani and Sovići and had visited the Sovići School – *Hasan Rizvić* described the conditions in this school as being "terrible".²⁰⁶⁶ He stated, furthermore, that when the convoy of the delegation passed through Doljani village, he could see that the village was completely destroyed.²⁰⁶⁷ While the delegation was being driven through Sovići village before stopping at the Sovići School, *Hasan Rizvić* noted that Muslim houses had been burnt down.²⁰⁶⁸ Furthermore, *TV Konjic* filmed a video on 4 May 1993 of the visit by the delegation to some of the villages and Berislav Pušić can be seen in Doljani village at the moment when the villagers talked about the fact that the houses had been burnt down. Berislav Pušić also indicated where the men who had been arrested following the HVO attack on Doljani and Sovići were located.²⁰⁶⁹

1102. Considering his participation in the joint delegation to Sovići and Doljani, the Chamber deems that Berislav Pušić was aware of the HVO attack on Sovići and Doljani on 17 April 1993. It deems, furthermore, that Berislav Pušić was able to note, during his visit to the Municipality of Jablanica on 4 May 1993, the significant destruction in the villages of Doljani and Sovići and that the detention conditions inside the Sovići School were harsh indeed. It finds, lastly, that he had been fully informed of the arrests and detention of the population of these villages.

²⁰⁶⁴ P 10358, paras 35 and 37; Milivoj Petković, T(F), pp. 49485, 49486, 49500, 49902 and 49909; 4D 00447; P 02187; P 04238, minutes 45 and 46; 4D 01079; Decision of 7 September 2006, Adjudicated Fact no. 57 (*Naletilić and Martinović* Case, para. 35). The delegation was composed as follows: *Hasan Rizvić*, Sefer Halilović, Commander-in-Chief of the ABiH Main Staff, Arif Pašalić, Commander of the Mostar Battalion of the ABiH, 41st Brigade, Midhat Hujdur, Deputy Commander of the Mostar Battalion of the ABiH, Enes Kovačević, Commander of the Jablanica TO Main Staff, Milivoj Petković, Chief of the HVO Main Staff for Herceg-Bosna, and Berislav Pušić, HVO representative and President of the Exchange Commission. According to *Milivoj Petković*, Berislav Pušić was part of one of the two teams that composed the HVO delegation: one being that of the Main Staff, which included Colonel Filipović, Captain Zebić, and Mr Marić and Mr Raguz; the other, which included Berislav Pušić, was headed by Dr Bagarić and was in charge of dealing with the injured, sick and the dead.

²⁰⁶⁵ 4D 00447.

²⁰⁶⁶ P 10358, paras 37, 39, 40 and 42. See also P 02187, minutes 0:53:55 to 1:12:30; P 08952.

²⁰⁶⁷ P 10358, para. 36.

²⁰⁶⁸ P 10358, para. 38.

²⁰⁶⁹ P 02187, minutes 0:53:55 to 1:00:50.

1103. Moreover, following the visit by the Croat-Muslim delegation to the Municipality of Jablanica and in light of the conditions of confinement inside the Sovići School, Sefer Halilović and Milivoj Petković reached an agreement on 4 May 1993 that the population of Doljani and Sovići – including the detainees at the Sovići School – would be evacuated unconditionally by bus the following day to Jablanica.²⁰⁷⁰ The Chamber recalls in this regard that it established that following the HVO attack on the villages of Sovići and Doljani on 17 April 1993, approximately 450 people – women, children and elderly people, Muslim inhabitants of Sovići and Doljani,²⁰⁷¹ detained at the Sovići School and in the hamlet of Junuzovići - were in the end moved on 5 May 1993 by HVO soldiers, including "Tuta's" men, in the direction of Gornji Vakuf, where they were taken charge of by the ABiH.²⁰⁷² In light of his participation in the joint delegation in Sovići and Doljani, the Chamber deems that Berislav Pušić was informed of the removal on 5 May 1993 of the population of the villages of Sovići and Doljani towards Jablanica, ABiH-held territory,. The Chamber considers, therefore, that in any case, Berislav Pušić facilitated the removal of the population of Sovići and Doljani towards ABiH-held territory, even if the final destination of the Muslims changed.

1104. The above evidence allows the Chamber to find that Berislav Pušić was aware, as of 4 May 1993, that people not belonging to any armed force in the Municipality of Jablanica were being detained, that the conditions of confinement were very harsh for the Muslims held at the Sovići School, that property in the villages of Sovići and Doljani was destroyed, as were the two mosques in Sovići and Doljani and lastly, that detained people were removed to ABiH-held territory on 5 May 1993. In light of Berislav Pušić's participation in the visit of the joint commission to Sovići and Doljani, which led to the removal of the population of these villages towards Gornji Vakuf, and insofar as Berislav Pušić continued to carry out his functions within the HVO, the Chamber holds that he had detailed knowledge of and accepted the events and crimes that took place in Sovići and Doljani during the HVO attack on 17 April 1993 and in the days that followed.

3. Municipality of Mostar

1105. The Chamber will deal with the evidence regarding Berislav Pušić's contribution to the crimes committed in Mostar by (a) discussing his role in the rounding up of Muslims in West

²⁰⁷⁰ P 10358, para. 42; Milivoj Petković, T(F), pp. 49485, 49486 and 49909; 4D 00447.

²⁰⁷¹ See also "Detention at Sovići School, the Deaths of Detainees and the Work Done" and "Detention of Women, Children and Elderly People in Houses in the Hamlet of Junuzovići" in the Chamber's factual findings with regard to the Municipality of Jablanica.

²⁰⁷² See "Removal of Muslim Women, Children and Elderly People from Sovići School and Houses in the Hamlet of Junuzovići to Gornji Vakuf around 5 May 1993" in the Chamber's factual findings with regard to the Municipality of Jablanica.

Mostar, their placement in detention in various locations in the town and the treatment of detainees during May 1993; (b) the removal of the Muslim population of West Mostar as of late May 1993 and (c) the crimes linked to the siege of East Mostar, particularly the blocking of humanitarian aid.

a) Berislav Pušić's Role in the Rounding up of Muslims in West Mostar, their Placement in Detention in Various Locations in the Town and the Treatment of Detainees in May 1993

1106. The Chamber recalls that between 9 and 11 May 1993, on the days that followed the attack of 9 May 1993, and notably the fall of the Vranica Building on 10 May 1993, the HVO armed forces and the HVO Military Police forced the Muslim inhabitants of West Mostar to leave their homes and held them for several hours at the Faculty of Mechanical Engineering, the Tobacco Institute, the MUP Building and the Velež Stadium, where they separated the men from the women and children. These Muslims were subsequently transported mainly to the Heliodrom where they were imprisoned for several days before they were released and able to return to their homes.²⁰⁷³

1107. In this connection, the Chamber notes that according to a report from UNPROFOR dated 11 May 1993, Berislav Pušić told the representatives of UNPROFOR and the ECMM, who were jointly visiting the Muslims of West Mostar detained at the Heliodrom, that these people had fled their homes and that they were from different parts of the town.²⁰⁷⁴

1108. The Chamber also notes that on 11 May 1993, the Mostar MUP sent a letter to Berislav Pušić requesting that he "take charge" of 19 "civilians" detained at the MUP Building after being brought in from the Vranica Building.²⁰⁷⁵

1109. The Chamber notes, furthermore, that on 11 May 1993, Ante Kvešić²⁰⁷⁶ provided a list compiled on 11 May 1993 with the names of the employees of the Mostar regional war hospital who were arrested at their apartments in West Mostar with their family members and taken the same day to the Heliodrom. On 13 May 1993, Berislav Pušić ordered that some of these people not be released.²⁰⁷⁷ On 14 May 1993, Berislav Pušić granted the request for release presented on 13 May 1993 by Ante Kvešić for the families of the Mostar regional war hospital staff detained at the

²⁰⁷³ See "Fall of the Vranica Building on 10 May 1993", "Round-up of Muslims from West Mostar, Placement in Detention in Various Locations and Departure of Some to ABiH-Controlled Areas or Other Countries in the First Half of May 1993", "Crimes Allegedly Committed at the HVO Detention Centres in Mostar in May 1993", in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁰⁷⁴ P 02293 pp. 2 and 3.

²⁰⁷⁵ See "MUP Building" in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁰⁷⁶ Commander of the Mostar regional war hospital from 29 September 1992 to 20 January 1994: Ante Kvešić, T(F), pp. 37391 and 37392.

Heliodrom, amongst whom there were also children.²⁰⁷⁸ Evidence shows, furthermore, that between 11 and 15 May 1993, Berislav Pušić authorised or ordered the release of some Muslims from West Mostar who were detained at the Heliodrom, including certain family members.²⁰⁷⁹

1110. In light of the above, the Chamber deems that Berislav Pušić was informed of the mass arrest of Muslims in West Mostar between 9 and 11 May 1993 and of their detention at the MUP Building and the Heliodrom. Moreover, the Chamber considers that Berislav Pušić's orders to release or keep the Muslims in detention shows that he was not only aware of these arrests and detentions, but also that he took part in the arrest campaigns in May 1993.

b) Berislav Pušić's Role in the Removal of the Muslim Population in West Mostar as of the End of May 1993

1111. On 26 May 1993, the HVO proceeded to remove at least 300 Muslims from West Mostar to East Mostar.²⁰⁸⁰ *Klaus van Nissen*²⁰⁸¹ testified that on the night between 25 and 26 May 1993, accompanied by other international observers, he came across five buses in West Mostar carrying women, children and elderly people, who looked frightened and indifferent, but that there were no men in the buses between the ages of 16 and 50. HVO soldiers were guarding the bus and Berislav Pušić, who was present at the scene, appeared to be in charge of this transport.²⁰⁸² *Klaus van Nissen* also stated that Berislav Pušić asked the observers who were present to leave, saying that this was none of their business.²⁰⁸³ The Chamber recalls that these Muslims were brought to East Mostar and that, in the days that followed, the HVO prevented any Muslims from returning to West Mostar.²⁰⁸⁴

1112. The Chamber considers, in light of the above, that Berislav Pušić took part in the operation to remove the Muslims from West Mostar to East Mostar in late May 1993.

1113. On 16 June 1993, Berislav Pušić was furthermore informed, during a meeting organised by ECMM representatives in the presence of Valentin Ćorić, that Muslims had been evicted from

²⁰⁷⁷ P 02315. The Chamber notes that no specifications were given as to the exact location where these people were taken, but it considers that it was indeed the Heliodrom, in view of the fact that the list was also signed by Josip Praljak, the *de facto* deputy warden of the Heliodrom.

²⁰⁷⁸ P 02367; Ante Kvešić, T(F), pp. 37455-37461 and 37474-37476. See also P 02377; Ante Kvešić, T(F), pp. 37463-37464.

²⁰⁷⁹ P 02296; P 02297; P 02334; P 02362; P 02371; P 02373; P 02379; P 02383; P 02384; P 02390; P 02394; P 02395; P 02396; P 02397; P 02398; P 02401; P 02402; P 02405; P 02409; P 02410.

²⁰⁸⁰ See "Removal of 300 Muslims to East Mostar at the End of May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁰⁸¹ ECMM observer: Klaus Johann Nissen, T(F), pp. 20405-20407.

²⁰⁸² Klaus Johann Nissen, T(F), pp. 20429 and 20430.

²⁰⁸³ Klaus Johann Nissen, T(F), pp. 20429 and 20430.

²⁰⁸⁴ See "Removal of 300 Muslims to East Mostar at the end of May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

Mostar on the five previous days.²⁰⁸⁵ Berislav Pušić and Valentin Ćorić denied the information brought to their attention and told the ECMM representatives that these evictions had not occurred and that if they had, they were the acts of criminals not under the control of the HVO.²⁰⁸⁶

1114. The Chamber recalls its finding that towards mid-June 1993, the HVO continued expelling Muslims from West Mostar to East Mostar.²⁰⁸⁷

1115. The Chamber notes that according to a note written by *Witness BC*²⁰⁸⁸ regarding a meeting with Berislav Pušić on 16 September 1993, Pušić stated that according to him, the only suitable solution was to "send all the Muslims from West Herzegovina to East Mostar where they come from".²⁰⁸⁹

1116. In light of this evidence, the Chamber deems that Berislav Pušić took part in the system encouraging the permanent removal of Muslims from West Mostar to East Mostar from as of late May 1993.

c) Berislav Pušić's Role in the Perpetration of Crimes Linked to the Siege of East Mostar, Particularly the Blocking of Humanitarian Aid

1117. The Chamber recalls that from June 1993 to April 1994, East Mostar was under siege by the HVO and was subjected to shooting and intense and constant shelling that killed and injured numerous Muslim inhabitants and caused significant destruction.²⁰⁹⁰ It also established that between June and December 1993, the HVO hindered the regular supply of humanitarian aid to East Mostar, in particular by limiting the access of international organisations to East Mostar by way of administrative restrictions – including requirements to obtain authorisation for convoys to enter or exit Mostar,²⁰⁹¹ and by obstacles set up at checkpoints.²⁰⁹² The Chamber established that the HVO

²⁰⁸⁵ See "Crimes Allegedly Committed in June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁰⁸⁶ See "Crimes Allegedly Committed in June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁰⁸⁷ See "Crimes Allegedly Committed in June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁰⁸⁸ Representative of an international organisation: *Witness BC*, T(F), pp. 18315, 18316, closed session.

²⁰⁸⁹ P 09848 under seal, para. 3; *Witness BC*, T(F), p. 25205, closed session.

²⁰⁹⁰ See "Chamber's Findings on the Existence of a Siege in East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁰⁹¹ See "Blocking of International Organisations and Humanitarian Aid" in the Chamber's factual findings with regard to the Municipality of Mostar. See also "Isolation of the Population in East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar; neither the HVO nor the ABiH would issue the said permits except for humanitarian evacuations (which were negotiated with difficulty between the parties under the auspices of international officials), on medical grounds, for rape victims or for children in vulnerable situations. In order to obtain HVO exit permits for humanitarian evacuations, the HVO set as a condition for the exchange of "civilians" on a "one-for-one" principle: in order for a Muslim to be evacuated from East Mostar, a Croat had to be moved from a besieged enclave.

had completely blocked access for humanitarian convoys to East Mostar for almost two months during the summer of 1993, as the HVO closed all the roads with checkpoints around Mostar²⁰⁹³ and that between 18 and 28 December 1993, humanitarian aid did not reach East Mostar.²⁰⁹⁴

1118. The Chamber recalls, furthermore, that Berislav Pušić was one of the people who had the power to grant international organisations access to East Mostar, and in particular to issue permits to evacuate people out of East Mostar.²⁰⁹⁵ Berislav Pušić participated in a series of negotiations on humanitarian evacuations between September and November 1993 in the presence of representatives of the international community; he was at the head of the HVO delegation during the negotiations between 1 and 7 September 1993 regarding the implementation of the agreement on the injured from Nova Bila and Mostar that was reached between Milivoj Petković and General Delić on 31 August 1993.²⁰⁹⁶

1119. The Chamber notes, moreover, a Spabat report dated 29 August 1993 stating that Berislav Pušić was one of the HVO representatives present at a meeting between representatives of the ABiH and the HVO to discuss "affairs in Mostar", held in Međugorje under the auspices of UNPROFOR.²⁰⁹⁷ During this meeting, the ABiH representatives described the situation in East Mostar and, in particular, raised questions regarding the humanitarian aid corridor between Mostar and Jablanica, entry into Mostar for UNPROFOR, the HCR and humanitarian agencies, as well as water and electricity supplies.²⁰⁹⁸ The HVO representatives stated that the implementation of the agreements required holding a meeting at a higher level and that they were present there only to listen and report back to their commanders.²⁰⁹⁹ The Chamber recalls having established that the population of East Mostar, which could not leave the eastern part of Mostar of their own free will, had to live under extremely harsh conditions and suffered from a shortage of water and electricity.²¹⁰⁰

²⁰⁹² See "Blocking of International Organisations and Humanitarian Aid" in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁰⁹³ See "Blocking of International Organisations and Humanitarian Aid" in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁰⁹⁴ See "Blocking of International Organisations and Humanitarian Aid" in the Chamber's factual findings with regard to the Municipality of Mostar.

²⁰⁹⁵ See "Berislav Pušić's Powers to Represent the HVO before the International Community" in the Chamber's findings with regard to Berislav Pušić's responsibility under the JCE; see "Powers of the Exchange Service and Commission" in the Chamber's findings with regard to the political and administrative structure of the HZ(R) H-B.

²⁰⁹⁶ See "Berislav Pušić's Powers to Represent the HVO before the International Community" in the Chamber's findings with regard to Berislav Pušić's responsibility under the JCE.

²⁰⁹⁷ P 04623, pp. 5 and 6.

²⁰⁹⁸ P 04623, pp. 5 and 6.

²⁰⁹⁹ P 04623, pp. 5 and 6.

²¹⁰⁰ See "Access to Water and Electricity" and "Blocking of International Organisations and Humanitarian Aid" in the Chamber's factual findings with regard to the Municipality of Mostar.

1120. The above evidence shows that Berislav Pušić was present at negotiations regarding the siege of East Mostar, particularly regarding the evacuations of injured Muslims. Furthermore, the Chamber recalls that his offices were located in West Mostar and that, consequently, he was at the scene every day during that period.²¹⁰¹ Berislav Pušić was also informed of issues regarding the problems which international organisations were having with access to East Mostar and about the shortage of water and electricity in that part of the town. In light of this evidence, the Chamber deems that the only inference it can reasonably draw is that Berislav Pušić knew that the HVO was intensively and continuously shelling East Mostar.

1121. The evidence indicates that Berislav Pušić demonstrated little willingness to cooperate with representatives of international organisations when dealing with requests to evacuate Muslims from East Mostar.²¹⁰² According to *Witness BB* and *Witness BC*, the special evacuation permits were in fact issued by Berislav Pušić according to the "one-for-one" principle: in order for a Muslim to be evacuated from East Mostar, a Croat had to be moved from a besieged enclave, and the negotiations were difficult.²¹⁰³ The Chamber notes in this respect that, during a meeting with *Witness BC* on 16 September 1993, Berislav Pušić considered the Muslims as a form of currency. He claimed that the Muslims who were in HVO-held areas at the time were valuable for the HVO to use in future exchanges for Croats detained by Muslim forces in Central Bosnia.²¹⁰⁴ According to an ECMM report of 28 November 1993, Berislav Pušić told ECMM representatives that the release of ABiH medical helicopters held in Međugorje depended on the release of some 70 HVO members held in East Mostar.²¹⁰⁵ A report by Berislav Pušić, dated 24 February 1994 and addressed to high-ranking HVO authorities, including the office of the President of the HR H-B, the office of the HR H-B government, the Minister of Defence and the HVO Main Staff, describes a meeting held that same day between Berislav Pušić and Jerry Hulme, a representative of the HCR who requested a permit from Berislav Pušić to evacuate 51 sick Muslims out of East Mostar. The report indicates that Berislav Pušić made his approval conditional on the evacuation of sick persons of Croatian and other nationalities.²¹⁰⁶

1122. In light of the above, the Chamber finds that Berislav Pušić knew that East Mostar was being subjected to continuous shooting and shelling as part of a siege between June 1993 and April

²¹⁰¹ P 10367 under seal, paras 39, 41 and 42; Antoon van der Grinten, T(F), pp. 21027, 21028 and 21050. *See also* P 02806.

²¹⁰² *Witness BC*, T(F) pp. 18405, 18536, 18557 and 18558, closed session.

²¹⁰³ *Witness BB*, T(F), pp. 17239-17242 and 25277-25279, closed session; P 09848 under seal, paras 1 and 3; *Witness BC*, T(F), p. 25205, closed session. *See also* P 06929 under seal; Amor Mašović, T(F), pp. 25023 and 25024.

²¹⁰⁴ P 09848 under seal, paras 1 and 3; *Witness BC*, T(F), p. 25205, closed session.

²¹⁰⁵ P 06929 under seal; Amor Mašović, T(F), p. 25023.

²¹⁰⁶ P 07942/P 07946. *See also* P 08017; P 07481.

1994. Therefore, he must have known that this was causing destruction, including the destruction of buildings dedicated to religion, and deaths amongst the population in that part of the town. It finds, furthermore, that Berislav Pušić knew about the difficulties of the international organisations were having in gaining access to East Mostar, and about the extremely harsh conditions in which the population in that part of town was living, particularly the shortage of water and electricity. It finds that he hindered and even paralysed the handling of humanitarian evacuation requests in East Mostar. The Chamber therefore considers that Berislav Pušić participated in worsening the living conditions in East Mostar by obstructing humanitarian evacuations. As Berislav Pušić was aware of the siege of East Mostar, the shelling and difficulties related to the siege of East Mostar and by continuing to perform his functions within the HVO, the only inference the Chamber can reasonably draw is that he accepted the destruction of property in East Mostar, including buildings dedicated to religion, and the murders of people who did not belong to any armed force linked to the shelling and extremely harsh living conditions imposed on the population of East Mostar due to the siege of East Mostar.

4. Municipality of Čapljina

1123. The Chamber notes that Berislav Pušić was a member of a working group tasked by the HVO of the HZ H-B during a session on 19 July 1993 with visiting the Municipality of Čapljina to inspect the detention sites and propose measures to improve the conditions inside these sites.²¹⁰⁷ During the 47th session of the HVO of the HZ H-B on 20 July 1993, the working group established, among other things, that the media reports about the alleged "expulsion" of Muslims from the Municipality of Čapljina, were false. It based this on the fact that the Čapljina student centre and the holiday homes of Počitelj Polje, Ševač Polje, Bivolje Brdo and Višići were housing over 2,000 Muslims who had arrived from eastern Bosnia,²¹⁰⁸ which implied that the Muslims were still in the municipality. The Chamber clearly established that the removal of the Muslims from the municipality towards ABiH-held territories did indeed take place during this period, including when Berislav Pušić was visiting the municipality on 19 or 20 July 1993.²¹⁰⁹ The Chamber deems that the only inference it can reasonably draw is that Berislav Pušić was informed of the expulsions, denied them in the report of the working group in which he participated and that, by retaining his position within the HVO, he accepted those crimes.

²¹⁰⁷ P 03560 pp. 4 and 5.

²¹⁰⁸ P 03573.

²¹⁰⁹ See "Eviction of Women, Children and Elderly People, Their Removal and Subsequent Alleged Crimes Committed in the Municipality of Čapljina from July to September 1993" in the Chamber's factual findings with regard to the Municipality of Čapljina.

5. Detention Centres

1124. The Chamber will now analyse the alleged contribution of Berislav Pušić to the crimes committed in the HVO detention centres and prisons.

1125. As a preliminary matter, the Chamber will (a) review the evidence related to the contribution of Berislav Pušić to the implementation of Mate Boban's decision of 10 December 1993 to close the HVO detention centres and prisons in BiH before (b) determining his contribution to the crimes committed at the Heliodrom, (c) Dretelj Prison, (d) Gabela Prison, (e) Ljubuški Prison and (e) the Vitina-Otok Camp and (f) the Vojno Detention Centre.

a) Implementation of Mate Boban's Decision of 10 December 1993

1126. The Chamber recalls that on 10 December 1993, Mate Boban issued a decision ordering the closure of all HVO detention centres in the BiH ("Mate Boban's Decision of 10 December 1993").²¹¹⁰

1127. The Chamber has numerous pieces of evidence showing that Berislav Pušić actively participated in implementing Mate Boban's Decision of 10 December 1993. As of 10 December 1993, Berislav Pušić sent the HR H-B government a work plan for the Exchange Service, emphasising the need to register and classify the detainees, proposing procedures to release detainees and pointing out that the only interest his Service had in the detainees was to use them for exchanges.²¹¹¹

1128. Moreover, on 11 and 13 December 1993 Berislav Pušić actively participated as the head of the Exchange Service in two meetings of the working group tasked with implementing Mate Boban's Decision of 10 December 1993.²¹¹² The transcript of the meeting held on 11 December 1993 shows that Berislav Pušić was in charge of centralising the data concerning the number of detainees in each HVO detention centre.²¹¹³ He insisted, furthermore, on the fact that all the detainees "should be released, but that at the same time, all measures of organisation, protection and security should be taken and, in particular, preparing the detainees so that they can be sent abroad",²¹¹⁴ and that people over 50 years old should be transported to East Mostar.²¹¹⁵ The Chamber notes that during the meeting of 13 December 1993, Berislav Pušić again insisted that

²¹¹⁰ P 07096.

²¹¹¹ P 07102.

²¹¹² P 07148/P 07124/P 07214; P 07143.

²¹¹³ P 07148/P 07124, p. 3.

²¹¹⁴ P 07148/P 07124, p. 5.

²¹¹⁵ P 07148/P 07124, p. 10.

Muslim detainees needed to be sent to third countries, including detainees who could be facing criminal charges.²¹¹⁶

1129. The Chamber notes that following a joint statement by the Prime Minister of the RBiH, Haris Silajdžić, and the Deputy Prime Minister of Croatia, Mate Granić, in Geneva on 10 February 1994, Amor Mašović, President of the RBiH State Commission for Exchange, and Berislav Pušić signed an agreement that all detainees would be released on the basis of an "all for all" principle, and that the detainees would in no way be influenced when choosing their destination once released.²¹¹⁷

1130. The Chamber also learnt of numerous orders signed by Berislav Pušić in his capacity as the head of the Exchange Service and issued pursuant to Mate Boban's Decision of 10 December 1993, to release detainees so they would go to ABiH-held territory, including East Mostar, or to third countries.²¹¹⁸

1131. The Chamber notes lastly that Berislav Pušić regularly informed the HVO leadership of the implementation of Mate Boban's Decision of 10 December 1993.²¹¹⁹ In a report dated 31 December 1993, Berislav Pušić thus pointed out that the Exchange Service was fully in charge of dismantling the HVO detention centres pursuant to Mate Boban's Decision of 10 December 1993 and stated that 3,000 people had been released in the process.²¹²⁰ In a report dated 3 January 1994 sent, amongst others, to the HR H-B government, the Croatian Minister of Foreign Affairs, the Minister of the Interior and the Military Police Administration, Berislav Pušić stated that of the 3,167 people held in "HR H-B prisons", 1,935 detainees had been transported to ABiH-held territory and 743 had been transported to third countries.²¹²¹ Lastly, in a report dated 31 March 1994, sent to the Presidential Council and the government of the HR H-B, the Main Staff, the Minister of Defence, the Military Police Administration and the SIS, Berislav Pušić stated that he had had 12 negotiation meetings with his Muslim counterparts between 18 January and 30 March 1994 regarding the exchange of detainees and released 1,017 detainees, ABiH members, through exchanges between January and March 1994.²¹²²

²¹¹⁶ P 07143, p. 9.

²¹¹⁷ 6D 00499.

²¹¹⁸ See "Berislav Pušić's Role in the Release of Detainees from the Heliobrom Either Through Ordinary Releases or Through Exchanges", "Gabela Prison" and "Ljubuški Prison" in the Chamber's findings with regard to Berislav Pušić's responsibility under the JCE.

²¹¹⁹ P 07178; P 07185; P 07187; P 07246; p. 1; P 07242.

²¹²⁰ P 07411, p. 5.

²¹²¹ P 07468/P 07465, p. 3.

²¹²² P 08136, pp. 2 and 3.

1132. The Chamber recalls that detainees at the HVO detention centres were released on condition that they leave the territory of Herceg-Bosna and go to third countries, or territories controlled by the ABiH.²¹²³

1133. In light of the evidence, the Chamber finds that Berislav Pušić organised and actively participated in the closure of HVO detention centres and the removal of Muslim detainees to third countries or ABiH-held territories.

b) The Heliodrom

i. Berislav Pušić's Role in the Registration and Categorisation of Heliodrom Detainees

1134. The Chamber recalls that in his Decision of 12 August 1993, Berislav Pušić stated that the registration and classification of the detainees at the Heliodrom was completed.²¹²⁴ The Chamber notes, however, that the authorities of the HVO of the HZ(R) H-B never correctly classified and separated the detainees based on their status.²¹²⁵

1135. The Chamber notes, moreover, that Berislav Pušić compiled lists of detainees on 15 September 1993, one month after the Decision of 12 August 1993.²¹²⁶ In light of these lists, the Chamber notes that in September 1993, Berislav Pušić and the Exchange Service were well aware of the status of the detainees, namely "detainees of war", "civilians", "women" or "persons born before 1933".²¹²⁷ From the heading "Persons Born Before 1933 - To Be Released" the Chamber infers that the HVO, and more precisely Berislav Pušić, considered the people over 60 to be elderly and should be released because of their age. The Chamber notes that people over 60 and those

²¹²³ See "Detainees Released from Gabela Prison on Condition of Leaving for Third Countries" in the Chamber's factual findings with regard to Gabela Prison; "Departure of Detainees from Dretelj Prison to the Croatian Islands" in the Chamber's factual findings with regard to Dretelj Prison; "Organisation of Departure of Detainees from the Heliodrom to Third Countries or to ABiH-Held Territory" in the Chamber's factual findings with regard to the Heliodrom; "Factual Findings of the Chamber" in the Chamber's factual findings with regard to the Ljubuški Municipality and detention centres. The Chamber notes that the detainees were moved from one detention centre to another before being released on the condition that they leave the territory of Herceg-Bosna: see "Departure of Detainees from Dretelj Prison to Other Detention Sites" in the Chamber's factual findings with regard to Dretelj Prison; "Gabela Prison Detainees Transferred to Ljubuški Prison or the Heliodrom in Order to Leave for Third Countries" in the Chamber's factual findings with regard to Gabela Prison.

²¹²⁴ P 04141, p. 1.

²¹²⁵ See "Arrival of Detainees Following Waves of Arrest After 30 June 1993" in the "Arrival of Detainees at the Heliodrom" in the Chamber's factual findings with regard to Heliodrom. See also: Josip Praljak, T(F), 14782; P 07064, p. 2.

²¹²⁶ P 05071; P 05072; P 05077; P 05081; P 05082; P 05083; P 05087; P 05088; P 05089; P 05093; P 05102; P 05106; P 05107.

²¹²⁷ See for example: P 05102; P 02163; P 05107; P 05106.

under 18 appeared on several of these lists compiled and signed directly by Berislav Pušić.²¹²⁸ The lists give the date of birth of all the identified detainees and where they came from.

1136. Consequently, the Chamber finds that, although the HVO authorities did not correctly and systematically classify Muslim detainees, Berislav Pušić knew that people who did not belong to any armed force were amongst those being held by the HVO. By continuing to exercise his functions within the HVO despite this knowledge, Berislav Pušić accepted that Muslims who were not part of any armed force were being held by the HVO.

ii. Berislav Pušić's Knowledge of and Involvement in the Conditions of Confinement and Mistreatment inside the Heliodrom

1137. On 16 June 1993, representatives of the ECMM met with Berislav Pušić and Valentin Ćorić to ask them why Muslims were being held in the Heliodrom and about the conditions of confinement in the centre. During the meeting, representatives of the ECMM described the conditions of confinement as being very bad.²¹²⁹

1138. The Chamber notes that in July 1993, Berislav Pušić was informed about various health problems at the Heliodrom. In a report dated 3 July 1993 sent to the Military Police Administration, *Zvonko Vidović*²¹³⁰ stated that Berislav Pušić had verbally transmitted to the Crime Prevention Department of the Mostar Military Police Administration the authorisation from the Department of Defence for 109 detainees to be given treatment following medical check-ups.²¹³¹ On 9 July 1993, Stanko Božić, the warden of the Heliodrom, sent a report to Valentin Ćorić, Zvonko Vidović and Berislav Pušić to inform them that a prisoner at the Heliodrom had slashed his wrists "for no apparent reason".²¹³²

1139. According to a report from the ICRC for the period July 1992 to October 1993, the ICRC notified Berislav Pušić in a written report about the conditions of confinement at the Heliodrom.²¹³³ However, the Chamber does not know the contents of this report.

²¹²⁸ P 05102.

²¹²⁹ P 02806, pp. 1 and 2; Antoon van der Grinten, T(F), pp. 21046-21050.

²¹³⁰ Operational head of the crime prevention department of the Military Police in Mostar from October 1992 to the summer of 1993. Zvonko Vidović, T(F), pp. 51438, 51439, 51730 and 51731.

²¹³¹ P 03133, p. 1.

²¹³² P 03334.

²¹³³ P 00284, p. 7. The Chamber notes that the report does not mention the contents of the report sent to Berislav Pušić.

1140. On 13 September 1993, Stanko Božić sent Berislav Pušić a list of sick persons and requested that the necessary procedures be undertaken to release them.²¹³⁴ The Chamber does not know whether these persons were indeed released.

1141. On 30 September 1993, doctors of the health sector of the HR H-B Department of Defence, including Ivo Ćurić,²¹³⁵ sent Bruno Stojić and Berislav Pušić, among others, a report describing the unacceptable sanitary conditions and "overcrowding" at the Heliodrom, and warned of the imminent danger of respiratory and intestinal diseases.²¹³⁶

1142. With regard, more particularly, to overcrowding at the Heliodrom, the Chamber notes that on 6 January 1994, Berislav Pušić requested authorisation from Marijan Biškić to move some of the detainees at the Heliodrom to Gabela Prison in order to reduce prison overcrowding.²¹³⁷ The Chamber does not have any evidence showing that these transfers were carried out.

1143. The Chamber finds that Berislav Pušić was aware of the problems regarding the conditions of confinement at the Heliodrom during the entire time that the detention centre functioned. It notes that he failed to take any measures to improve these conditions of confinement despite the power he had as the head of the Service for the Exchange of Detainees and the president of the Commission for HVO Prisons and Detention Centres, notably by organising the transfer of some of the detainees. The Chamber finds, therefore, that the only reasonable inference it can draw is that, by continuing to carry out his functions within the HVO while being aware of the poor conditions of confinement to which the Heliodrom detainees were subjected, Berislav Pušić accepted them.

1144. Furthermore, regarding in particular the treatment of detainees within the Heliodrom, in a report dated 5 July 1993, Stanko Božić informed Berislav Pušić, Bruno Stojić, Valentin Ćorić and Zvonko Vidović that HVO soldiers who were billeted at the Heliodrom had opened fire randomly at buildings in which detainees were being held.²¹³⁸ The report emphasised that the buildings comprising the Heliodrom were not built to serve as prisons and, consequently, that it was difficult to ensure the safety of the detainees and to protect them in case similar incidents occurred again – adding that there were only 16 military policemen providing security for four buildings, which was insufficient, and therefore suggested to the recipients of the report that an additional 16 soldiers be

²¹³⁴ P 04993.

²¹³⁵ According to Witness 2D-AB, Ivo Ćurić was a member of the HVO medical staff from its creation in April 1992 until June 1995; Witness 2D-AB, T(F) p. 37488, closed session and 37500.

²¹³⁶ P 05503, p. 2; *see also* William Tomljanovich, T(F), pp. 6153-6154.

²¹³⁷ Marijan Biškić, T(F), pp. 15128, 15324 and 15325; P 07494, p. 1. *See also* Josip Praljak, T(F) p. 14842.

²¹³⁸ P 03209, p. 1; Josip Praljak, T(F), pp. 14732-14734.

assigned to him. *Josip Praljak* confirmed that no police reinforcement was provided following this request.²¹³⁹

1145. Based on the above, the Chamber finds that Berislav Pušić was informed of the mistreatment to which detainees at the Heliodrom were subjected starting in July 1993. He failed to take any measures to remedy the mistreatment even though he had the power to do so and continued carrying out his functions within the HVO. The Chamber deems, therefore, that the only reasonable inference it can draw is that Berislav Pušić accepted the mistreatment to which the detainees at the Heliodrom were subjected.

iii. Berislav Pušić's Knowledge of and Involvement in the Labour Carried Out on the Front Line by Detainees

1146. The Chamber also established that between May 1993 and March 1994, the HVO took Muslim men held at the Heliodrom to the front line in the Municipality of Mostar to perform labour, such as repairing fortifications and shelters, and collecting the bodies of soldiers.²¹⁴⁰ The Chamber noted that several dozen detainees who were exposed to the military confrontation were killed or wounded by firing both by the HVO and the ABiH.²¹⁴¹

1147. In this context, the Chamber notes that on at least 30 occasions between 17 February and 24 July 1993, Berislav Pušić "authorised" or "verbally ordered" that detainees be sent to perform labour,²¹⁴² including labour on the front line.²¹⁴³ Detainees were also sent to perform labour on the front line pursuant to a "general order" issued by Berislav Pušić on 20 and 22 July 1993.²¹⁴⁴ The evidence shows that Berislav Pušić gave these authorisations or orders further to requests from the Military Police – including the 1st and the 5th Battalions – and from the HVO armed forces –, most often, the 2nd Battalion of the 2nd Brigade and the *Benko Penavić* ATG.

²¹³⁹ *Josip Praljak*, T(F), pp. 14734 and 14735.

²¹⁴⁰ See "Use of Heliodrom Detainees for Work" in the Chamber's factual findings with regard to the Heliodrom and "The Heliodrom Camp", in the Chamber's legal findings with regard to Count 18 (Unlawful Labour as a Violation of the Laws or Customs of War).

²¹⁴¹ See "Use of Heliodrom Detainees for Work" and "Detainees Killed or Wounded during Forced Labour" in the Chamber's factual findings with regard to the Heliodrom.

²¹⁴² P 01765; P 08043, both mentioning the same. See also: P 01514, p. 1; P 02385; P 02958; P 03171; P 03202; P 03293; P 03414; P 03435; P 03468, P 03518; P 03525; P 03596; P 03646: a detainee wounded by the ABiH. See furthermore *Josip Praljak*, T(F), p. 14741, T(E), p. 14750 and T(F), pp. 14978 and 14979: *Josip Praljak* testified that Berislav Pušić never issued him with a written order and that for the most part his orders and authorisations were issued over the telephone. According to *Josip Praljak*, in any case Berislav Pušić had to authorise the release of those detainees kept to carry out the work in question.

²¹⁴³ P 02921; P 03194.

²¹⁴⁴ P 03583; P 03633.

1148. The Chamber also notes that the HVO authorities, as early as August and November 1993, and the ICRC, in August 1993 and January 1994, informed Berislav Pušić that detainees at the Heliodrom were being requisitioned to work, notably on the front lines in West Mostar and Vrda.²¹⁴⁵ In a letter dated 29 January 1994, sent to Marijan Biškić, the Deputy Minister for Security at the HR H-B Department of Defence, Berislav Pušić confirmed the facts alleged by the ICRC.²¹⁴⁶ In this report, Berislav Pušić acknowledged that detainees were taken by a person named Ivan Zelenika, who had formed his own "private army" to carry out work for him in West Mostar, and that other detainees at Vojno were working for Mario Mihalj, who was known for mistreating and killing the detainees.

1149. The evidence also shows that Berislav Pušić was informed of the kind of work that the detainees taken out of the Heliodrom were forced to perform – namely, work of a military nature or purpose and fundamentally dangerous. Accordingly, Berislav Pušić approved requests that detailed the nature of the work to be carried out, such as the building of bunkers, the collection of bodies of fallen HVO soldiers and work on the front line.²¹⁴⁷ Moreover, Berislav Pušić himself stated in December 1993 that he had been informed that detainees had been sent to the front line to perform labour during a meeting of an HVO working group on 10 December 1993²¹⁴⁸ and in a report dated 19 December 1993 that was sent to Mate Boban.²¹⁴⁹

1150. Lastly, Berislav Pušić was informed by the Heliodrom authorities of incidents involving Heliodrom detainees while they were working. In a dozen reports sent to Berislav Pušić dated July 1993, Stanko Božić spoke of detainees wounded "by the ABiH" or having gone missing while carrying out the work that Berislav Pušić had previously authorised.²¹⁵⁰ A report by Stanko Božić dated 22 July 1993, sent to Valentin Ćorić and Zvonko Vidović, shows furthermore that one of the detainees sent to work pursuant to Berislav Pušić's authorisation was wounded "by the ABiH".²¹⁵¹ On 8 November 1993, Stanko Božić again informed Berislav Pušić that detainees had been wounded or killed while working for the HVO.²¹⁵² Lastly, on 6 January 1994, Stanko Božić sent Berislav Pušić a list of 37 detainees from the Heliodrom who died while working.²¹⁵³ *Witnesses*

²¹⁴⁵ P 04500; P 00284; p. 7; P 06526; p. 2; P 07787; pp. 7 and 8.

²¹⁴⁶ P 07722.

²¹⁴⁷ P 02921; Josip Praljak, T(F), pp. 14749 and 14754; P 03194; Josip Praljak, T(F), p. 14750; P 03518; P 03583.

²¹⁴⁸ P 07148, p. 3.

²¹⁴⁹ P 07252, p. 1. *See* also P 07722: in a letter dated 29 January 1994 sent to Marijan Biškić, Berislav Pušić stated in reply to a request from the ICRC dated 10 January 1994 (P 07787, p.7) that some detainees from the Heliodrom sent to West Mostar to work were accommodated at the *Ero* hotel, located near the front line.

²¹⁵⁰ P 03171; P 03293; P 03414; P 03435; P 03468; P 03518; P 03525; P 03646; Josip Praljak, T(F), pp. 14767 and 14768.

²¹⁵¹ P 03633.

²¹⁵² P 06526, p. 2.

²¹⁵³ P 07498.

*EJ*²¹⁵⁴ and *Ismet Poljarević* confirmed that the detainees on the list had been sent to work on the front lines.²¹⁵⁵

1151. In view of the above, the Chamber finds that between May 1993 and January 1994, Berislav Pušić authorised and ordered Heliodrom detainees to perform labour on the front line. He was also aware of the fact that some of the detainees forced to perform this labour – notably on the basis of his authorisation or order - were wounded, killed or disappeared. The Chamber deems, therefore, that by having ordered and authorised the use of detainees to work on the front line knowing that some of them had been wounded or killed as a result of this practice, Berislav Pušić intended to have these crimes committed.

iv. Berislav Pušić's Role in Access to the Heliodrom

1152. The Chamber recalls its finding that although the HVO authorities had granted the ICRC and other representatives of the international community access to the Heliodrom, they did not allow them to visit all of the facilities and the detainees there; that, furthermore, HVO authorities concealed detainees from representatives of the international community and refused to provide information about the detainees who were absent when called.²¹⁵⁶

1153. The Chamber recalls in this regard that Berislav Pušić had the power to authorise – and prevent – access to the detention centres and used this power between May 1993 and January/February 1994.²¹⁵⁷ The Chamber notes that between May 1993 and January 1994, Berislav Pušić in fact issued permits to various international organisations to enter the Heliodrom. The Chamber thus notes the testimony of *Witness BB* and *Antoon van der Grinten* according to whom before his appointment as the head of the Service for the Exchange of Detainees on 5 July 1993, Berislav Pušić had authorised them to visit the Heliodrom. *Witness BB*²¹⁵⁸ stated that Berislav Pušić had given him permission to visit the Heliodrom on or about 12 May 1993 to take aid to the

²¹⁵⁴ Muslim HVO soldier detained at the Heliodrom from 21 July 1993 to approximately 17 September 1993: *Witness EJ*, P 10227 under seal, *Naletilić and Martinović* Case, T(F) pp. 1500, 1513, 1543 and 1528.

²¹⁵⁵ *Ismet Poljarević*, T(F), p. 11628; *Witness EJ*, P 10227 under seal, *Naletilić and Martinović* case, T(F), p. 1505.

²¹⁵⁶ See "Restrictions on Visits to Heliodrom Detainees by Members of the International Community" in the Chamber's factual findings with regard to the Heliodrom.

²¹⁵⁷ See "Berislav Pušić's Powers in Respect of Access to Detention Centres" in the Chamber's findings with regard to Berislav Pušić's responsibility under the JCE; see also "Access to the Heliodrom for Representatives of International Organisations and Journalists" in the Chamber's factual findings with regard to the Heliodrom.

²¹⁵⁸ Representative of an international organisation: *Witness BB*, T(F), pp. 17133 and 17134, closed session.

detainees.²¹⁵⁹ *Antoon van der Grinten*²¹⁶⁰ testified that the ECMM was able to visit the Heliodrom on 11 June 1993 with written permission from Berislav Pušić.²¹⁶¹

1154. Likewise, the Chamber notes that on 23 December 1993, Berislav Pušić asked Marijan Biškić, the SIS, the chief of the Military Police Administration, Radoslav Lavrić, and the military prosecutor to inform him of the procedure to be followed in order for the ICRC to obtain authorisation to visit HVO centres.²¹⁶² On 3 January 1994, Berislav Pušić granted permission to 14 representatives of the ICRC to visit the Heliodrom in the period between 4 and 8 January 1994.²¹⁶³ A letter from Marijan Biškić sent to Berislav Pušić and dated 4 January 1994 confirmed that authorisation was granted and moreover approved by Valentin Ćorić.²¹⁶⁴

1155. The Chamber finds that Berislav Pušić granted authorisations to visit the Heliodrom between May 1993 and January 1994. The afore evidence does not enable the Chamber to determine that Berislav Pušić denied international organisations access to the Heliodrom, or that he hid detainees from representatives of the international community. On the contrary, the Chamber notes that when he was uncertain of the procedure to be followed, Berislav Pušić sought information from other authorities in order to permit visits by the ICRC.

v. Berislav Pušić's Role in the Release of Detainees from the Heliodrom Either Through Ordinary Releases or Through Exchanges

1156. The Chamber notes that following the HVO attack on Mostar on 9 May 1993 and the mass arrests of Muslims from West Mostar by the HVO, Berislav Pušić played a key role in the release of people detained at the Heliodrom. Accordingly, on 10 May 1993, Berislav Pušić telephoned Stanko Božić, the warden of the Heliodrom, and ordered him to begin releasing Muslims from West Mostar placed in "quarantine" at the Heliodrom.²¹⁶⁵ Berislav Pušić continued ordering²¹⁶⁶ or

²¹⁵⁹ Witness BB, T(F) pp. 17169 and 17170, closed session; P 02293, para. 7. Questioned about exhibit P 02260 that refers to an order by Berislav Pušić for the release of persons detained at the Heliodrom following the attack of 9 May 1993, *Witness BB* held that this document was consistent with what he believed earlier, that is, it was Berislav Pušić who granted his organisation permission to enter the Heliodrom: Witness BB, T(F), pp. 25426-25428, closed session.

²¹⁶⁰ ECMM observer: *Antoon van der Grinten*, T(F), pp. 20999 and 21001.

²¹⁶¹ *Antoon van der Grinten*, T(F), pp. 21028, 21030 and 21244; P 02721 under seal, p. 2. The Chamber notes that in a report written on 11 June 1993, *Antoon van der Grinten* stated that he received from Berislav Pušić "a pass in order to have free access to the Heliodrom prison whenever we wanted" (emphasis added). In view of *Antoon van der Grinten's* testimony, the Chamber does not consider that the "pass" in question was a general *laissez-passer*.

²¹⁶² P 07311. The report indicates that procedure for authorisation to visit had changed and that it was within this context that Berislav Pušić was seeking clarification from the authorities in charge.

²¹⁶³ P 07466. See also P 07537.

²¹⁶⁴ P 07478, p. 1. See also P 07478, pp. 5 and 6.

²¹⁶⁵ P 02260/P 02262.

²¹⁶⁶ P 02278; P 02285; P 02335; P 02338; P 02347; P 02355; P 02362; P 02363; P 02364; P 02373; P 02379; P 02382; P 02385; P 02390; P 02393; P 02394; P 02395; P 02401; P 02402; P 02403; P 02405; P 02408; P 02409; P 02410. See also, Josip Praljak, T(F), pp. 14702 and 14927; Slobodan Božić, T(F), p. 36586.

authorising²¹⁶⁷ the release of people detained at the Heliodrom until mid-May 1993. More specifically, he ordered the release of all people who were ill on 14 May 1993.²¹⁶⁸

1157. Following his appointment as the head of the Exchange Service, on 5 July 1993, Berislav Pušić continued ordering²¹⁶⁹ or authorising²¹⁷⁰ the release of detainees from the Heliodrom. From the time of his appointment as head of the Commission for HVO Prisons and Detention Centres, Berislav Pušić again played a key role in the release of detainees.

1158. The Chamber recalls that in a Decision of 12 August 1993, Berislav Pušić specified the procedure to be followed for the release of detainees.²¹⁷¹ That release required his approval but also the approval of the SIS and the Department of Criminal Investigations of the Military Police Administration. Many detainees also providing guarantees that they would leave the territory of Herceg-Bosna, were released according to this procedure.²¹⁷² However, according to a note from Josip Praljak²¹⁷³ sent on 27 October 1993 to Mladen Naletilić and Bruno Stojić, Josip Praljak was concerned about the fact that numerous detainees were released from the Heliodrom based solely on authorisation from Berislav Pušić, without any involvement of the Department of Criminal Investigations and the SIS.²¹⁷⁴

1159. As the Chamber previously established, in July, August, October and November 1993, detainees from the Heliodrom were released only if they left BiH with their families for third countries via Croatia.²¹⁷⁵

1160. The Chamber recalls that following Mate Boban's Decision of 10 December 1993 to close the HVO detention centres, Berislav Pušić actively participated in the implementation of this decision.²¹⁷⁶ As of 13 December 1993, he was informed of the number of detainees remaining at the Heliodrom²¹⁷⁷ and proceeded to release them and send them to East Mostar.²¹⁷⁸ He also organised

²¹⁶⁷ The terms "authorisation" and "approval" were used interchangeably: P 02267; P 02296; P 02321; P 02332; P 02334; P 02343; P 02356; P 02367; P 02368; P 02371; P 02371; P 02383; P 02386; P 02396; P 02397; P 02398.

²¹⁶⁸ P 02380.

²¹⁶⁹ P 03133; P 10782; p. 8.

²¹⁷⁰ P 03093.

²¹⁷¹ See "Berislav Pušić's Powers to Release Detainees" in the Chamber's findings regarding Berislav Pušić's responsibility under the JCE. See also Josip Praljak, T(F), pp. 14713 to 14716, 14722 and as example P 04379.

²¹⁷² Josip Praljak, T(F), pp. 14769 to 14771. See for example P 04178; P 04450; P 04451; P 04686; P 04799; P 05044; P 05094; P 05743; P 05748; P 06467. The Chamber notes that on two occasions, Stanko Božić sent him the lists of detainees who had letters of guarantee. See P 06436; P 06816.

²¹⁷³ Josip Praljak was also a member of the Detainee Release Commission: P 03985.

²¹⁷⁴ Josip Praljak, CRF p. 14798 ; P 06170. See notably P 05952.

²¹⁷⁵ See "Departure of Detainees from the Heliodrom to Croatia Between About 17 July 1993 and November 1993" in the Chamber's factual findings with regard to the Heliodrom.

²¹⁷⁶ See "Implementation of Mate Boban's Decision of 10 December 1993" in the Chamber's findings with regard to Berislav Pušić's responsibility under the JCE.

²¹⁷⁷ P 07155.

their departure to third countries²¹⁷⁹ sometimes having them pass through Gabela Prison.²¹⁸⁰ According to a report from Berislav Pušić dated 3 January 1994, 1,078 detainees from the Heliodrom were sent to ABiH-held territories, including East Mostar, and 33 detainees were sent to third countries between 15 and 22 December 1993.²¹⁸¹

1161. The Chamber thus established that in December 1993, several dozen detainees from the Heliodrom were released to go to third countries and several Muslim women and several hundred men being detained were released to East Mostar.²¹⁸²

1162. In connection with the dismantling of HVO detention centres, Berislav Pušić also used his powers in prisoner exchange to send Muslims held at the Heliodrom to ABiH-held territories. The Chamber recalls in this regard that as of late December 1993, numerous releases were carried out through exchanges.²¹⁸³

1163. Starting in mid-December 1993, Berislav Pušić ordered that a certain number of Muslims, mainly those arrested in Sovići in the Municipality of Jablanica, remain in detention at the Heliodrom in order to be used for exchanges in the said municipality.²¹⁸⁴ On 24 February 1994, following negotiations with the Muslim authorities in charge of prisoner exchange, Berislav Pušić compiled a list of Heliodrom detainees and sent it to the military prosecutor's office in order for the office to "arrange" their release.²¹⁸⁵ On 1 March 1994, the HVO, through Berislav Pušić, sent 121 detainees from the Heliodrom to the Municipality of Jablanica, under ABiH control.²¹⁸⁶

1164. Likewise, following an agreement between Berislav Pušić and his counterpart, Amor Mašović reached on 17 March 1994, 754 detainees from the Heliodrom were sent to East Mostar in exchange for HVO soldiers on 19 March 1994.²¹⁸⁷ The agreement envisaged the release of the remaining detainees at the Heliodrom on 22 March 1994.²¹⁸⁸ However, the last releases conducted through exchanges were organised by Berislav Pušić on 19 April 1994.²¹⁸⁹

²¹⁷⁸ P 07141; P 07422; P 07242.

²¹⁷⁹ P 07185; P 07238.

²¹⁸⁰ P 07242.

²¹⁸¹ P 07465/P 07468.

²¹⁸² See "Departures from the Heliodrom to Third Countries or to ABiH-Held Territory between 15 and 17 December 1993" in the Chamber's factual findings with regard to the Heliodrom.

²¹⁸³ See "Detainee Exchanges with the ABiH and Final Releases" in the Chamber's factual findings with regard to the Heliodrom.

²¹⁸⁴ P 07158; P 07495. See also P 07417.

²¹⁸⁵ P 07951; P 07960; P 07975; P 07985.

²¹⁸⁶ P 07991. See also P 07994.

²¹⁸⁷ P 08084; P 08136.

²¹⁸⁸ P 08084, point 2.1.

²¹⁸⁹ P 08242, p. 1.

1165. In this regard, the Chamber found that in March and April 1994, the majority of the Heliodrom detainees were released to ABiH-held territories through exchanges.²¹⁹⁰

1166. The Chamber finds that from May 1993 and until mid-April 1994, Berislav Pušić played a key role in keeping detainees detained at the Heliodrom or releasing them. The Chamber deems that he facilitated the release of detainees and made sure that they had the proper documents to enable them to leave the territory of Herceg-Bosna. The Chamber is satisfied that when Mate Boban decided to dismantle the HVO detention centres on 10 December 1993, Berislav Pušić organised the departure of detainees from the Heliodrom to ABiH-held territories, but did not hesitate to keep some of them in detention for several months more when that allowed him to negotiate the release of HVO soldiers.

c) Dretelj Prison

1167. The Chamber recalls that Berislav Pušić was a member of a working group tasked by the HVO of the HZ H-B during a session on 19 July 1993 to visit the Municipality of Čapljina to inspect the detention sites and propose measures to improve conditions at these sites.²¹⁹¹ During the HVO HZ H-B session of 20 July 1993, which was chaired by Jadranko Prlić with Bruno Stojić present,²¹⁹² the working group proposed identifying new detention sites in order to take some of the Čapljina detainees there, thus ending the overcrowding problems at Dretelj Prison.²¹⁹³ The Chamber notes that on the same day, over 700 detainees from Dretelj Prison were transported to the Heliodrom.²¹⁹⁴ Furthermore, on the days that followed the meeting, some of the detainees from Dretelj Prison who had letters of guarantee were sent to third countries.²¹⁹⁵

1168. The Chamber recalls that following his appointment as the head of the Commission for HVO Prisons and Detention Centres, Berislav Pušić issued the Decision of 12 August 1993, in which he decided to suspend the release of detainees from Dretelj Prison in order to register and classify them.²¹⁹⁶ However, the Chamber was unable to establish whether this registration and classification did indeed take place.

²¹⁹⁰ See "Detainee Exchanges with the ABiH and Final Releases" in the Chamber's factual findings with regard to the Heliodrom.

²¹⁹¹ See "Lack of Space and Air" in the Chamber's factual findings with regard to Dretelj Prison.

²¹⁹² Also present at this meeting were: "K. Zubak", "N. Tomić" and Zoran Buntić.

²¹⁹³ See "Lack of Space and Air" in the Chamber's factual findings with regard to Dretelj Prison.

²¹⁹⁴ P 03942.

²¹⁹⁵ See the "Departure of the Detainees from Dretelj Prison to the Croatian Islands" in the Chamber's factual findings with regard to Dretelj Prison.

²¹⁹⁶ P 04141, p. 2; Witness DD, T(F) pp. 14463, 14464 and T(E), p.14464, closed session.

1169. On 20 September 1993, during a meeting attended by Jadranko Prlić, Bruno Stojić and Berislav Pušić, a representative of the ICRC stated that many of the detainees at Dretelj Prison were exhibiting signs of malnutrition.²¹⁹⁷

1170. In view of the above, the Chamber deems that in July 1993, Berislav Pušić knew of the poor conditions of confinement at Dretelj Prison, in particular about the problem of overcrowding. It notes furthermore that HVO authorities had indeed taken measures to improve the situation, notably by transferring detainees out of the Heliodrom. Nevertheless, Berislav Pušić continued receiving information about serious problems at Dretelj Prison in September 1993 and continued to carry out his functions, notably as the president of the Commission for HVO Prisons and Detention Centres. The only inference that the Chamber can reasonably draw is that Berislav Pušić accepted the conditions of confinement of the detainees at Dretelj Prison.

d) Gabela Prison

1171. Following his appointment as the head of the Commission for HVO Prisons and Detention Centres, Berislav Pušić issued the Decision of 12 August 1993, in which he decided to suspend the release of detainees from Gabela Prison in order to register and classify them.²¹⁹⁸ However, the Chamber recalls that the authorities of Gabela Prison did not classify and separate the detainees based on their status.²¹⁹⁹ Furthermore, Berislav Pušić admitted on 11 December 1993, that he was unaware of how many detainees there were at Gabela Prison, on the pretext that the detainees were constantly being taken away to work, mainly on the front line.²²⁰⁰

1172. The Chamber notes, however, that, as the head of the Exchange Service, Berislav Pušić received updated lists of the number of people detained at Gabela Prison for the purpose of their exchange or release.²²⁰¹ Likewise, during a meeting on 11 December 1993 on how to implement Mate Boban's Decision of 10 December 1993, Berislav Pušić stated that there were 1,256 people being held at Gabela Prison.²²⁰² Also according to Berislav Pušić, on 11 December 1993 there were only five detainees who were members of the ABiH amongst the total number of detainees.²²⁰³

²¹⁹⁷ P 05219 under seal.

²¹⁹⁸ P 04141, p. 2; Witness DD, T(F) pp. 14463, 14464 and T(E), p.14464, closed session.

²¹⁹⁹ See "Number and Status of Detainees at Gabela Prison" in the Chamber's factual findings with regard to Gabela Prison.

²²⁰⁰ P 07148, p. 3.

²²⁰¹ P 06977, p. 1.

²²⁰² P 07148, p. 4; Marijan Biškić, T(F), p. 15102.

²²⁰³ P 07148, p. 4.

1173. The Chamber finds that by having drawn up lists of detainees, Berislav Pušić was aware that people who did not belong to any armed force were being detained. Consequently, the only inference the Chamber can reasonably draw from this evidence is that, by being aware of this fact and continuing to carry out his functions within the HVO, Berislav Pušić accepted that people who did not belong to any armed force were being held at Gabela Prison.

1174. The working group in charge of proposing measures to improve the conditions of confinement for detainees at Dretelj Prison, which included Berislav Pušić in July 1993, was given the same task with regard to Gabela Prison.²²⁰⁴ During the HVO HZ H-B session of 20 July 1993, which was chaired by Jadranko Prlić and attended notably by Berislav Pušić and Bruno Stojić,²²⁰⁵ the working group proposed identifying new detention sites in order to take some of the Čapljina detainees there, thus ending the overcrowding problems at Gabela Prison.²²⁰⁶ The Chamber, however, does not know whether these proposals were followed through.

1175. The Chamber also took note of a report dated 29 September 1993 issued by Ivo Curić²²⁰⁷ that was sent, among others, to the Exchange Service. This report indicated that even though the prisoner hygiene and the epidemiological situation were deemed good, the number of detainees at Gabela Prison was deemed to be too high. The report pointed out that this could lead to intestinal and respiratory diseases.²²⁰⁸ The report also indicated that several detainees were seen to be suffering from severe malnutrition, and amongst the measures that needed to be taken to improve the conditions of confinement inside the prison were reducing the number of detainees and improving the sanitary facilities.²²⁰⁹

1176. The Chamber finds, therefore, that Berislav Pušić was informed about the overcrowding and poor conditions of confinement at Gabela Prison as early as July and September 1993 and that he failed to take any measures to remedy them. The Chamber deems, therefore, that the only inference it can reasonably draw is that, by continuing to carry out his functions within the HVO while being aware of the poor conditions of confinement to which the detainees at Gabela Prison were subjected, Berislav Pušić accepted this crime.

²²⁰⁴ See "Lack of Space and Air" in the Chamber's factual findings with regard to Gabela Prison.

²²⁰⁵ Also present at this meeting were: "K. Zubak", "N. Tomić" and Zoran Buntić.

²²⁰⁶ See "Lack of Space and Air" in the Chamber's factual findings with regard to Dretelj Prison.

²²⁰⁷ Ivo Curić was the commander of the infectious, epidemic and toxicological diseases unit at the Department of Defence of the HVO.

²²⁰⁸ P 05485, p. 2.

²²⁰⁹ P 05485, pp. 2 and 3.

1177. With regard to the release of detainees from Gabela Prison, the Chamber determined that the Military Police Administration had the authority to order the release of persons detained by the HVO, while pointing out that this finding did not prevent it from noting that other HVO authorities also had the power to order the release of detainees.²²¹⁰

1178. Following Mate Boban's Decision of 10 December 1993 to close the detention centres on the territory of HR H-B, Berislav Pušić was actively involved in implementing this decision with regard to Gabela Prison²²¹¹ by ordering the removal of detainees going to third countries or to ABiH-held territories,²²¹² or by issuing reports on the progress of the closure of Gabela Prison.²²¹³ Reports from the Exchange Service drafted by Berislav Pušić in December 1993 indicated that detainees had been transferred to ABiH-held territories²²¹⁴ or sent to third countries via Croatia.²²¹⁵

1179. The Chamber also notes that as of 13 December 1993, pursuant to orders issued by Berislav Pušić, Gabela Prison was used as a transit centre to accommodate detainees arriving from other detention centres, including Ljubuški Prison²²¹⁶ and the Heliodrom,²²¹⁷ and who were going to leave for third countries.²²¹⁸

1180. The Chamber finds, therefore, that Berislav Pušić was involved in removing detainees from Gabela Prison to third countries or ABiH-held territory.

e) Ljubuški Prison and Vitina-Otok Camp

i. Ljubuški Prison

1181. The Chamber notes that according to Berislav Pušić himself, when he was appointed as the head of the Commission for HVO Prisons and Detention Centres in August 1993, the registration and classification of detainees at Ljubuški Prison had already been completed.²²¹⁹ The Chamber recalls that at Ljubuški Prison, the HVO detained both people who were part of the armed forces

²²¹⁰ See "Responsibility of the Military Police in Matters of Detainee Release" in the Chamber's findings regarding the Military Police.

²²¹¹ P 07148/P 07124, p. 14; P 07143, p. 5; P 07214, p. 5.

²²¹² P 07140.

²²¹³ P 07178; P 07246, p. 1; P 07242; P 07468.

²²¹⁴ P 07185, pp. 1-2; P 07187, pp. 1-2; P 07246, p. 4.

²²¹⁵ P 07187; P 07187; P 07246, p. 4.

²²¹⁶ P 07140; P 06982; p. 4.

²²¹⁷ P 07391, p. 3: Point 17; P 08202, p. 3, point 17; P 07238, p. 1; P 07242.

²²¹⁸ P 07222, p. 2; P 07391, p. 2. P 11; P 08202; p. 2. Point 11; P 07226 under seal, p. 2; P 07317; Philip Watkins, T(F), pp. 18828-18832 regarding P 07356 under seal, p. 2; P 07371; P 07395 under seal, p. 6; P 07234, p. 4; P 07242; P 07246, p. 1; Marijan Biškić, T(F), pp. 15126 and 15127.

²²¹⁹ See "Command Structure within Ljubuški Prison" in the Chamber's factual findings with regard to the Municipality and detention centres of Ljubuški.

and people who were not members of any armed force.²²²⁰ According to *Witness E*,²²²¹ Berislav Pušić continued regularly receiving lists of detainees until September 1993.²²²² The lists indicate the detainees' year of birth and at times their place of birth.²²²³ The Chamber deems that the only inference it can reasonably draw is that Berislav Pušić knew that people who were not members of any armed force were being held at Ljubuški Prison and that he accepted this fact.

1182. With regard to the detention conditions at Ljubuški Prison, the Chamber notes that between April and September 1993, Berislav Pušić visited the prison on at least two occasions.²²²⁴ The Chamber deems, therefore, that he was aware that Ljubuški Prison had a limited holding capacity.²²²⁵ Furthermore, on several occasions between May and September 1993, he ordered the transfer of more than a hundred detainees to other detention centres.²²²⁶ On 6 January 1994, he was informed of the fact that 291 Muslims were still being held at the prison.²²²⁷ The Chamber notes that Berislav Pušić was never concerned about the very large number of detainees at Ljubuški Prison even though he knew of the prison's limited capacity. The reason for the transfers he ordered was never indicated and in any case, the transfers did not resolve the problem of overcrowding at the prison. The Chamber deems that the only inference it can reasonably draw is that during the entire time the Ljubuški Prison functioned, Berislav Pušić knew that it was holding many more detainees than its capacity allowed and, by continuing to carry out his functions in the HVO while failing to take adequate measures to remedy this, he accepted this fact.

1183. Following Mate Boban's Decision of 10 December 1993 to close down all the HVO detention centres, Berislav Pušić received information about the number of Muslims still in detention at Ljubuški Prison.²²²⁸ In December 1993, Berislav Pušić approved the release of numerous people detained at Ljubuški Prison to third countries or to ABiH-held territory, or their transfer to other detention centres for the purpose of subsequent release.²²²⁹

²²²⁰ See "The Chamber's Factual Findings" in the Chamber's factual findings with regard to the Municipality and detention centres of Ljubuški and the legal findings with regard to the Municipality and detention centres of Ljubuški with respect to Count 10 (Imprisonment, a crime against humanity).

²²²¹ Witness EA, T(F), p. 22003, closed session.

²²²² Witness EA, T(F), p. 22044, closed session.

²²²³ P 04899.

²²²⁴ Witness E, T(F) p. 22044, closed session. See also Witness CU, T(F), pp. 12321 and 12322, closed session.

²²²⁵ See "Holding Capacity of Ljubuški Prison and the Condition of the Cells" in the Chamber's factual findings with regard to the Municipality and detention centres of Ljubuški: the holding capacity of Ljubuški Prison was no more than a hundred detainees.

²²²⁶ P 02541/P 02535; P 02546, p. 2; Witness BZ, T(F), pp. 9933 and 9934, closed session; Witness E, T(F), pp. 22042 and 22043, closed session; P 05083.

²²²⁷ Marijan Biškić, T(F), p. 15324; P 07488.

²²²⁸ P 07155; P 07488.

²²²⁹ P 06982; P 07140; P 07178; P 07187, p. 1; P 07246, p. 4.

1184. The Chamber finds, therefore, that Berislav Pušić played a key role in removing detainees from Ljubuški Prison to third countries or to ABiH-held territory by approving their release. In this context, Berislav Pušić was involved to a great extent in the process of closing down the prison and in implementing Mate Boban's Decision of 10 December 1993.

ii. Vitina-Otok Camp

1185. In early July 1993, Berislav Pušić requested and obtained from Ante Prlić, the commander of the Military Police of the 4th HVO Brigade, a list of detainees at Vitina. Berislav Pušić came to retrieve this list a few days later.²²³⁰ The Chamber notes, however, that the only list of detainees at Vitina-Otok Camp that it has indicates merely the names of the detainees present.²²³¹ Therefore, even though in his Decision of 12 August 1993 Berislav Pušić confirms that the registration and classification of detainees at Vitina-Otok Camp was completed,²²³² the Chamber is unable to find that he knew that people who were not members of any armed force were being detained at that camp as established by the Chamber.²²³³

f) The Vojno Detention Centre

1186. On 10 January 1994, Berislav Pušić was informed by the ICRC that detainees were working in Vojno.²²³⁴ Furthermore, in a report dated 29 January 1994 and sent to Marijan Biškić, Berislav Pušić confirmed that there were 60 detainees working at Vojno, where "Mario Mihalj [was] abusing his position, abusing detainees [and] killing them".²²³⁵ Berislav Pušić specified that by that time, Mario Mihalj had killed 18 detainees. The Chamber recalls that the detainees – who came from the Heliodrom or who were already present in the Vojno detention centre – were forced to work on fortifying the front lines and were under the responsibility of Mario Mihalj, warden of the Vojno detention centre.²²³⁶

1187. The Chamber finds, therefore, that Berislav Pušić knew that people were being detained at the Vojno detention centre at least in January 1994 and was aware that these detainees were being forced to work on the front line, and were being mistreated and killed. It deems that, insofar as he

²²³⁰ Witness E, T(F), pp. 22069-22070 and 22237-22238, closed session.

²²³¹ P 09440.

²²³² P 04141, p. 2; Witness DD, T(F) pp. 14463-14464 and T(E), p.14464, closed session.

²²³³ See "The Chamber's Factual Findings" in the Chamber's factual findings with regard to the Municipality and detention centres of Ljubuški and the legal findings with regard to the Municipality and detention centres of Ljubuški with respect to Count 10 (Imprisonment, a crime against humanity).

²²³⁴ P 07537, p. 2.

²²³⁵ P 07722, p. 1. See "Treatment of the Heliodrom Detainees During Labour in the Vojno-Bijelo Polje Area" in the Chamber's factual findings with regard to the Vojno Detention Centre.

continued carrying out his functions within the HVO, the only inference it can reasonably draw from these facts is that Berislav Pušić accepted the mistreatment of the detainees. Moreover, with respect to the deaths of detainees as a result of mistreatment by Mario Mihalj, the Chamber cannot consider that these crimes were part of the above preconceived plan inasmuch as the mistreatment did not systematically lead to the deaths of Muslim detainees in all of the HVO centres. The Chamber will subsequently analyse Berislav Pušić's responsibility for these crimes under JCE 3.

6. Berislav Pušić Gave and Spread False Information About Crimes Committed by the HVO

1188. Paragraph 17.6 (j) of the Indictment alleges that Berislav Pušić gave false or inaccurate information to representatives of international organisations and the press about the conditions of confinement at the Heliodrom and Dretelj Prison, and about the operations during which the HVO expelled Bosnian Muslims from their homes, in order to minimise or deny the crimes.

1189. In its Final Trial Brief, the Prosecution states that Berislav Pušić used his HVO liaison role to delay, distract and prevent the involvement of international organisations which would have uncovered the scale of prisoner abuse and mistreatment in the HVO prisons.²²³⁷ The Prosecution argues that Berislav Pušić provided vague answers to questions from representatives of international organisations, or refused to answer;²²³⁸ that he denied the HVO's mistreatment and violations of international law;²²³⁹ and that he obstructed the efforts of international observers by authorising the removal or hiding of the detainees.²²⁴⁰ The Prosecution further submits that in the spring of 1994, Berislav Pušić considered another manner of concealing these crimes by suggesting that the Heliodrom records be destroyed.²²⁴¹ It argues, lastly, that Berislav Pušić generally had little inclination to cooperate with the international organisations.²²⁴²

1190. In its Final Trial Brief, the Pušić Defence argues that the evidence does not support the Prosecution's argument that Berislav Pušić gave false or inaccurate information to the international community to minimise or deny the crimes relating, on the one hand, to the detention conditions at the Heliodrom and Dretelj Prison and, on the other, to the deportation of the Bosnian Muslims.²²⁴³ It submits, in particular, that contrary to what the Prosecution argues, Berislav Pušić did not attempt

²²³⁶ See "Types and Locations of Labour in the Vojno Bijelo Polje Area" in the Chamber's factual findings with regard to the Vojno Detention Centre.

²²³⁷ Prosecution Final Trial Brief, para. 1260.

²²³⁸ Prosecution Final Trial Brief, para. 1264.

²²³⁹ Prosecution Final Trial Brief, para. 1265.

²²⁴⁰ Prosecution Final Trial Brief, para. 1263.

²²⁴¹ Prosecution Final Trial Brief, para. 1266.

²²⁴² Prosecution Final Trial Brief, para. 1262.

²²⁴³ Pušić Defence Final Trial Brief, para. 383.

to make false or inaccurate statements regarding the prevailing conditions at Dretelj Prison, or to justify or deny them during the press conference organised in Međugorje between 7 and 9 September 1993.²²⁴⁴ It also submits that Berislav Pušić's conduct during the transfer of civilians from West Mostar between 25 and 26 May 1993 cannot be construed to be obstructive or confrontational.²²⁴⁵

1191. The evidence shows that Berislav Pušić gave contradictory information on the fate of 12 ABiH soldiers who disappeared following their capture during the fall of the Vranica Building. The Chamber established that 10 of the 12 soldiers who were arrested after the fall of the Vranica Building and detained at the Faculty of Mechanical Engineering died on the night of 10 to 11 May 1993, following beatings by HVO soldiers.²²⁴⁶

1192. During a meeting with *Suad Ćupina*²²⁴⁷ on 25 May 1993, Berislav Pušić told him that he did not know where the people captured during the attack on the Vranica Building were - *Suad Ćupina* stated that he did not believe him at the time.²²⁴⁸ At a meeting with *Amor Mašović*²²⁴⁹ on 29 December 1993, Berislav Pušić said that 8 of the 12 ABiH soldiers were alive and had been sent abroad.²²⁵⁰ *Amor Mašović* also told him that he did not believe this statement.²²⁵¹ In 1995, Berislav Pušić stated in a letter to the Ombudsman for the BiH Federation that he did not know the whereabouts of the people who disappeared on 10 May 1993 when the Vranica Building was captured.²²⁵² In 1997, he told *Amor Mašović* that he could tell him where 16 ABiH soldiers arrested in Vranica were in exchange for the location of 21 HVO soldiers who disappeared in Bugojno.²²⁵³ Although the Chamber does not have more information about Berislav Pušić's exact knowledge about the fate of these soldiers in particular, it can only note nevertheless that he gave contradictory

²²⁴⁴ Pušić Defence Final Trial Brief, paras 384-387. The Pušić Defence adds that, in any case, the representatives of international organisations and journalists present at the scene could not have been misled because they were able to see the conditions prevailing at Dretelj Prison themselves during their visits to this detention centre.

²²⁴⁵ Pušić Defence Final Trial Brief, paras 138-140.

²²⁴⁶ See "Fate of the 12 ABiH Soldiers" in the Chamber's factual findings with regard to the Municipality of Mostar: among the Muslim men detained at the Faculty of Mechanical Engineering after the attack on Mostar on 9 May 1993, the following 10 members of the ABiH were killed by HVO soldiers while in detention: Alija Čamo, Senad Čehić, Dževad Čolić, Mimo Grizović, Vahidin Hasić, Dževad Husić, Zlatko Mehić, Nenad Milojević, Fahir Penava and Nazif Šarančić.

²²⁴⁷ 6D 00012: Member of the ABiH and President of the Commission for the Release and Exchange of Civilians and Soldiers; 2D 00067.

²²⁴⁸ 1D 00527, p. 4; *Suad Ćupina*, T(F), p. 4907.

²²⁴⁹ *Amor Mašović*, T(F), pp. 25006-25012; *Amor Mašović* was member, Deputy President and then President of the RBiH State Commission responsible for the exchange of prisoners of war and persons deprived of their freedom between August 1992 and December 1995.

²²⁵⁰ *Amor Mašović*, T(F) pp. 25014-25019, 25056-25057.

²²⁵¹ *Amor Mašović*, T(F) pp. 25056-25057; P 08542.

²²⁵² P 08595: Berislav Pušić states in this letter that the ABiH soldiers were captured by Juka Prazina and taken to an unknown destination. See also 6D 00749, p. 3; *Amor Mašović*, T(F), pp. 25112-25113.

²²⁵³ *Amor Mašović*, T(F), pp. 25062-25063.

information to all the people he spoke to; that he said that the ABiH soldiers were alive without knowing whether this information was accurate and that two witnesses said that they did not believe him when he gave them information about these soldiers.

1193. Regarding the conditions of confinement at the Heliodrom, the Chamber notes that in June 1993, Berislav Pušić refrained from answering clearly and gave inaccurate responses to questions asked by representatives of an international organisation present at the scene. The Chamber recalls that on 16 June 1993, representatives of the ECMM met with Berislav Pušić and Valentin Ćorić to ask them why Muslims were being held at the Heliodrom and to discuss the conditions of confinement at that centre – indicating that they were very bad.²²⁵⁴ They replied to the ECMM representatives that it was impossible to answer their questions and said that an investigation was underway into each of the detainees and that, in any case, there was no answer to give because they were at war.²²⁵⁵ The Chamber acknowledges that it was unable to establish that Berislav Pušić knew about the problems regarding the conditions of confinement at the Heliodrom before this meeting.²²⁵⁶ It does not have information indicating that Berislav Pušić inquired about the results of the investigations of the Heliodrom detainees that, according to him, had been conducted. The Chamber deems, nevertheless, that by responding in the peremptory manner in which he did and by demonstrating so little cooperation, Berislav Pušić sought to evade the questions of the ECMM representatives.

1194. Moreover, Berislav Pušić suggested to Stanko Božić, warden of the Heliodrom, that he destroy the records at this detention centre, as reported on 24 March 1994 by Stanko Božić to Josip Praljak,²²⁵⁷ *de facto* deputy warden of the Heliodrom.²²⁵⁸

1195. Moreover, Berislav Pušić also gave information that proved to be inaccurate and had therefore lied in September 1993 regarding the conditions of confinement at Dretelj Prison. Accordingly, at a press conference in Međugorje on 7, 8 and 9 September 1993 on Dretelj Prison, Berislav Pušić implied that the detention conditions in that prison were in accordance with international norms and the Geneva Conventions.²²⁵⁹ The Chamber notes, however, that at the date

²²⁵⁴ P 02806, pp. 1-2; Antoon van der Grinten, T(F), pp. 21046-21050.

²²⁵⁵ Antoon van der Grinten, T(F), pp. 21046-21049; P 02806 under seal, p. 2.

²²⁵⁶ See "Berislav Pušić's Knowledge of and Involvement in the Conditions of Confinement and Mistreatment inside the Heliodrom" in the Chamber's findings with regard to Berislav Pušić's responsibility under the JCE.

²²⁵⁷ Josip Praljak, T(F), pp. 14639 and 14641: *de facto* deputy director of the Heliodrom from 21 September 1992 to 10 December 1993; Josip Praljak, T(F) p. 14639: co-director of the Heliodrom from 10 December 1993 to 1 July 1994.

²²⁵⁸ P 00352, p. 42.

²²⁵⁹ Edward Vulliamy, T(F), p. 1594.

of the press conference Berislav Pušić had been directly informed of the poor conditions prevailing in Dretelj Prison.²²⁶⁰

1196. Furthermore, between February and March 1994, the ICRC sent several requests to the HVO inquiring about the fate of some of the detainees who had been transferred from one detention centre to another.²²⁶¹ The requests had been sent to Marijan Biškić and copied to Berislav Pušić. The Chamber notes that on one occasion, 7 March 1994, Berislav Pušić directly replied to the ICRC request about the fate of 98 detainees last seen by the ICRC at Gabela Prison on 11 October or 14 December 1993.²²⁶² He stated that he did not have information about them; that numerous detainees had managed to escape to East Mostar and that the Exchange Service was not responsible for the accommodation of prisoners of war.²²⁶³ The Chamber recalls that as the head of the Exchange Service, Berislav Pušić was responsible for registering and classifying HVO detainees, a task that he carried out, and that he was particularly involved in releasing and/or exchanging HVO detainees following the order issued by Mate Boban on 10 December 1993 to close down the detention centres.²²⁶⁴ The Chamber deems, therefore, that by giving this answer Berislav Pušić sought to conceal the poor conditions of confinement at Gabela Prison.

1197. However, the Chamber notes that it does not have any information to corroborate the Prosecution's assertion that Berislav Pušić authorised detainees being removed and hidden in order to obstruct efforts by the international organisations.

1198. With regard to the allegation that Berislav Pušić gave false information to the international community regarding the operations to evict Muslims carried out by the HVO, the Chamber notes that during the removal of approximately 300 Muslims from West Mostar to East Mostar following an agreement between the HVO and the ABiH on 26 May 1993, Berislav Pušić demonstrated little cooperation with several of the international observers who intercepted the removal and was displeased by their presence.²²⁶⁵ Furthermore, at a meeting organised by ECMM representatives on 16 June 1993, Berislav Pušić and Valentin Ćorić denied the information reported to them concerning, in particular, the eviction of Muslims from West Mostar to East Mostar over the previous five days. They told the ECMM representatives that the evictions never happened and if

²²⁶⁰ See "Dretelj Prison" in the Chamber's factual findings with regard to Berislav Pušić's responsibility under the JCE.

²²⁶¹ P 07787; P 08034, pp. 2-4; P 08031; P 08050; P 07722.

²²⁶² P 08026, pp. 2-6.

²²⁶³ P 08039.

²²⁶⁴ See "Implementation of Mate Boban's Decision of 10 December 1993" in the Chamber's findings with regard to Berislav Pušić's responsibility under the JCE.

²²⁶⁵ Klaus Johann Nissen, T(F), pp. 20430-20431.

they did, they were the acts of criminals over whom the HVO had no control.²²⁶⁶ The Chamber deems that, insofar as by this date he knew of the campaigns to remove the Muslims from West to East Mostar, and by stating as categorically as he did that the acts mentioned by the ECMM representatives never happened, Berislav Pušić attempted to conceal the crimes or deny that the HVO was responsible.

1199. The Chamber notes that in reply to a request for information from the BiH Centre for Human Rights, Berislav Pušić continued, in August 1993, to deny the forced transfers of Muslims held by the HVO during the conflict and gave assurances that the choice of destination by the detainees, once released, was respected,²²⁶⁷ all the while stating that 9,000 Muslims had been expelled from West Mostar.²²⁶⁸

1200. More generally, the evidence shows that representatives of international organisations knew that it was difficult to get full and entire cooperation from Berislav Pušić as well as the information sought. *Philip Watkins* testified that he had to have constant discussions with Berislav Pušić to obtain authorisation to enter the HVO-controlled detention centres.²²⁶⁹ The Chamber also notes in this respect that although Berislav Pušić gave permission to international organisations to visit prisons on the territory of the HR H-B,²²⁷⁰ he also intervened so that authorisation to the ICRC to enter a detention centre in Prozor was refused. Witnesses *BB* and *BC* testified furthermore that Berislav Pušić had little inclination to cooperate with the international organisations present at the scene, notably as he constantly made the transfer of a Muslim conditional on the release of a Croatian or other prisoner and that, consequently, it was very difficult to negotiate with him.²²⁷¹ The Chamber notes, however, the testimony of *Antoon van der Grinten* according to whom his ECMM team had a "good relationship" with Berislav Pušić.²²⁷²

1201. In light of all the evidence, the Chamber finds that between June 1993 and March 1994, Berislav Pušić occasionally denied the information reported to him by representatives of international organisations present at the scene and which he knew to be accurate; and that he provided them with vague answers that were akin to no answers at all. On several occasions, he knowingly provided inaccurate information to the press and to members of international

²²⁶⁶ Antoon van der Grinten, T(F), pp. 21046-21049; P 02806 under seal, p. 2.

²²⁶⁷ P 08431, pp. 2-4.

²²⁶⁸ P 08431, p. 5.

²²⁶⁹ Philip Watkins, T(F), p. 18820.

²²⁷⁰ See "Berislav Pušić's Powers to Represent the HVO before the International Community" in the Chamber's findings regarding Berislav Pušić's responsibility under the JCE.

²²⁷¹ Witness BC, T(F), pp. 18545, 18547 and 18557-18559; Witness BB, T(F), pp. 17239-17242; Witness DZ, T(F), p. 26622.

²²⁷² Antoon van der Grinten, T(F), pp. 21151-21152; 6D 00606, p. 2.

organisations about the conditions of confinement in Dretelj Prison and the Heliodrom, and about the deportations of Muslims from West Mostar in June 1993. The Chamber considers that by doing so, Berislav Pušić trivialised and denied the crimes committed by the HVO in relation to these issues. Furthermore, and in this respect, it notes that representatives of international organisations testified about Berislav Pušić's tendency to avoid cooperating fully and openly with them. It also notes that Berislav Pušić suggested in April 1994 that the records of the Heliodrom should be destroyed. Lastly, the Chamber notes that after April 1994, Berislav Pušić continued denying or minimising the removal of Muslims out of Herceg-Bosna by providing false information to the organisations that contacted him²²⁷³ and continued deceiving the people he spoke to about the disappearance of 12 ABiH soldiers from the Vranica Building. The Chamber finds, therefore, that Berislav Pušić sought to conceal the responsibility of the HVO for the crimes committed in the HVO detention centres as well as during the removal of Bosnian Muslims.

7. The Chamber's Findings on Berislav Pušić's Responsibility under JCE 1

1202. Bearing in mind these findings, the Chamber is satisfied beyond reasonable doubt that between April 1993 and April 1994, Berislav Pušić, as a military policeman and subsequently as head of the Exchange Service and the president of the Commission for HVO Prisons and Detention Centres, had substantial powers regarding maintaining the detention or releasing Bosnian Muslims held by the HVO, their use for labour on the front lines, and the conditions in which they were detained. He also had significant power to represent the HVO before the international community and also before the leadership of Croatia and BiH, which thereby made him a key player in exchange negotiations and the movement of people. The Chamber has no doubt that Berislav Pušić used his powers whenever he thought that they would advance the HVO's objectives.

1203. As established above by the Chamber, Berislav Pušić knew about the mass arrests of Muslims in the HZ(R) H-B by the HVO armed forces – as early as April 1993 in the Municipality of Jablanica – and their detention in several prisons and detention centres in the Municipalities of Jablanica (Sovići School), Prozor (various detention sites), Čapljina (Dretelj and Gabela prisons), Mostar (the Heliodrom, the MUP Building in Mostar and the Vojno Detention Centre) and Ljubuški (Ljubuški Prison and the Vitina-Otok Camp) controlled by the HVO. It was his responsibility to register and classify the HVO detainees. The Chamber notes that he did this only when it proved useful to the HVO's plans and notably when closing down the detention centres or undertaking exchanges. Furthermore, he was aware of the harsh conditions under which the Muslim detainees

²²⁷³ P 08431.

were held at the Sovići School, the Dretelj, Gabela and Ljubuški prisons and at the Heliodrom, and the mistreatment of the detainees at the Heliodrom and the Vojno Detention Centre. The Chamber notes that he never took the necessary measures to improve these conditions or to put a stop to the mistreatment such as moving the detainees to other detention centres or notifying the relevant authorities. Berislav Pušić also played an significant role in the use of Heliodrom detainees to work on the front line as he was one of the authorities who authorised or approved this. He continued sending detainees to work on the front line although he knew that detainees had died and had been wounded on the front line. Lastly, when Mate Boban decided to close down all the HVO detention centres, Berislav Pušić played a key role in organising the closing of the centres and ensured that the Muslims left the territory of the HR H-B.

1204. Insofar as throughout this period Berislav Pušić not only continued performing his functions within the HVO but was also given more and more responsibilities; as he took part in and facilitated the system of detention of the Muslims by approving their transfer from one centre to another and their use for forced labour by tolerating the deplorable conditions of confinement and mistreatment and accepting the death of detainees sent to work on the front line; as he organised and facilitated the system by which HVO detainees were released or exchanged in order for them to be sent to ABiH-held territories and third counties, the Chamber deems that the only inference it can reasonably draw is that Berislav Pušić intended to have these crimes committed.

1205. Insofar as he knew about the destruction in the villages of Sovići and Doljani in April 1993 and the removal of the population from these villages to ABiH-held territories in late May 1993 as well as the transfer of the Muslim population from the Municipality of Čapljina and also West Mostar, and continued to perform his functions within the HVO, the Chamber deems the only inference it can reasonably draw is that Berislav Pušić intended to have these crimes committed.

1206. Moreover, Berislav Pušić was aware of the living conditions in East Mostar caused by the HVO siege and was involved in hindering humanitarian evacuations, thereby contributing to the crimes committed in East Mostar due to the siege. The Chamber deems that the only inference it can reasonably draw is that Berislav Pušić intended to have the crimes related to the siege committed.

1207. Additionally, despite his role with the people in charge of the HVO detention centres and with the HVO leadership, Berislav Pušić made no serious effort to put a stop to the crimes committed in the detention centres or those committed during the arrests of Muslims or to denounce them. On the contrary, Berislav Pušić always sought to evade troublesome questions from representatives of international organisations or those from his Muslim counterparts and gave vague

and even false information to these representatives and the press, thus seeking to deny or minimise the crimes committed by HVO members against the Muslims.

1208. In view of all the evidence analysed above, the Chamber considers that the only inference it can reasonably draw is that Berislav Pušić intended to expel the Muslim population from the HZ(R) H-B. As the Chamber will specify later, Berislav Pušić shared this intention with other members of the JCE.

1209. With regard to his contribution to implementing the common criminal purpose, the Chamber holds that the evidence shows beyond reasonable doubt that it was significant. By virtue of his functions within the network of HVO detention centres, Berislav Pušić methodically organised the release of Muslims imprisoned by the HVO by ensuring their departure to ABiH-held territories or to third countries. By regularly informing the HVO government leadership about the progress of the implementation of Mate Boban's Decision of 10 December 1993, Berislav Pušić constituted the link between the workings of the network of HVO detention centres and the most important members of the JCE. Moreover, the Chamber considers that all of the evidence analysed above proves that Berislav Pušić knew that these crimes were being committed against the Muslims for the sole purpose of forcing them to leave the territory of Herceg-Bosna. The Chamber deems that by participating in the JCE, Berislav Pušić intended to discriminate against the Muslims for the purpose of facilitating their eviction from these territories.

1210. With regard to Berislav Pušić's knowledge of the circumstances that enabled the Chamber to find by a majority, with Judge Antonetti dissenting, that there was an international armed conflict between the HVO/HV and the ABiH, the evidence shows that Berislav Pušić had several direct contacts with Mate Granić, the Minister of Foreign Affairs and Deputy Prime Minister of Croatia, during negotiations on the free circulation of humanitarian aid and the release of detainees and thus knew that the Croatian authorities were involved in the system of detention and deportation of Bosnian Muslims in Herceg-Bosna. He also knew about the fact that soldiers, members of the HV, were present on the territory of the HZ(R) H-B during the conflict.²²⁷⁴ Consequently, the Chamber holds by a majority, with Judge Antonetti dissenting, that he knew that the conflict was of an international nature.

²²⁷⁴ P 08431, p. 2.

1211. In view of the above and under the counts charged for the acts described above, the Chamber is satisfied beyond reasonable doubt that Berislav Pušić is guilty – by participating in a JCE²²⁷⁵ – of the following crimes:

Municipality of Prozor:

Count 1: Persecutions on political, racial and religious grounds under Article 5 of the Statute.

Count 10: Imprisonment under Article 5 of the Statute.

Count 11: Unlawful confinement of a civilian under Article 2 of the Statute.

Municipality of Jablanica (Sovići and Doljani):

Count 1: Persecutions on political, racial and religious grounds under Article 5 of the Statute.

Count 8: Inhumane acts (forcible transfer) under Article 5 of the Statute.

Count 9: Unlawful transfer of a civilian under Article 2 of the Statute.

Count 10: Imprisonment under Article 5 of the Statute.

Count 11: Unlawful confinement of a civilian under Article 2 of the Statute.

Count 12: Inhumane acts (conditions of confinement) under Article 5 of the Statute.

Count 13: Inhuman treatment (conditions of confinement) under Article 2 of the Statute.

Count 14: Cruel treatment (conditions of confinement) under Article 3 of the Statute.

Count 19: Extensive destruction of property not justified by military necessity and carried out unlawfully and wantonly under Article 2 of the Statute.

Count 20: Wanton destruction of cities, towns and villages or devastation not justified by military necessity under Article 3 of the Statute.

Municipality of Mostar:

Count 1: Persecutions on political, racial and religious grounds under Article 5 of the Statute.

²²⁷⁵ Judge Antonetti dissents on the mode of responsibility – participation in a JCE – held by the majority of the Chamber. Nevertheless, he considers that the evidence supports a finding that Berislav Pušić was responsible for crimes

Count 2: Murder under Article 5 of the Statute.

Count 3: Wilful killing under Article 2 of the Statute.

Count 6: Deportation under Article 5 of the Statute.

Count 7: Unlawful deportation of a civilian under Article 2 of the Statute.

Count 8: Inhumane acts (forcible transfer) under Article 5 of the Statute.

Count 9: Unlawful transfer of a civilian under Article 2 of the Statute.

Count 10: Imprisonment under Article 5 of the Statute.

Count 11: Unlawful confinement of a civilian under Article 2 of the Statute.

Count 15: Inhumane acts under Article 5 of the Statute.

Count 16: Inhuman treatment under Article 2 of the Statute.

Count 17: Cruel treatment under Article 3 of the Statute.

Count 20: Wanton destruction of cities, towns and villages or devastation not justified by military necessity under Article 3 of the Statute.

Count 21: Destruction or wilful damage to institutions dedicated to religion or education under Article 3 of the Statute.

Count 24: Unlawful attack on civilians under Article 3 of the Statute.

Count 25: Unlawful infliction of terror on civilians (Mostar) under Article 3 of the Statute.

Municipality of Čapljina:

Count 1: Persecutions on political, racial and religious grounds under Article 5 of the Statute.

Count 6: Deportation under Article 5 of the Statute.

Count 7: Unlawful deportation of a civilian under Article 2 of the Statute.

Count 8: Inhumane acts (forcible transfer) under Article 5 of the Statute.

under the counts listed in this paragraph by virtue of other modes of responsibility provided for in the Statute, as he sets

Count 9: Unlawful transfer of a civilian under Article 2 of the Statute.

The Heliodrom:

Count 1: Persecutions on political, racial and religious grounds under Article 5 of the Statute.

Count 2: Murder under Article 5 of the Statute.

Count 3: Wilful killing under Article 2 of the Statute.

Count 6: Deportation under Article 5 of the Statute.

Count 7: Unlawful deportation of a civilian under Article 2 of the Statute.

Count 8: Inhumane acts (forcible transfer) under Article 5 of the Statute.

Count 9: Unlawful transfer of a civilian under Article 2 of the Statute.

Count 10: Imprisonment under Article 5 of the Statute.

Count 11: Unlawful confinement of a civilian under Article 2 of the Statute.

Count 12: Inhumane acts (conditions of confinement) under Article 5 of the Statute.

Count 13: Inhuman treatment (conditions of confinement) under Article 2 of the Statute.

Count 14: Cruel treatment (conditions of confinement) under Article 3 of the Statute.

Count 15: Inhumane acts under Article 5 of the Statute.

Count 16: Inhuman treatment under Article 2 of the Statute.

Count 17: Cruel treatment under Article 3 of the Statute.

Count 18: Unlawful labour under Article 3 of the Statute.

Dretelj Prison:

Count 1: Persecutions on political, racial and religious grounds under Article 5 of the Statute.

Count 12: Inhumane acts (conditions of confinement) under Article 5 of the Statute.

out in his separate and partially dissenting opinion attached to this Judgement.

Count 13: Inhuman treatment (conditions of confinement) under Article 2 of the Statute.

Count 14: Cruel treatment (conditions of confinement) under Article 3 of the Statute.

Gabela Prison:

Count 1: Persecutions on political, racial and religious grounds under Article 5 of the Statute.

Count 6: Deportation under Article 5 of the Statute.

Count 7: Unlawful deportation of a civilian under Article 2 of the Statute.

Count 8: Inhumane acts (forcible transfer) under Article 5 of the Statute.

Count 9: Unlawful transfer of a civilian under Article 2 of the Statute.

Count 10: Imprisonment under Article 5 of the Statute.

Count 11: Unlawful confinement of a civilian under Article 2 of the Statute.

Count 12: Inhumane acts (conditions of confinement) under Article 5 of the Statute.

Count 13: Inhuman treatment (conditions of confinement) under Article 2 of the Statute.

Count 14: Cruel treatment (conditions of confinement) under Article 3 of the Statute.

Municipality of Ljubuški:

Count 1: Persecutions on political, racial and religious grounds under Article 5 of the Statute.

Count 6: Deportation under Article 5 of the Statute.

Count 7: Unlawful deportation of a civilian under Article 2 of the Statute.

Count 8: Inhumane acts (forcible transfer) under Article 5 of the Statute.

Count 9: Unlawful transfer of a civilian under Article 2 of the Statute.

Count 10: Imprisonment under Article 5 of the Statute.

Count 11: Unlawful confinement of a civilian under Article 2 of the Statute.

Count 12: Inhumane acts (conditions of confinement) under Article 5 of the Statute.

Count 13: Inhuman treatment (conditions of confinement) under Article 2 of the Statute.

Count 14: Cruel treatment (conditions of confinement) under Article 3 of the Statute.

Vojno Detention Centre:

Count 1: Persecutions on political, racial and religious grounds under Article 5 of the Statute.

Count 15: Inhumane acts under Article 5 of the Statute.

Count 16: Inhuman treatment under Article 2 of the Statute.

Count 17: Cruel treatment under Article 3 of the Statute.

Count 18: Unlawful labour under Article 3 of the Statute.

1212. Insofar as Berislav Pušić committed these crimes with the purpose of furthering the common criminal purpose, he is held responsible not only for the crimes set out above but for all of the crimes constituting the common criminal plan.

D. Berislav Pušić's Responsibility under JCE 3

1213. The Chamber established that the crimes of destruction of institutions dedicated to religion or education before June 1993, murders related to the conditions of confinement and treatment of detainees in the detention centres, and the murders, sexual abuse and looting committed during eviction operations were not part of the common criminal purpose. Consequently, the Chamber will analyse whether Berislav Pušić could reasonably have foreseen that these crimes, although they fall outside the scope of this purpose, would be committed, and took the risk that they would

1214. With respect to the destruction of institutions dedicated to religion or education before June 1993, the Chamber was able to establish that on 4 May 1993, during a visit by the Croatian-Muslim delegation to the villages of Sovići and Doljani, Berislav Pušić was aware of the attack and the destruction of villages, including the destruction of mosques. However, insofar as he learnt of the facts after the attack, the Chamber is unable to find that Berislav Pušić could have foreseen the destruction of the mosques in the villages of Sovići and Doljani on 17 April 1993.

1215. With regard to the murders linked to the treatment of detainees, the Chamber was able to establish that on 29 January 1994, Berislav Pušić was aware of the fact that Mario Mihalj was mistreating the detainees he was guarding at the Vojno Detention Centre and that he had killed 18 detainees. The Chamber recalls, however, that it does not have information that would enable it to

confirm that the Vojno Detention Centre continued functioning after January 1994.²²⁷⁶ Insofar as the Chamber was able to establish only that Berislav Pušić knew about the deaths of the detainees in late January 1994 and that the evidence did not enable the Chamber to establish that murders occurred in this centre after December 1993,²²⁷⁷ the Chamber cannot find that Berislav Pušić could reasonably have foreseen that the mistreatment inflicted on the detainees of the Vojno Detention Centre by Mario Mihalj would lead to their deaths.

1216. With regard to the other crimes of destroying institutions dedicated to religion and education before June 1993, murders related to the conditions of confinement and treatment of detainees in the detention centres and the murders, sexual abuse and thefts committed during eviction operations, the Chamber does not have evidence enabling it to find that Berislav Pušić is guilty – by participating in a JCE 3 – of these crimes.

Section 3: Plurality of Persons Sharing the Common Criminal Purpose

1217. The Chamber will now determine whether the implementation of the common criminal purpose was the result of a joint and concerted action by a plurality of persons. The Chamber recalls that although a Trial Chamber must identify the plurality of persons acting within a JCE, it is not necessary for it to specify each of them by name; it may be sufficient that the Chamber refer to categories or groups of persons.²²⁷⁸

1218. The Chamber recalls having found that before mid-January 1993, the evidence was insufficient to establish a consensus on a common criminal plan.²²⁷⁹

1219. The Chamber considers by a majority, with Judge Antonetti dissenting, that the evidence shows that key moments of the JCE were made possible by the collaboration of the HZ(R) H-B leadership and authorities, both with each other and with the Croatian leadership.

1220. In January 1993, Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković and Valentin Ćorić all participated in the planning and/or conducting of military operations that led to the crimes committed against the Muslims in the Municipality of Gornji Vakuf.²²⁸⁰ Likewise, the attacks on the villages of the Municipalities of Prozor and Jablanica in April 1993 were planned by

²²⁷⁶ See "Organisation of the Vojno Detention Centre" in the Chamber's factual findings with regard to the Vojno Detention Centre.

²²⁷⁷ See "Deaths of Detainees While in Detention at the Vojno Detention Centre" in the Chamber's factual findings with regard to the Vojno Detention Centre.

²²⁷⁸ See "Commission" in the Chamber's reasoning with regard to Article 7(1) of the Statute.

²²⁷⁹ See "Existence of a Common Criminal Plan" in the Chamber's findings regarding the JCE.

Milivoj Petković,²²⁸¹ pursuant to an ultimatum issued by Jadranko Prlić to the ABiH.²²⁸² Furthermore, Jadranko Prlić, Bruno Stojić, Milivoj Petković and Valentin Ćorić planned the campaign of arrests and then mass detentions of Muslims who did not belong to any armed force following the ABiH attack on the *Tihomir Mišić* barracks on 30 June 1993.²²⁸³ Additionally, Bruno Stojić, Slobodan Praljak and Milivoj Petković planned and/or facilitated the military operations in the Municipality of Vareš in October 1993,²²⁸⁴ and both Slobodan Praljak and Milivoj Petković attempted to conceal from the international community the crimes committed during the attack on Stupni Do village in October 1993.²²⁸⁵ Lastly, on 10 December 1993, Mate Boban ordered the closure of all the HVO detention centres in BiH, a decision notably implemented by Berislav Pušić, which led to the forced departure of numerous Muslims from the territory of BiH to third countries.²²⁸⁶

1221. With more particular regard to the forced departure of Bosnian Muslims to third countries, the Chamber notes that the head of the Exchange Service, Berislav Pušić, and a few of the high-ranking leaders of the HVO – such as Jadranko Prlić, Perica Jukić and Valentin Ćorić – regularly interacted between April 1993 and April 1994 on issues concerning the exchanges and releases of Muslim detainees with the aim of having them leave the territory claimed by the HZ(R) H-B.²²⁸⁷ The Chamber notes further that the ODP, headed by Darinko Tadić and Martin Raguž and under the direct authority of Jadranko Prlić, issued forms that the Heliodrom detainees had to fill out before being released and leaving BiH.²²⁸⁸ At this same time, the HVO/HZ(R) H-B government,

²²⁸⁰ See "Municipality of Gornji Vakuf" in the Chamber's findings with regard to the responsibilities of Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković and Valentin Ćorić.

²²⁸¹ See "Municipality of Prozor" and "Municipality of Jablanica (Sovići and Doljani)" in the Chamber's findings with regard to Milivoj Petković's responsibility.

²²⁸² See "Municipalities of Prozor and Jablanica (Sovići and Doljani)" in the Chamber's findings with regard to the responsibility of Jadranko Prlić.

²²⁸³ See "Jadranko Prlić's Involvement in the Campaign of Mass Arrests of Muslims Beginning on 30 June 1993 in Several Municipalities" in the Chamber's findings with regard to the responsibility of Jadranko Prlić; "Municipality of Čapljina" in the Chamber's findings with regard to the responsibility of Stojić; "Arrests of Muslim Men as of 30 June 1993" in the Chamber's findings with regard to the responsibility of Milivoj Petković; "Valentin Ćorić's Participation in Operations to Evict the Muslim Population of West Mostar as of June 1993", "Municipality of Stolac" and "Municipality of Čapljina" in the Chamber's findings with regard to the responsibility of Valentin Ćorić under the JCE.

²²⁸⁴ See "Municipality of Vareš" in the Chamber's findings with regard to the responsibility of Bruno Stojić, Slobodan Praljak and Milivoj Petković.

²²⁸⁵ See "Municipality of Vareš" in the Chamber's findings with regard to the responsibility of Slobodan Praljak and Milivoj Petković under the JCE.

²²⁸⁶ See "Implementation of Mate Boban's Decision of 10 December 1993" in the Chamber's findings with regard to the responsibility of Berislav Pušić under the JCE.

²²⁸⁷ See "Berislav Pušić's Interactions with the HVO Leadership" in the Chamber's findings with regard to Berislav Pušić's responsibility under the JCE.

²²⁸⁸ See "Jadranko Prlić's Role in Releasing Heliodrom Detainees" in the Chamber's findings with regard to Jadranko Prlić's responsibility under the JCE.

and more particularly Jadranko Prlić and Bruno Stojić, directed through the ODPB the removal of the Croatian population of Central Bosnia and its rehousing in territories in the HZ(R) H-B.²²⁸⁹

1222. The evidence also shows that Croatian leaders Franjo Tuđman, Gojko Šušak and Janko Bobetko directly collaborated with the HVO leaders and authorities to further the JCE.

1223. Between September 1992 and March 1994, Jadranko Prlić and also Slobodan Praljak, Milivoj Petković and Mate Boban attended several presidential meetings in Croatia, in the presence of Franjo Tuđman, during which the following topics were discussed: the military situation in BiH; the involvement of HVO troops in the events in Stupni Do in October 1993 and the destruction of the Old Bridge in Mostar in November 1993; the anticipated borders of the HZ(R) H-B; or more generally, the conflict between the Croats and the Muslims in Mostar.²²⁹⁰ The Chamber also recalls that Jadranko Prlić was one of the main people that Franjo Tuđman spoke to about important subjects such as the political and military structure of the HVO of the HZ(R) H-B or even the potential candidates to be appointed to the government of the HR H-B.²²⁹¹ Moreover, there was a privileged and continuous link between Slobodan Praljak and the Croatian authorities – including Franjo Tuđman, Gojko Šušak and Janko Bobetko – on subjects regarding BiH, notably Croatia's engagement in BiH.²²⁹²

1224. The composition of the group supporting the common criminal purpose did not remain the same for the duration of the JCE.

1225. The Chamber notes that from January 1993 to April 1994, Jadranko Prlić, Milivoj Petković and Valentin Ćorić continuously contributed to the JCE by performing their respective functions within the political and military bodies of the HZ(R) H-B.²²⁹³

²²⁸⁹ See "Municipality of Vareš" in the Chamber's findings with regard to the responsibility of Jadranko Prlić; "Bruno Stojić Controlled the HZ(R) H-B Armed Forces" in the Chamber's findings with regard to Bruno Stojić's responsibility under the JCE.

²²⁹⁰ See "Attempt by the HVO Authorities to Minimize or Conceal their Responsibility in the Destruction of the Old Bridge" in the Chamber's factual findings with regard to the Municipality of Mostar; "Municipality of Vareš" in the Chamber's findings with regard to Bruno Stojić; "Slobodan Praljak Participated in Meetings of the Senior Croatian Leadership to Decide Policies vis-à-vis Herceg-Bosna" in the Chamber's findings with regard to Slobodan Praljak's responsibility under the JCE.

²²⁹¹ See "Jadranko Prlić's Direct Involvement in Some HVO Departments/Ministries and Services" in the Chamber's findings with regard to Jadranko Prlić's responsibility under the JCE.

²²⁹² See "Slobodan Praljak had an Influential Position Amongst the Croatian Leadership on Issues Regarding BiH" in the Chamber's findings with regard to Slobodan Praljak's responsibility under the JCE.

²²⁹³ See "The Chamber's Findings with Regard to Jadranko Prlić's Responsibility under JCE 1" in the Chamber's findings with regard to Jadranko Prlić's responsibility; "The Chamber's Findings with Regard to Milivoj Petković's Responsibility under JCE 1" in the Chamber's findings with regard to the responsibility of Milivoj Petković; "The Chamber's Findings on Valentin Ćorić's Responsibility under JCE 1" in the Chamber's findings with regard to Valentin Ćorić's responsibility under the JCE.

1226. The Chamber deems that even if Valentin Ćorić left his functions as Chief of the Military Police Administration in November 1993,²²⁹⁴ he nevertheless remained a member of the group as the Minister of the Interior of the HR H-B.²²⁹⁵ Valentin Ćorić continued carrying out important functions within the HVO until the end of the JCE in April 1994, all the while remaining informed of the situation on the field and continuing to interact with the other members of the group.²²⁹⁶ The Chamber thus finds that Valentin Ćorić continued to support the common criminal purpose with the other members of the group even after leaving the Military Police Administration.

1227. The Chamber recalls that on 10 November 1993, Bruno Stojić was appointed as head of the office for the production of military equipment of the HR H-B, but carried out the functions of the head of the Department of Defence until 15 November 1993.²²⁹⁷ Insofar as the Chamber did not learn of any evidence attesting to the fact that as of 15 November 1993, Bruno Stojić continued to contribute to the JCE or to be informed of the activities resulting from it, the Chamber cannot find beyond reasonable doubt that Bruno Stojić remained a member of the JCE after 15 November 1993.

1228. The Chamber recalls that on 8 November 1993, Slobodan Praljak was relieved of his functions within the HVO Main Staff and relinquished them to Ante Roso on 9 November 1993.²²⁹⁸ The Chamber notes that by giving up his functions within the HVO Main Staff and returning to Croatia to become an advisor to the Croatian Minister of Defence for the ministry's archive facilities,²²⁹⁹ Slobodan Praljak ceased being a member of the group.

1229. The Chamber recalls that the Prosecution does not charge Berislav Pušić with any crimes related to the events that took place in January 1993 in the Municipality of Gornji Vakuf.²³⁰⁰ The evidence shows that, in fact, Berislav Pušić did not begin carrying out significant functions within the HVO until April 1993.²³⁰¹ In light of his contribution to the JCE and his interaction with other

²²⁹⁴ See "Valentin Ćorić's Functions" in the Chamber's findings with regard to Valentin Ćorić's responsibility under the JCE.

²²⁹⁵ See "Valentin Ćorić's Functions" in the Chamber's findings with regard to Valentin Ćorić's responsibility under the JCE.

²²⁹⁶ See "Valentin Ćorić's Powers in Fighting Crime" in the Chamber's findings with regard to Valentin Ćorić's responsibility under the JCE.

²²⁹⁷ See "Bruno Stojić's Functions" in the Chamber's findings with regard to Bruno Stojić's responsibility under the JCE.

²²⁹⁸ See "Slobodan Praljak's Functions" in the Chamber's findings with regard to Slobodan Praljak's responsibility under the JCE; "Slobodan Praljak and Ante Roso Succeeding One Another as Commander on 9 November 1993 and the Retention of Milivoj Petković on the Main Staff" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

²²⁹⁹ See "Slobodan Praljak's Functions" in the Chamber's factual findings with regard to Slobodan Praljak's responsibility under the JCE.

²³⁰⁰ Indictment, para. 230.

²³⁰¹ See "The Chamber's Findings on Berislav Pušić's Responsibility under JCE 1" in the Chamber's findings with regard to Berislav Pušić's responsibility under the JCE.

members of the group as of April 1993, the Chamber finds that Berislav Pušić joined the group only as of April 1993 and that he remained in it until April 1994.²³⁰²

1230. Consequently, the composition of the group supporting the common criminal purpose fluctuated over time. Jadranko Prlić, Milivoj Petković and Valentin Ćorić continuously contributed to the JCE from January 1993 to April 1994; Bruno Stojić and Slobodan Praljak contributed from January 1993 to November 1993, and Berislav Pušić from April 1993 to April 1994.

1231. In view of the above, the Chamber finds that a plurality of persons consulted each other to devise and implement the common criminal purpose. The group included Franjo Tuđman, Gojko Šušak, Janko Bobetko, Mate Boban, Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Ćorić and Berislav Pušić. In light of the unified functioning of the political, military and administrative structures of the HVO of the HZ(R) H-B, and the established factual findings, the Chamber considers that the group was certainly broader and had to include other members, notably commanders of the HVO armed forces, political and administrative officials of the HVO/government and municipal HVOs.

1232. Furthermore, even if it is unable to determine the exact identity of all the group members, the Chamber deems that the physical perpetrators of the crimes resulting from the implementation of the common criminal purpose were probably people who were not part of the JCE, in this case members of various structures of the HVO of the HZ(R) H-B. As shown by all the factual and legal observations of the Chamber, the machinery, structures and members of the HVO were used to implement the various aspects of the common criminal purpose. In carrying out their *de jure* and *de facto* powers, Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Ćorić and Berislav Pušić used the members and structures of the HVO of the HZ(R) H-B to commit the crimes that were part of the common criminal purpose to ethnically cleanse the Muslim population from the territory claimed as Croatian.²³⁰³ Consequently, the Chamber is satisfied that the crimes committed by members of the HVO are attributable to the members of the JCE.

²³⁰² See "The Chamber's Findings on Berislav Pušić's Responsibility under JCE 1" in the Chamber's findings with regard to Berislav Pušić's responsibility under the JCE.

²³⁰³ See "The Chamber's Findings with Regard to Jadranko Prlić's Responsibility under JCE 1" in the Chamber's findings with regard to Jadranko Prlić's responsibility"; "The Chamber's Findings with Regard to Bruno Stojić's Responsibility under JCE 1" in the Chamber's findings with regard to Bruno Stojić's responsibility; "The Chamber's Findings With Regard to Slobodan Praljak's Responsibility under JCE 1" in the Chamber's findings with regard to Slobodan Praljak's responsibility under the JCE; "The Chamber's Findings with Regard to Milivoj Petković's Responsibility under JCE 1" in the Chamber's findings with regard to Milivoj Petković's responsibility; "The Chamber's Findings with Regard to Valentin Ćorić's Responsibility under JCE 1" in the Chamber's findings with regard to Valentin Ćorić's responsibility under the JCE; "The Chamber's Findings with Regard to Berislav Pušić's Responsibility under JCE 1" in the Chamber's findings with regard to Berislav Pušić's responsibility under the JCE.

Heading 2: Other Forms of Responsibility

1233. The Chamber recalls that the Prosecution alleges and specifies that, in the alternative, each of the Accused is guilty pursuant to the other modes of participation under Article 7 of the Statute.²³⁰⁴

1234. Insofar as only the crimes committed in the Municipality of Prozor in October 1992 are not part of the common criminal purpose, the Chamber will analyse the responsibility of the Accused pursuant to other modes of participation under the Statute only with respect to these crimes.²³⁰⁵ The Chamber notes that it has evidence that might be relevant only to proving the responsibility under Article 7(3) of the Statute of Bruno Stojić, Slobodan Praljak, Milivoj Petković and Valentin Ćorić.

I. Bruno Stojić

1235. The evidence shows that Bruno Stojić was kept informed of the military operations of the HZ H-B armed forces in Prozor at several periods. On 26 October 1992, the SIS sent him a report according to which as of 25 October 1992, the HVO effectively controlled the town of Prozor and the area around Lake Rama.²³⁰⁶ On 6 May 1993, the VOS informed Bruno Stojić of the fact that the ABiH was in the process of attacking HVO defence lines in the Prozor sector.²³⁰⁷

1236. The Chamber did not learn of any additional evidence indicating that Bruno Stojić was informed of, had participated in or contributed in any way to the crimes committed in the Municipality of Prozor as of 26 October 1992.

II. Slobodan Praljak

1237. *Slobodan Praljak* stated that he went to Prozor around 27 October 1992,²³⁰⁸ at the request of Franjo Tuđman, to calm down the situation.²³⁰⁹ He explained that he was not informed of the situation before his arrival to Prozor, that he learnt of it upon his arrival,²³¹⁰ and that one of his actions was to hold a meeting with the prominent villagers in the Prozor area.²³¹¹

²³⁰⁴ Indictment, paras 218-220 and 228; Prosecution Final Trial Brief, paras 517-526 (Jadranko Prlić), 637-646 (Bruno Stojić), 851-860 (Slobodan Praljak), 971-980 (Milivoj Petković), 1180-1189 (Valentin Ćorić) et 1277-1284 (Berislav Pušić).

²³⁰⁵ The Chamber recalls that the Accused Pušić is not charged with the crimes committed in Prozor in October 1992.

²³⁰⁶ P 00653, pp. 1 and 4.

²³⁰⁷ 3D 02515.

²³⁰⁸ Slobodan Praljak, T(F), p. 43823.

²³⁰⁹ Slobodan Praljak, T(F) pp. 40449-40451, 43825.

²³¹⁰ Slobodan Praljak, T(F), pp. 43823, 43847-43848.

²³¹¹ Slobodan Praljak T(F), pp. 40462-40463. *See also* 3D 00291.

1238. The Chamber recalls that on 14 November 1992, Slobodan Praljak and Valentin Ćorić issued an order, notably to Zdenko Andabak, for all vehicles "taken away" by the Military Police to be returned to their owners.²³¹² Some of the "stolen" or "confiscated" vehicles were in fact returned to their owners.²³¹³ The Chamber recalls, however, that it has no knowledge of any punitive measures taken against members of the Military Police who committed thefts of vehicles and were under Zdenko Andabak's command. In fact, the Chamber observed that Zdenko Andabak was promoted to the rank of chief of the General Military and Traffic Police Department four months later by Bruno Stojić, on the recommendation of Valentin Ćorić.²³¹⁴

1239. The Chamber infers from the order of 14 November 1992 that Slobodan Praljak knew about the fact that members of the HVO Military Police committed thefts in Prozor in October 1992. It notes furthermore that no punitive measures were taken against the perpetrators of the thefts. However, insofar as it was unable to determine that Slobodan Praljak had effective control or command authority over the HVO Military Police present in Prozor at the time, the Chamber cannot find that Slobodan Praljak can be held responsible under Article 7(3) of the Statute.

1240. The Chamber is unaware of any additional evidence indicating that Slobodan Praljak was informed of, had participated in or contributed in any way to the crimes committed in the Municipality of Prozor from 26 October 1992 onwards.

III. Milivoj Petković

1241. The Chamber notes that on 21 October 1992, Milivoj Petković drafted a situation report²³¹⁵ in which he stated that the situation in Prozor and Gornji Vakuf was tense; that it could degenerate into a conflict at any moment and that all security measures had been taken to prevent clashes between the HVO and the ABiH, without however specifying the nature of those measures.²³¹⁶

1242. The HVO attacked the town of Prozor on 23 and 24 October 1992 and took control of the town and its environs as of 24 October 1992.²³¹⁷ On 24 October 1992, Milivoj Petković ordered the HVO military units in several municipalities, including Prozor, to negotiate an unconditional cease-fire with the ABiH and to form mixed patrols to monitor the situation.²³¹⁸ On 25 October 1993, combat continued throughout the day and Milivoj Petković was informed in an SIS report he

²³¹² 3D 00424.

²³¹³ Witness BM, T(F), p. 7069, closed session.

²³¹⁴ P 01460.

²³¹⁵ However, the Chamber does not know the recipient(s) of the consolidated report.

²³¹⁶ 4D 00897, p. 2.

²³¹⁷ See "Takeover of Prozor Town" in the Chamber's factual findings with regard to the Municipality of Prozor.

received on 26 October 1992 that the town and the area around Lake Rama had been taken.²³¹⁹ According to the SIS report dated 26 October 1992, the HVO made multiple negotiation offers which the ABiH rejected.²³²⁰

1243. After the town of Prozor was taken by the HVO, Milivoj Petković received reports from senders whose identity the Chamber does not know about the torching and destruction of Muslim houses in the Municipality of Prozor and issued, in response, an order dated 31 October 1992, in which he forbade the destruction and torching of Muslim houses, stating that such acts would create serious problems because they were being reported by foreign media.²³²¹ The Chamber recalls that between the morning of 24 October 1992 and until at least 30 October 1992, HVO soldiers and members of the HVO Military Police destroyed and torched approximately 75 Muslim homes in the town of Prozor.²³²² The Chamber also recalls that on 24 October 1992, military policemen of the 1st and 2nd companies of the 2nd Military Police Battalion and "local" HVO forces entered the town, and that on the evening of 24 October the town was under the control of the Military Police.²³²³ Nevertheless, the Chamber was unable to find beyond reasonable doubt that the torching was perpetrated by military policemen of the 1st and 2nd companies of the 2nd Military Police Battalion.

1244. On 28 October 1992, following the events of October 1992, Milivoj Petković ordered, the setting up of an HVO investigation commission in Prozor.²³²⁴ The commission, created on 3 November 1992 by Željko Šiljeg, commander of the North West OZ, was supposed to shed light on the events in Prozor in October 1992.²³²⁵ The Chamber does not have any additional information enabling it to confirm that the commission was actually set up and that it did in fact investigate those events. Furthermore, the evidence does not support a finding that the units responsible for the crimes in Prozor in October 1992 were also responsible for other crimes in the municipalities and during the period relevant to the Indictment. Consequently, *in dubio pro reo*, the Chamber must find that Milivoj Petković did in fact fulfil his duty as commander by investigating and taking appropriate measures against the perpetrators of the crimes in Prozor in October 1992 as soon as he learnt of them. Therefore, the Chamber cannot find that the Accused was responsible for these acts.

²³¹⁸ P 00644.

²³¹⁹ See "Takeover of Prozor Town" in the Chamber's factual findings with regard to the Municipality of Prozor. See also P 00653.

²³²⁰ P 00653, p. 3.

²³²¹ P 00679. See also 3D 00131. Under this order, Petar Kolakusić, the assistant commander of the Rama Brigade and chief of military operations for the Rama Brigade, prohibited all combat units operating in Prozor Municipality from wilfully setting fires or destroying private property.

²³²² See "Damage to and Burnings of Property and Houses Belonging to Muslims after the Takeover of the Town of Prozor" in the Chamber's factual findings with regard to the Municipality of Prozor.

²³²³ See "Takeover of Prozor Town" in the Chamber's factual findings with regard to the Municipality of Prozor.

²³²⁴ 4D 00901.

²³²⁵ 4D 00901 and 4D 00903.

IV. Valentin Ćorić

1245. As Judge Antonetti deems that Valentin Ćorić did not have effective control over members of the Military Police, the reasoning that follows was adopted by the majority.

1246. The Chamber recalls that it noted that on 25 October 1992 a part of the Military Police unit from Livno and Tomislavgrad that was in Prozor under the command of Zdenko Andabak illegally seized approximately 30 vehicles and probably stole other property.²³²⁶

1247. In a report dated 25 October 1992, sent to the Military Police Administration, Željko Šiljeg expressly asked Valentin Ćorić to conduct an investigation into the Military Police unit under Zdenko Andabak's command²³²⁷ and to take whatever punitive measures were necessary against the persons who had committed these thefts.²³²⁸ On 14 November 1992, Slobodan Praljak and Valentin Ćorić issued an order, among others to Zdenko Andabak, for all vehicles "taken away" by the Military Police to be returned to their owners.²³²⁹ Some of the "stolen" or "confiscated" vehicles were indeed returned to their owners.²³³⁰ The Chamber recalls, however, that it has no knowledge of any punitive measures taken against members of the Military Police who committed thefts of vehicles and were under Zdenko Andabak's command. In fact, the Chamber noted that Zdenko Andabak was promoted to chief of the General Military and Traffic Police Department four months later by Bruno Stojić, on the recommendation of Valentin Ćorić.²³³¹

1248. As attested to by the order of 14 November 1992, which was enforced, Valentin Ćorić had effective control over members of the Military Police present in Prozor in October 1992. The report of 25 October 1992 and the order of 14 November 1992 show that Valentin Ćorić knew that the vehicles had been seized illegally. The Chamber deems that the return of property to its owners does not constitute a "reasonable" measure by way of which Valentin Ćorić would have discharged his obligation to punish. Moreover, the Chamber infers from the promotion of Zdenko Andabak in February 1993 that Valentin Ćorić failed to inquire about the crimes or to launch an investigation, establish the facts and alert the relevant authorities to them.

1249. The Chamber established furthermore that from 24 to at least 30 October 1992 when there were no combat activities, HVO soldiers and members of the HVO Military Police destroyed about

²³²⁶ P 00648.

²³²⁷ P 00648, Zdenko Andabak, T(F), pp. 50903 and 50904.

²³²⁸ P 00648. *See also* P 00721, p. 1.

²³²⁹ 3D 00424.

²³³⁰ Witness BM, T(F), p. 7069, closed session.

²³³¹ P 01460.

75 Muslim houses in the town of Prozor, torching them with jerry cans filled with gasoline, and destroyed other property such as vehicles belonging to Muslims, whereas not one of the houses belonging to Croats was burned down or damaged.²³³² The Chamber notes that in an undated report addressed to Valentin Ćorić, Zdenko Andabak mentions that numerous houses were damaged as a result of the combat in Prozor on 25 October 1992.²³³³

1250. The Chamber recalls that Valentin Ćorić had effective control over members of the Military Police present in Prozor in October 1992. Moreover, information contained in Zdenko Andabak's undated report and in the report of 25 October 1992 from Željko Šiljeg – describing the discipline problems of military policemen involved in the illegal seizure of vehicles in Prozor – were sufficiently alarming to warrant an additional investigation. The Chamber deems that Valentin Ćorić had means of knowing which of the above crimes had been committed by members of the Military Police. The Chamber infers from the promotion of Zdenko Andabak that Valentin Ćorić refrained from taking the necessary and reasonable measures to discharge his duty to punish these crimes.

1251. In view of the above, the Chamber finds that Valentin Ćorić is guilty under Article 7(3) of the Statute for the following counts regarding the Municipality of Prozor in October 1992:

Count 15: Inhumane acts under Article 5 of the Statute.

Count 16: Inhuman treatment under Article 2 of the Statute.

Count 17: Cruel treatment under Article 3 of the Statute.

Count 19: Extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly, under Article 2 of the Statute.

Count 20: Wanton destruction of cities, towns or villages, or devastation not justified by military necessity under Article 3 of the Statute.

Count 23: Plunder of public or private property, under Article 3 of the Statute.²³³⁴

1252. The Chamber is unaware of any additional evidence indicating that Valentin Ćorić was informed that members of the Military Police had committed other crimes, or that he participated in

²³³² See "Damage and Burning of Property and Houses Belonging to Muslims After the Takeover of the Town of Prozor" in the Chamber's factual findings with regard to the Municipality of Prozor.

²³³³ P 00536, p. 3.

or contributed in any way to the other crimes committed in the Municipality of Prozor as of 26 October 1992.

CHAPTER 8: CUMULATIVE CONVICTIONS

Heading 1: The Principle of Cumulative Convictions

1253. The question of cumulative convictions arises where several charges, corresponding to different offences under the Statute, are retained for what is essentially the same criminal conduct.²³³⁵ The Appeals Chamber recalled that the criterion for cumulative convictions serves twin aims: ensuring that the accused is convicted only for distinct offences, and at the same time, ensuring that the convictions entered fully reflect his criminality.²³³⁶

1254. In accordance with the Tribunal's established jurisprudence, cumulative convictions entered under different statutory provisions, but based on the same criminal conduct, are permissible only if each statutory provision has a materially distinct element not found within the other, meaning that it requires proof of a fact not required by the other²³³⁷ ("*Čelebići* test"). Assessment of the notion of a "distinct element" is a question of law.²³³⁸ It must therefore be based on an analysis of the legal elements of the crimes, "including those contained in the provisions' introductory paragraph",²³³⁹ for which cumulative convictions are likely to be entered.²³⁴⁰ Where this condition of a distinct element has not been met, cumulative convictions are not possible and the Chamber must then decide in relation to which offence it will enter a conviction against an accused, and must do so on the basis of the principle that the conviction under the more specific provision should be upheld, namely that which contains "an additional materially distinct element".²³⁴¹ In that case, "the more specific offence subsumes the less specific one, because the commission of the former necessarily entails the commission of the latter".²³⁴²

1255. The Chamber also notes that certain paragraphs in the Indictment describe events related to poor conditions of confinement and events relating to mistreatment. The Prosecution alleges the events described in these paragraphs as inhumane acts (conditions of confinement) (Count 12),

²³³⁴ The Chamber recalls that it was unable to retain Count 22 in regard to the theft of the 30 vehicles due to the fact that the theft did not amount to extensive appropriation of property.

²³³⁵ *Strugar* Appeals Judgement, para. 311. See also *Čelebići* Appeals Judgement, para. 405.

²³³⁶ *Kordić & Čerkez* Appeals Judgement, para. 1033.

²³³⁷ *Galić* Appeals Judgement, para. 163; See also *Čelebići* Appeals Judgement, para. 412.

²³³⁸ *Krajišnik* Appeals Judgement, para. 387. See also *Kunarac* Appeals Judgement, para. 174.

²³³⁹ *Nahimana* Appeals Judgement, para. 1019, referring to the *Musema* Appeals Judgement, para. 363.

²³⁴⁰ However, the conduct of the accused, such as the acts or omissions charged, cannot be considered as criteria for the *Čelebići* test. See *D. Milosević* Appeals Judgement, para. 39; *Kordić & Čerkez* Appeals Judgement, para. 1033.

²³⁴¹ *Galić* Appeals Judgement, para. 163; See also *Čelebići* Appeals Judgement, para. 413.

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). The Chamber understands that the Prosecution intended the allegations of poor conditions of confinement only as inhumane acts (conditions of confinement) (Count 12), inhuman treatment (conditions of confinement) (Count 13), cruel treatment (conditions of confinement) (Count 14) and the allegations of mistreatment as inhumane acts (Count 15), inhuman treatment (Count 16) and cruel treatment (Count 17). The Chamber therefore considers that insofar as the allegations relate to distinct events, it is unnecessary to analyse the possibility of cumulative convictions for the crimes of inhuman treatment (conditions of confinement) (Count 13) and cruel treatment (Count 17), cruel treatment (conditions of confinement) (Count 14) and inhuman treatment (Count 16), inhuman treatment (conditions of confinement) (Count 13) and inhuman treatment (Count 16), cruel treatment (conditions of confinement) (Count 14) and cruel treatment (Count 17) and, lastly, inhumane acts (conditions of confinement) (Count 12) and inhumane acts (Count 15).

Heading 2: Cumulative Convictions Under Articles 2, 3 and 5 of the Statute

1256. According to the Appeals Chamber, the applicability requirements for crimes against humanity, punishable under Article 5 of the Statute, and grave breaches of the Geneva Conventions, punishable under Article 2 of the Statute, each contain a materially distinct element not contained within the other. Crimes against humanity require proof that the act is part of a widespread or systematic attack against a civilian population, which is not a requirement for grave breaches of the Geneva Conventions. The latter require proof of a nexus between the acts of the accused and the existence of an international armed conflict, and that the persons and property have protected status under the Geneva Conventions, conditions that are not required for crimes against humanity.²³⁴³

1257. The applicability requirements for crimes against humanity, punishable under Article 5 of the Statute, and violations of the laws or customs of war, punishable under Article 3 of the Statute, each contain a materially distinct element not contained within the other. According to the Appeals Chamber, Article 3 of the Statute requires a close link between the acts of the accused and the armed conflict. On the other hand, Article 5 of the Statute requires proof that the act occurred as

²³⁴² *Galić* Appeals Judgement, para. 163; *See also Krstić* Appeals Judgement, para. 218.

²³⁴³ *Kordić* Appeals Judgement, para. 1037.

part of a widespread or systematic attack against a civilian population, an element not required by Article 3.²³⁴⁴

1258. With regard to the applicability requirements for crimes punishable under Articles 2 and 3 of the Statute, the Chamber notes that only those requirements relating to grave breaches of the Geneva Conventions, punishable under Article 2 of the Statute, contain a materially distinct element in relation to the applicability requirements for violations of the laws or customs of war, punishable under Article 3 of the Statute. Article 2 requires the persons and property in question to have protected status under the Geneva Conventions, a requirement not found in Article 3 of the Statute.

1259. Consequently, in application of the *Čelebići* test, cumulative convictions for the offences under Articles 2 and 5 of the Statute and 3 and 5 of the Statute are possible insofar as each of these provisions contains a materially distinct applicability requirement not contained within the other. On the other hand, insofar as the crimes under Article 3 of the Statute do not contain applicability requirements that are materially distinct from those of the crimes under Article 2 of the Statute, the Chamber must examine for each one of the alleged crimes whether a cumulative conviction is possible and whether a materially distinct constituent element not contained within the other exists. If so, and in application of the *Čelebići* test, cumulative conviction is therefore permissible.

Heading 3: Cumulative Convictions for Crimes Punishable Under Articles 2 and 3 of the Statute

I. Inhuman Treatment (Conditions of Confinement) (Count 13, Article 2) and Cruel Treatment (Conditions of Confinement) (Count 14, Article 3)

1260. The Chamber notes that the crime of cruel treatment (conditions of confinement) within the meaning of Article 3 of the Statute does not contain an element materially distinct from the crime of inhuman treatment (conditions of confinement) within the meaning of Article 2 (b) of the Statute. As the *Čelebići* test has not been met, the Chamber must enter a single guilty conviction on the basis of the more specific provision. Inhuman treatment (conditions of confinement) contains an additional specific element in respect of cruel treatment (conditions of confinement). The Chamber recalls that the crimes under Article 2 of the Statute, including inhuman treatment (conditions of confinement), must have been committed against a person protected under the Geneva Conventions,

²³⁴⁴ *Kordić Appeals Judgement*, para. 1036, referring to the *Jelisić Appeals Judgement*, para. 82.

a condition not required for the crimes under Article 3 of the Statute,²³⁴⁵ including cruel treatment (conditions of confinement).

1261. Consequently, only a single conviction for the crime of inhuman treatment (conditions of confinement) (Count 13, Article 2 (b)) may be entered.

II. Inhuman Treatment (Count 16, Article 2) and Cruel Treatment (Count 17, Article 3)

1262. The Chamber notes that the crime of cruel treatment within the meaning of Article 3 of the Statute does not contain an element materially distinct from the crime of inhuman treatment under Article 2 (b) of the Statute. As the *Čelebići* test has not been met, the Chamber must enter a single conviction on the more specific offence. Inhuman treatment contains an additional specific element in relation to cruel treatment. The Chamber recalls that the crimes under Article 2 of the Statute, including inhuman treatment, must have been committed against a person protected under the Geneva Conventions, a condition not required for crimes under Article 3 of the Statute,²³⁴⁶ including cruel treatment.

1263. Consequently, a single conviction for the crime of inhuman treatment (Count 16, Article 2 (b)) may be entered.

III. The Extensive Destruction of Property not Justified by Military Necessity and Carried Out Unlawfully and Wantonly (Count 19, Article 2) and the Wanton Destruction of Cities, Towns or Villages, or Devastation not Justified by Military Necessity (Count 20, Article 3)

1264. With respect to the constituent elements of the crimes of destruction of property not justified by military necessity punishable under Article 2 (d) of the Statute, and the wanton destruction of cities, towns or villages, or devastation not justified by military necessity punishable under Article 3 (b), the Chamber notes that the second does not contain a materially distinct element missing from the first. The destruction of property not justified by military necessity is characterised by the destruction of property which enjoys the general protection of the Geneva Conventions, or which is

²³⁴⁵ *Kordić* Appeals Judgement, para. 1035. See also *Čelebići* Appeals Judgement, paras 422 and 423.

²³⁴⁶ *Kordić* Appeals Judgement, para. 1035. See also *Čelebići* Appeals Judgement, paras 422 and 423.

located in occupied territory,²³⁴⁷ which is not a requirement for the wanton destruction of cities, towns or villages, or devastation not justified by military necessity. Conversely, the latter does not contain a materially distinct element missing from the destruction of property not justified by military necessity.

1265. As the *Čelebići* test has not been met, the Chamber must enter a single conviction on the basis of the more specific provision. The destruction of property not justified by military necessity contains a specific additional element compared to the wanton destruction of cities, towns or villages, or devastation not justified by military necessity in respect of the status of the protected property.

1266. Consequently, only a single conviction for the crime of extensive destruction of property not justified by military necessity and carried out unlawfully and wantonly (Count 19, Article 2 (d)) may be entered.

IV. The Extensive Destruction of Property not Justified by Military Necessity and Carried Out Unlawfully and Wantonly (Count 19, Article 2) and the Destruction or Wilful Damage Done to Institutions Dedicated to Religion or Education (Count 21, Article 3)

1267. With regard to the constituent elements of the crimes of extensive destruction of property not justified by military necessity and carried out unlawfully and wantonly, punishable under Article 2 (d) of the Statute, and the destruction or wilful damage to institutions dedicated to religion or education, punishable under Article 3 (d) of the Statute, the Chamber notes that each of these crimes contains a distinct material element not contained in the other. The destruction of property not justified by military necessity must be extensive,²³⁴⁸ which is not a requirement for the destruction or wilful damage to institutions dedicated to religion or education. The latter requires that the act or omission caused the destruction or damage to a cultural or religious property, which is not a requirement for the destruction of property not justified by military necessity under Article 2 of the Statute.

²³⁴⁷ See "The Extensive Destruction of Property Not Justified by Military Necessity and Carried Out Unlawfully and Wantonly" in the Chamber's treatment of the applicable law: Grave breaches of the Geneva Conventions, referring notably to Articles 18, 21 and 22 of the 4th Geneva Convention and Article 19 of the 1st Geneva Convention.

²³⁴⁸ See "The Extensive Destruction of Property Not Justified by Military Necessity and Carried Out Unlawfully and Wantonly" in the Chamber's treatment of the applicable law: Grave Breaches of the Geneva Conventions, referring to the *Brđanin* Judgement, para. 587 and *Blaškić* Judgement, para. 157.

1268. Consequently, in application of the *Čelebići* test, cumulative convictions entered for the crimes of extensive destruction of property not justified by military necessity and carried out unlawfully and wantonly (Count 19, Article 2 (d)) and the destruction or wilful damage done to institutions dedicated to religion or education (Count 21, Article 3 (d)) is permissible.

V. Appropriation of Property Not Justified by Military Necessity and Carried Out Unlawfully and Wantonly (Count 22, Article 2) and the Plunder of Public or Private Property (Count 23, Article 3)

1269. With regard to the constituent elements of the crimes of appropriation of property not justified by military necessity and carried out unlawfully and wantonly, punishable under Article 2 (d) of the Statute and the plunder of public or private property, punishable under Article 3 (e) of the Statute, the Chamber notes that each of these crimes contains a materially distinct element not found in the other. Appropriation of property must have been committed on a large scale,²³⁴⁹ which is not a requirement of plunder. The latter requires a consequential link between the monetary value of the appropriated property and the gravity of the consequences for the victim,²³⁵⁰ which is not a requirement of the appropriation of property.

1270. Consequently, in application of the *Čelebići* test, entering cumulative convictions for the crimes of appropriation of property, not justified by military necessity and carried out unlawfully and wantonly (Count 22, Article 2 (d)) and the plunder of public or private property (Count 23, Article 3 (e)) is possible.

CHAPTER 9: SENTENCING

Heading 1: Legal Framework for Sentencing

1271. Sentencing is governed by Articles 23²³⁵¹ and 24 of the Statute, Rule 87 of the Rules and section 5 of the Rules (Rules 100 to 106).

²³⁴⁹ See "Extensive Appropriation of Property Not Justified by Military Necessity and Carried Out Unlawfully and Wantonly" in the Chamber's treatment of the applicable law: Grave Breaches of the Geneva Conventions, referring to Article 147 of the 4th Geneva Convention and the *Blaškić* Judgement, para. 157.

²³⁵⁰ See "Plunder of Public or Private Property" in the Chamber's treatment of the applicable law: Violations of the Laws or Customs of War, referring to the *Kordić* Appeals Judgement, para. 82.

²³⁵¹ According to Article 23: " (1) The Trial Chambers shall pronounce judgements and impose sentences and penalties on persons convicted of serious violations of international humanitarian law. (2) The judgement shall be rendered by a majority of the judges of the Trial Chamber and shall be delivered by the Trial Chamber in public. It shall be accompanied by a reasoned opinion in writing, to which separate or dissenting opinions may be appended."

1272. The Chamber will not reproduce the articles here in their entirety, but notes that pursuant to Article 24(1) of the Statute,²³⁵² a Trial Chamber shall be limited to imposing imprisonment penalties, and that pursuant to Rule 101 of the Rules,²³⁵³ a convicted person may be sentenced to imprisonment for a term up to and including the remainder of the convicted person's life.

1273. Rule 87 (C) of the Rules states that if the Trial Chamber finds the accused guilty on one or more of the charges contained in the indictment, it has the discretionary power to impose a sentence in respect of each finding of guilt and indicate whether such sentences shall be served consecutively or concurrently, unless it decides to exercise its power to impose a single sentence reflecting the totality of the criminal conduct of the accused.

1274. The Chamber notes first that to determine and set an appropriate sentence, a Trial Chamber must take into account the purpose of the sentence.

1275. In that respect, Tribunal case-law is established and indicates two primary purposes of sentencing, namely retribution and deterrence.²³⁵⁴

1276. Retribution consists of imposing a just and appropriate punishment for the crime committed.²³⁵⁵ It should not be understood as fulfilling a desire for revenge but rather as determining an appropriate punishment which properly reflects the culpability of the offender,²³⁵⁶ all the while expressing the outrage of the international community at these crimes.²³⁵⁷ Accordingly, a sentence of the International Tribunal should make plain the condemnation of the international community of the behaviour in question,²³⁵⁸ and show that the international community [is] not ready to tolerate serious violations of international humanitarian law and human rights".²³⁵⁹

²³⁵² Article 24 provides that "(1) The penalty imposed by the Trial Chamber shall be limited to imprisonment. In determining the terms of imprisonment, the Trial Chamber shall have recourse to the general practice regarding prison sentences in the courts of the former Yugoslavia [...]."

²³⁵³ Article 101 of the Rules states that: "(A) A convicted person may be sentenced to imprisonment for a term up to and including the remainder of the convicted person's life [...]."

²³⁵⁴ *Mrkšić Appeals Judgement*, para. 415; *Stakić Appeals Judgement*, para. 402. There are other less dominant objectives, notably public reprobation, the understanding by the accused, the victims and the public that the law has been enforced, and amendment. See in this respect *Blaškić Appeals Judgement*, para. 678; *Čelebići Appeals Judgement*, para. 806.

²³⁵⁵ *Krajišnik Appeals Judgement*, para. 804. *Kordić Appeals Judgement*, para. 1075.

²³⁵⁶ *Krajišnik Appeals Judgement*, para. 804. *Kordić Appeals Judgement*, para. 1075.

²³⁵⁷ *Aleksovski Appeals Judgement*, para. 185.

²³⁵⁸ *Aleksovski Appeals Judgement*, para. 185, *Erdemović Sentencing Judgement*, paras 64-65.

²³⁵⁹ *Aleksovski Appeals Judgement*, para. 185; *Kambanda Judgement*, para. 28.

1277. Deterrence can simultaneously be general²³⁶⁰ – to dissuade other potential perpetrators in the same situation from committing the same or similar crimes²³⁶¹ – and individual, in the sense of dissuading the convicted person from re-offending.²³⁶² Nevertheless, the Appeals Chamber holds that this factor must not be given undue prominence in the overall assessment of a sentence.²³⁶³

1278. The Chamber recalls next that when determining a sentence, it must refer to the provisions of the Statute and the Rules which bind the Chambers in the matter. Consequently, Article 24(2) of the Statute provides that in imposing sentences Trial Chambers should take into account such factors as (I) the gravity of the offence and (II) the individual circumstances of the convicted person.

1279. Rule 101(B) of the Rules adds that, when determining a sentence, the Trial Chamber shall take into account: (III) any aggravating or mitigating circumstances, and (IV) the general practice regarding prison sentences in the courts of the former Yugoslavia.

1280. Lastly, the Chamber recalls that, pursuant to Rule 101(C) of the Rules,²³⁶⁴ the Accused are entitled to credit for the time spent in detention pending and during their trial.

I. The Gravity of the Crime

1281. The Statute provides that, in imposing sentences, the Trial Chambers should take into account the gravity of the offence.²³⁶⁵ Furthermore, Tribunal case-law holds that the gravity of the crime is the most important consideration when determining a sentence.²³⁶⁶ A sentence must reflect the inherent gravity of the totality of the criminal conduct of the accused, giving due consideration to the particular circumstances of the case and to the form and degree of the participation of the accused.²³⁶⁷

²³⁶⁰ *Krajišnik Appeals Judgement*, para. 805; *Aleksovski Appeals Judgement*, para. 185.

²³⁶¹ *Krajišnik Appeals Judgement*, para. 805. *Kordić Appeals Judgement*, para. 1078.

²³⁶² *Krajišnik Appeals Judgement*, para. 805. *Kordić Appeals Judgement*, para. 1077.

²³⁶³ *Mrkšić Appeals Judgement*, para. 415; *Krajišnik Appeals Judgement*, para. 805.

²³⁶⁴ Rule 101(C) provides that: "Credit shall be given to the convicted person for the period, if any, during which the convicted person was detained in custody pending surrender to the Tribunal or pending trial or appeal."

²³⁶⁵ Article 24(2) of the Statute; *Mrkšić Appeals Judgement*, para. 377.

²³⁶⁶ *Mrkšić Appeals Judgement*, para. 375; *Galić Appeals Judgement*, para. 442; *Aleksovski Appeals Judgement*, para. 182; *Čelebići Appeals Judgement*, para. 731.

²³⁶⁷ *Mrkšić Appeals Judgement*, paras 375 and 400; *Blaškić Appeals Judgement*, paras 680 and 683; *Krstić Appeals Judgement*, para. 241.

1282. The assessment criteria that the Chamber must take into consideration include, *inter alia*, the legal nature of the offence committed,²³⁶⁸ the discriminatory nature of the crime where this is not considered as an element of the crime,²³⁶⁹ the scale and brutality of the crime,²³⁷⁰ the position of authority of the accused,²³⁷¹ the vulnerability of the victims,²³⁷² the number of victims and the effect of the crime upon the victims and their relatives.²³⁷³

II. The Individual Circumstances of the Convicted Person

1283. The Trial Chamber has the obligation to individualise a sentence²³⁷⁴ since the individual circumstances of the accused are a criterion of the Statute²³⁷⁵ that has been developed through Tribunal case-law.²³⁷⁶ Individualisation of a sentence entails a case-by-case analysis that the Chamber will conduct in the part relating to sentencing (*see* Heading 2 below).

III. Aggravating and Mitigating Circumstances

1284. Rule 101(B) of the Rules²³⁷⁷ requires the Chamber to take into account the existence of aggravating and mitigating circumstances. Neither the Statute nor the Rules set out an exhaustive list of the circumstances of aggravating and mitigating circumstances, and Rule 101(B) merely mentions substantial cooperation with the Prosecution by the convicted person as a mitigating circumstance.²³⁷⁸ Therefore, the Chamber can take into account other aggravating and mitigating circumstances, notably those established by jurisprudence.²³⁷⁹

²³⁶⁸ *Mrkšić* Appeals Judgement, para. 400. In this respect, Tribunal case-law makes no distinction between the gravity of war crimes and crimes against humanity: *Kunarac* Appeals Judgement, par. 171; *Furundžija* Appeals Judgement, paras 242-243.

²³⁶⁹ *Mrkšić* Appeals Judgement, para. 400; *Blaškić* Appeals Judgement, para. 683.

²³⁷⁰ *Mrkšić* Appeals Judgement, para. 400; *Galić* Appeals Judgement, para. 410; *Blaškić* Appeals Judgement, para. 683.

²³⁷¹ *Strugar* Appeals Judgement, paras 353-354; *Musema* Appeals Judgement, paras 382-383; *Naletilić* Appeals Judgement, paras 613 and 625-626.

²³⁷² *Mrkšić* Appeals Judgement, para. 400; *Blaškić* Appeals Judgement, para. 683; *Kunarac* Appeals Judgement, para. 352.

²³⁷³ *Mrkšić* Appeals Judgement, para. 400; *Galić* Appeals Judgement, para. 410; *Blaškić* Appeals Judgement, para. 683; *Krnolejac* Appeals Judgement, para. 260, *Popović* Judgement, para. 2134.

²³⁷⁴ *Mrkšić* Appeals Judgement, para. 376; *Galić* Appeals Judgement, para. 442; *Strugar* Appeals Judgement, para. 348.

²³⁷⁵ ICTY Statute, Article 24(2).

²³⁷⁶ *Blaškić* Appeals Judgement, paras 685 and 707-708; *Čelebići* Appeals Judgement, para. 717.

²³⁷⁷ Rule 101(B) of the Rules provides that: "(B) In determining the sentence, the Trial Chamber shall take into account the factors mentioned in Article 24, paragraph 2, of the Statute, as well as such factors as: (i) any aggravating circumstances; (ii) any mitigating circumstances including the substantial cooperation with the Prosecutor by the convicted person before or after conviction; (iii) the general practice regarding prison sentences in the courts of the former Yugoslavia; (iv) the extent to which any penalty imposed by a court of any State on the convicted person for the same act has already been served, as referred to in Article 10, paragraph 3 of the Statute [...]"

²³⁷⁸ *See* also in this sense *Galić* Appeals Judgement, para. 414.

²³⁷⁹ *Blaškić* Appeals Judgement, paras 685, 686 and 696.

1285. The aggravating circumstances recognised by Tribunal jurisprudence must be proven beyond reasonable doubt,²³⁸⁰ be put to the Chamber in the Indictment and during trial²³⁸¹ and be directly related to the commission of the offence charged and to the offender himself when he committed the offence.²³⁸² The burden of proof for mitigating circumstances, on the other hand, is the balance of probabilities²³⁸³ and is not necessarily related to the offence.²³⁸⁴

1286. Amongst the elements to take into consideration as aggravating circumstances, one can note: (1) the number of victims as it conveys the scale of the crime committed,²³⁸⁵ (2) the vulnerability of the victims,²³⁸⁶ (3) the status of the victims,²³⁸⁷ (4) the repetitive or systematic nature of the crimes,²³⁸⁸ (5) the duration of the crime,²³⁸⁹ (6) premeditation and motive of the crime,²³⁹⁰ (7) the "enthusiastic participation" in the crimes²³⁹¹ and (8) a discriminatory state of mind provided that discrimination is not an element of the crime.²³⁹²

1287. Furthermore, Tribunal case-law recognises the abuse of superior authority as an aggravating circumstance²³⁹³ and it must be distinguished from a superior position *per se*, which generally does not constitute an aggravating factor.²³⁹⁴ On the other hand, in the context of a conviction that simultaneously falls under Articles 7(1) and 7(3) of the Statute, the Chamber refers to its previous reasoning regarding responsibility under Article 7(1) of the Statute but recalls, nevertheless, that the Appeals Chamber considered it inappropriate to find an accused guilty of a specific count under both articles of the Statute.²³⁹⁵ Thus, where both Article 7(1) and Article 7(3) responsibility is alleged under the same count, and where the legal requirements have been met, a Trial Chamber

²³⁸⁰ *Krajišnik* Appeals Judgement, para. 814; *Blaškić* Appeals Judgement, para. 686; *Čelebići* Appeals Judgement, para. 763.

²³⁸¹ *Čelebići* Appeals Judgement, para. 763; *Simba* Appeals Judgement, para. 82.

²³⁸² *Milutinović* Judgement, para. 1149; *Kunarac* Judgement, para. 850.

²³⁸³ *Krajišnik* Appeals Judgement, para. 816; *Hadžihasanović* Appeals Judgement, para. 302; *Blaškić* Appeals Judgement, para. 697.

²³⁸⁴ *Popović* Judgement, para. 2137; *Milutinović* Judgement, para. 1150; *Stakić* Judgement, para. 920.

²³⁸⁵ *Krajišnik* Appeals Judgement, paras 814-815; *Hadžihasanović* Appeals Judgement, paras 310 and 317.

²³⁸⁶ *Krajišnik* Appeals Judgement, paras 814-815; *Blaškić* Appeals Judgement, para. 686.

²³⁸⁷ *Blaškić* Appeals Judgement, para. 686; *Popović* Judgement, para. 2139; *Milutinović* Judgement, para. 1151.

²³⁸⁸ *Hadžihasanović* Appeals Judgement, paras 349-353; *Popović* Judgement, para. 2139.

²³⁸⁹ *Krajišnik* Appeals Judgement, para. 814; *Kunarac* Appeals Judgement, para. 356; *Popović* Judgement, para. 2139.

²³⁹⁰ *Blaškić* Appeals Judgement, paras 686-694; *Krstić* Appeals Judgement, paras 257-258.

²³⁹¹ *Blaškić* Appeals Judgement, para. 686; *Jelisić* Appeals Judgement, para. 86.

²³⁹² *Vasiljević* Appeals Judgement, paras 172-173; *Kunarac* Appeals Judgement, para. 357.

²³⁹³ *D. Milošević* Appeals Judgement, paras 302-303; *Galić* Appeals Judgement, para. 412; *Martić* Appeals Judgement, para. 350.

²³⁹⁴ *D. Milošević* Appeals Judgement, para. 302.

²³⁹⁵ See "The Matter of Cumulative Responsibility in Connection with Articles 7(1) and 7(3) of the Statute" in the Chamber's reasoning with regard to Article 7(1) of the Statute.

should enter a conviction on the basis of Article 7(1) of the Statute only, and consider the accused's superior position as an aggravating factor in sentencing.²³⁹⁶

1288. Amongst the elements to take into account as mitigating circumstances one can note the following: (1) co-operation with the Prosecution,²³⁹⁷ (2) indirect or limited participation in the commission of the crimes,²³⁹⁸ (3) the conduct of the accused subsequent to the conflict,²³⁹⁹ (4) voluntary surrender,²⁴⁰⁰ (5) an expression of remorse²⁴⁰¹ or compassion towards the victims,²⁴⁰² (6) comportment in detention,²⁴⁰³ including during provisional release,²⁴⁰⁴ (7) personal and family circumstances,²⁴⁰⁵ (8) age²⁴⁰⁶ and (9) assistance to victims.²⁴⁰⁷ The Chamber deems, furthermore, that issues relating to the poor health of an accused at the time of the Judgement should be a matter for consideration in the execution of the sentence to be meted out and may only be considered as a mitigating circumstance in exceptional cases.²⁴⁰⁸

1289. The Chamber recalls that, in any case, it must examine the individual circumstances of each particular case to identify aggravating and mitigating circumstances, and assess the weight to be accorded thereto.²⁴⁰⁹

1290. The Chamber notes furthermore that factors weighed either as an aspect of the gravity of a crime, or as an aggravating or mitigating circumstance, can only be taken into consideration only when determining a sentence.²⁴¹⁰ Thus, factors such as an accused's degree of participation in a

²³⁹⁶ *Blaškić Appeals Judgement*, para. 91 (also cited as a reference in the *D. Milošević Appeals Judgement*, para. 302); *Aleksovski Appeals Judgement*, para. 183.

²³⁹⁷ Rule 101(B) (ii) of the Rules; *Blaškić Appeals Judgement*, para. 696.

²³⁹⁸ *Blaškić Appeals Judgement*, para. 696; *Krstić Appeals Judgement*, para. 273.

²³⁹⁹ *Blagojević Appeals Judgement*, para. 330; *Blaškić Appeals Judgement*, para. 696.

²⁴⁰⁰ *Galić Appeals Judgement*, para. 426; *Blaškić Appeals Judgement*, para. 696.

²⁴⁰¹ *Strugar Appeals Judgement*, para. 365; *Blaškić Appeals Judgement* para. 696; *Erdemović Sentencing Judgement*, para. 16 (iii).

²⁴⁰² *Strugar Appeals Judgement*, para. 366.

²⁴⁰³ *Krajišnik Appeals Judgement*, para. 816; *Blaškić Appeals Judgement*, para. 696.

²⁴⁰⁴ *Blagojević Appeals Judgement*, para. 342; *Popović Judgement*, para. 2140.

²⁴⁰⁵ *Krajišnik Appeals Judgement*, para. 816; *Blaškić Appeals Judgement* para. 696; *Kunarac Appeals Judgement*, paras 362 and 408. The Chamber notes that this circumstance may also include the mental health of the accused.

²⁴⁰⁶ *Krajišnik Appeals Judgement*, para. 816; *Blaškić Appeals Judgement*, para. 696.

²⁴⁰⁷ *Krajišnik Appeals Judgement*, paras 816-817; *Blaškić Appeals Judgement*, para. 696.

²⁴⁰⁸ *Galić Appeals Judgement*, para. 436; *Blaškić Appeals Judgement* para. 696; *Simić Sentencing Judgement*, paras 95-98.

²⁴⁰⁹ *D. Milošević Appeals Judgement*, para. 297; *Mrkšić Appeals Judgement*, para. 352; *Blaškić Appeals Judgement*, para. 685.

²⁴¹⁰ *D. Milošević Appeals Judgement*, paras 306, 309; *Limaj Appeals Judgement*, para. 143; *Hadžihasanović Appeals Judgement*, para. 317.

crime or position of authority must be considered either as an aspect of the gravity of a crime, or as aggravating or mitigating circumstances.²⁴¹¹

IV. Sentencing Practices in the Former Yugoslavia

1291. Under Rule 101(B) of the Rules, the Chamber is required to take into account the general practice regarding prison sentences in the courts of the former Yugoslavia,²⁴¹² even if it is for purely indicative reasons and has no binding effect upon the Chamber.²⁴¹³

1292. The relevant provisions for determining sentences are set out in Chapter XVI²⁴¹⁴ and Articles 38, 41 and 48 of the SFRY Criminal Code.²⁴¹⁵

1293. Nevertheless, the Chamber recalls that in any case it has broad discretion in determining the appropriate sentence.²⁴¹⁶ Consequently, it is not necessary to set down a definitive list of sentencing guidelines and applicable criteria governing the Chamber's assessment in the matter as the sentence must always be decided according to the facts of each particular case and the individual guilt of the perpetrator.²⁴¹⁷ This is the reason why sentencing decisions and judgements by other Trial Chambers of the Tribunal are one of many factors and are not binding.²⁴¹⁸

Heading 2: Determination of Sentence

1294. The Prosecution sought a sentence of 40 years of imprisonment for Jadranko Prlić,²⁴¹⁹ Bruno Stojić,²⁴²⁰ Slobodan Praljak,²⁴²¹ and Milivoj Petković;²⁴²² a sentence of 35 years of

²⁴¹¹ *D. Milosević* Appeals Judgement, paras 306 and 309; *Limaj* Appeals Judgement, para. 143; *Hadžihasanović* Appeals Judgement, para. 317.

²⁴¹² Rule 101 of the Rules.

²⁴¹³ *Krstić* Appeals Judgement, para. 260 ; *Jokić* Appeals Judgement, para. 37; *Blaškić* Appeals Judgement, para. 682, referring to the *Kunarac* Judgement, para. 829.

²⁴¹⁴ Chapter XVI of the Criminal Code of the former Yugoslavia “Crimes Against Peace and International Law”, Articles 141-156 and Articles 38 “Imprisonment”, 41 “Sentences” and 48 “Concurrence of Offences”. Crimes against peace and international law were subject to 5 to 15 years in prison or the death penalty, or twenty years in prison where the death sentence is replaced by a prison sentence, or for aggravated murder.

²⁴¹⁵ Entered into force on 1 July 1977.

²⁴¹⁶ *D. Milosević* Appeals Judgement, para. 297; *Strugar* Appeals Judgement, para. 336; *Limaj* Appeals Judgement, para. 127.

²⁴¹⁷ *Blaškić* Appeals Judgement, para. 680; *Krstić* Appeals Judgement, paras 241-242; *Jelisić* Appeals Judgement, para. 101.

²⁴¹⁸ *D. Milosević* Appeals Judgement, para. 326; *Strugar* Appeals Judgement, paras 348-349; *Krstić* Appeals Judgement, para. 248.

²⁴¹⁹ Prosecution Final Trial Brief, para. 1305.

²⁴²⁰ Prosecution Final Trial Brief, para. 1306.

²⁴²¹ Prosecution Final Trial Brief, para. 1307.

²⁴²² Prosecution Final Trial Brief, para. 1308.

imprisonment for Valentin Ćorić²⁴²³ and a sentence of 25 years of imprisonment for Berislav Pušić.²⁴²⁴

1295. In determining the sentence, the Chamber will first consider (I) the gravity of the crimes committed as an element common to each of the Accused and (II) the individual circumstances of each of the Accused.

I. Gravity of the Crimes

1296. In its Final Trial Brief, the Prosecution submits that the nature of the crimes, their temporal duration and geographical scope show the gravity of the crimes committed by the Accused;²⁴²⁵ that the JCE plan for Herceg-Bosna resulted in dramatic reductions in the Muslim population in the area;²⁴²⁶ and lastly, that the massive crimes committed ended or changed forever the lives of tens of thousands of victims.²⁴²⁷

1297. The Chamber recalls first that all the crimes for which it has convicted the Accused constitute a large-scale attack. The crimes were committed on the territory of eight municipalities in BiH during a period of approximately one and a half years, between the autumn of 1992 and early 1994, and resulted in thousands of victims.²⁴²⁸

1298. Moreover, the many crimes committed by the HVO forces from January 1993 to April 1994 for the most part followed a clear pattern of conduct. The crimes committed against the Muslim population were not – in the majority of cases – accidental or random acts.²⁴²⁹ Thus, during this period, the political and military leadership of the HZ(R) H-B, including the Accused, and certain leaders of Croatia implemented an entire system to expel the Muslim population from Herceg-Bosna, which consisted of forcible removal and detention of civilians, murder and destruction of property during and after attacks, mistreatment, destruction during eviction operations, mistreatment and poor conditions of confinement, and the widespread and almost systematic use of detainees on the front line to work and sometimes to serve as human shields, and murder and

²⁴²³ Prosecution Final Trial Brief, para. 1309.

²⁴²⁴ Prosecution Final Trial Brief, para. 1310.

²⁴²⁵ Prosecution Final Trial Brief, para. 1289.

²⁴²⁶ Prosecution Final Trial Brief, para. 1290.

²⁴²⁷ Prosecution Final Trial Brief, para. 1293.

²⁴²⁸ See "The Widespread or Systematic Nature of the Attack" in the Chamber's examination of the general requirements for the application of Articles 2, 3 and 5 of the Statute. See also generally the Chamber's legal findings with regard to Counts 1 to 25.

²⁴²⁹ See "Existence of a Common Criminal Plan" in the Chamber's findings with regard to the JCE.

mistreatment related to this work and, lastly, the removal of detainees and their families from the territory of the HZ(R) H-B following their release.²⁴³⁰

1299. The Chamber recalls as an example that the consequences of these crimes were that from September to October 1993, the Muslim population of the Municipality of Ljubuški decreased from 2,381 to 826; of Čapljina from 14,085 to 3,852 and of Stolac from 8,093 to zero;²⁴³¹ that, on average, between August and December 1993, approximately 1,000 people were constantly being held at Gabela Prison;²⁴³² that from 3 July to 20 September 1993, between 1,100 and over 2,000 Muslim men were held at Dretelj Prison;²⁴³³ that after 9 May 1993, between 1,500 and 2,500 Muslims were taken from Mostar to the Heliodrom²⁴³⁴ and that in November and December 1993, there were over 2,000 detainees in the Heliodrom;²⁴³⁵ that, lastly, in the Municipality of Prozor, as of 16 August 1993, there were approximately 5,000 women, children and elderly people being held in Podgrađe, Lapsunj and Duge²⁴³⁶ and that in late August 1993, 55,000 people were living in besieged East Mostar.²⁴³⁷

1300. The Chamber also found that in committing the various crimes, the HVO specifically and exclusively targeted the Muslims thereby introducing de facto discrimination of these victims and committing the crime of persecution.²⁴³⁸

1301. The Chamber found that these crimes constitute crimes against humanity, grave breaches of the Geneva Conventions and violations of the laws or customs of war punishable under Articles 2, 3 and 5 of the Statute.

1302. The scale and brutality of the crimes, on the one hand, and the inherent nature of the offences on the other show that the crimes committed by the Accused are extremely serious.

1303. The gravity of the crimes is also illustrated by their impact on the victims and their relatives.

²⁴³⁰ See "Existence of a Common Criminal Plan" in the Chamber's findings with regard to the JCE.

²⁴³¹ See "Existence of a Common Criminal Plan" in the Chamber's findings with regard to the JCE.

²⁴³² See "Number and Status of Detainees at Gabela Prison" in the Chamber's factual findings with regard to Gabela Prison.

²⁴³³ See "Number and Status of Detainees at Dretelj Prison" in the Chamber's factual findings with regard to Dretelj Prison.

²⁴³⁴ See "Arrival of Detainees Following Waves of Muslim Arrests between 9 and 10 May 1993" in the Chamber's factual findings with regard to the Heliodrom.

²⁴³⁵ See "Arrival of Detainees Following Waves of Muslim Arrests After 30 June 1993" in the Chamber's factual findings with regard to Heliodrom.

²⁴³⁶ See "Arrests and Placement of Women, Children and Elderly People in Houses in Podgrađe, Lapsunj and Duge" in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁴³⁷ See "Influx of People to East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.'

²⁴³⁸ See the Chamber's legal findings with regard to Count 1 (Persecution on political, racial or religious grounds as a crime against humanity).

1304. Thousands of victims suffered physical and mental suffering because of these crimes and many of them lost their lives and/or family members and/or movable or non-movable property. In Mostar, for example, the HVO subjected the population to physical and mental suffering for months by daily shelling and shooting in the small area of East Mostar densely populated by civilians; by subjecting them to extremely harsh living conditions and by causing numerous deaths and injuries and much destruction; by hindering the regular delivery of humanitarian aid and restricting the access of international organisations to East Mostar, and by driving out numerous Muslims from their homes in West Mostar.²⁴³⁹

1305. The Chamber deems that a considerable number of these victims were particularly vulnerable. In their operations, the HVO often targeted Muslim women, children and elderly people in the municipalities covered by the Indictment. For example, in Prozor in late July and early August 1993, after first arresting the Muslim men, the HVO rounded up, removed and held many women – including pregnant women – children and elderly people, all of whom were Muslim, in Podgrađe and in the villages of Lapsunj and Duge. While in detention, the civilian population was attacked, robbed, verbally and physically abused and sexually attacked. The population was subsequently moved on about 28 August 1993 to ABiH territories, and while being moved the Muslims were shot at and sustained gunshot wounds.²⁴⁴⁰ During the summer of 1993 in the municipalities of Stolac and Čapljina, the HVO also conducted campaigns to arrest and transfer Muslim civilians, during which their property was looted and destroyed after Muslim men of military age were arrested.²⁴⁴¹ The attacks against the population were accompanied by the destruction of buildings dedicated to religion, such as for example in East Mostar where the HVO destroyed ten mosques between June and December 1993.²⁴⁴²

1306. The Chamber finds, therefore, that the crimes for which the Accused were found guilty are extremely serious.

²⁴³⁹ See "Municipality of Mostar" in the Chamber's legal findings with regard to Count 15 (Inhumane acts as a crime against humanity), Count 16 (Inhuman treatment as a grave breach of the Geneva Conventions) and Count 24 (Attacks on civilians as a violation of the laws or customs of war).

²⁴⁴⁰ See "Removal to Kučani in Late August 1993 of Women, Children and Elderly People Held in Podgrađe, Lapsunj and Duge" in the Chamber's factual findings with regard to the Municipality of Prozor.

²⁴⁴¹ See "Arrests of Women, Children and Elderly People; Removal of the Population; Thefts of Property and Damage to Property in Stolac Municipality in July and August 1993" in the Chamber's factual findings with regard to the Municipality of Stolac; "Eviction of Women, Children and Elderly People, Their Removal and the Subsequent Alleged Crimes in the Municipality of Čapljina from July to September 1993" in the Chamber's factual findings with regard to the Municipality of Čapljina.

²⁴⁴² See "Municipality of Mostar" in the Chamber's legal findings with regard to Count 21 (Destruction or wilful damage done to institutions dedicated to religion or education, as a violation of the laws and customs of war).

1307. The Chamber notes that in accordance with Tribunal case-law, the evidence analysed as criteria for the gravity of the crimes will not be taken into account by the Chamber as personal aggravating circumstances its analysis of the individual circumstances of each of the Accused.²⁴⁴³

II. Individual Circumstances of the Accused

1308. The Prosecution generally submits that the Accused played a central role in the political and military structure of Herceg-Bosna and in the implementation of the JCE in Herceg-Bosna.²⁴⁴⁴

1309. The Prosecution also argues that the abuse of authority committed by the Accused that led to a command climate which tolerated the large-scale crimes instigated against non-Croats should be taken into account during the determination of a sentence.²⁴⁴⁵ The Chamber recalls that abuse of authority may constitute an aggravating circumstance.²⁴⁴⁶

1310. The Chamber will address in turn the individual circumstances of each of the Accused: (A) Jadranko Prlić, (B) Bruno Stojić, (C) Slobodan Praljak, (D) Milivoj Petković, (E) Valentin Ćorić and (F) Berislav Pušić.

A. Jadranko Prlić

1311. In its Final Trial Brief, the Prosecution submits that Jadranko Prlić was a key and integral figure in setting up, facilitating and carrying out JCE policies, strategies and practices and that he instigated their implementation, thereby causing immense hardship and suffering to thousands of Bosnian Muslim and also Bosnian Croat families who were forced to leave their homes.²⁴⁴⁷

1312. The Prlić Defence does not put forth mitigating circumstances to be taken into account in the determination of the sentence for Jadranko Prlić but submits generally in its Final Trial Brief that the Chamber should accord weight to the fact that the Accused Prlić voluntarily surrendered to the Tribunal and cooperated with the Prosecution by accepting to be interviewed.²⁴⁴⁸

1313. Furthermore, the Chamber recalls that it admitted four Rule 92 *bis* statements relevant to the determination of the sentence because they relate to the Accused's post-conflict conduct, more specifically to Jadranko Prlić's role in the efforts by the international community, beginning in

²⁴⁴³ See "Aggravating and Mitigating Circumstances" in the Chamber's findings with regard to the sentence.

²⁴⁴⁴ Prosecution Final Trial Brief, paras 1291-1292. See also Prosecution Reply, T(F), p. 52881.

²⁴⁴⁵ Prosecution Final Trial Brief, para. 1292.

²⁴⁴⁶ See "Aggravating and Mitigating Circumstances" in the Chamber's findings with regard to the sentence.

²⁴⁴⁷ Prosecution Final Trial Brief, para. 1305.

²⁴⁴⁸ Prlić Defence Final Trial Brief, paras 33 and 34.

1995, to bring about ethnic reconciliation amongst the three peoples of BiH and the European integration of BiH.²⁴⁴⁹

1314. The Chamber will analyse (1) the extent of Jadranko Prlić's participation in the crimes, the (2) aggravating and (3) mitigating circumstances applicable to the case, and (4) the duration of his detention pending and during trial.

1. Extent of his Participation in the Commission of the Crimes

1315. The Chamber considered Jadranko Prlić one of the key members of the JCE.²⁴⁵⁰ From 14 August 1992 to at least late April 1994, Jadranko Prlić was the President of the HVO and subsequently the President of the HR H-B government. In that position, he held significant *de jure* and *de facto* powers to coordinate and direct the activities of the HVO/HR H-B government. Furthermore, he made decisions regarding military operations which he had executed through the chain of military command *via* the head of the Department of Defence.²⁴⁵¹ The Chamber recalls that he contributed to implementing the JCE in the municipalities of Gornji Vakuf, Prozor and Jablanica by drafting ultimatums in January and April 1993; in the municipalities of Mostar, Stolac, Čapljina and Prozor during the summer of 1993 by presenting the joint proclamation of 30 June 1993 with Bruno Stojić; in East Mostar, by supporting the shooting and shelling campaign of the HVO and hindering the supply of humanitarian aid from June 1993 to at least December 1993.²⁴⁵² Furthermore, Jadranko Prlić, who had the authority to close HZ(R) H-B detention centres, justified the detentions and denied the reality of the situation faced by the detainees in these centres.²⁴⁵³

1316. Jadranko Prlić intended to discriminate against the Muslims in order to facilitate their eviction from the HZ(R) H-B and, having been informed of the crimes committed by HVO

²⁴⁴⁹ Statements of Jacques Paul Klein, Carlos Westendorp, Wolfgang Petritsch and Carl Bildt. See "Decision on Prlić Defence Motion for Admission of Written Statements Pursuant to Rule 92*bis* of the Rules", public, 25 November 2008, particularly para. 12.

²⁴⁵⁰ See "Findings on Jadranko Prlić's Contribution to the Implementation of the JCE" in the Chamber's findings with regard to Jadranko Prlić's responsibility under the JCE.

²⁴⁵¹ See "Findings on Jadranko Prlić's Contribution to the Implementation of the JCE" in the Chamber's findings with regard to Jadranko Prlić's responsibility under the JCE.

²⁴⁵² See "Findings on Jadranko Prlić's Contribution to the Implementation of the JCE" in the Chamber's findings with regard to Jadranko Prlić's responsibility under the JCE; "Jadranko Prlić's Involvement in the Campaign of Mass Arrests of Muslims as of 30 June 1993 in Several Municipalities" in the Chamber's findings with regard to Jadranko Prlić's responsibility under the JCE.

²⁴⁵³ See "Findings on Jadranko Prlić's Contribution to the Implementation of the JCE" in the Chamber's findings with regard to Jadranko Prlić's responsibility under the JCE.

members on numerous occasions, he neither sincerely condemned the crimes nor requested his subordinates to investigate and punish the perpetrators.²⁴⁵⁴

1317. Therefore, Jadranko Prlić played a key role in the implementation of all of the crimes.

2. Aggravating Circumstances

1318. Jadranko Prlić played key role in the commission of crimes by virtue of his functions and powers within the HZ(R) H-B government. He thus abused his authority as the President of the HVO of the HZ H-B and President of the HR H-B government in order to facilitate the crimes by using the resources at his disposal for the implementation of all those crimes.

3. Mitigating Circumstances

1319. The Chamber notes that the Accused Prlić voluntarily surrendered to the Tribunal on 5 April 2004 shortly after the notification of the Indictment.²⁴⁵⁵ The Chamber considers Jadranko Prlić's voluntary surrender as a mitigating circumstance in determining his sentence.

1320. The Chamber notes the fact that, with the exception of the incidents that occurred during his provisional release from 28 July to 8 August 2008,²⁴⁵⁶ he complied with the conditions and guarantees imposed during his provisional releases pursuant to the Chamber's orders and decisions since 30 July 2004.²⁴⁵⁷ The Chamber considers that Jadranko Prlić's good behaviour while in detention and during his provisional releases is a mitigating circumstance in the determination of his sentence.

1321. The Chamber recalls that Jadranko Prlić was interviewed by the Prosecution in December 2001 as a suspect.²⁴⁵⁸ The Chamber recalls that the earnestness and degree of cooperation by an accused may constitute a mitigating circumstance.²⁴⁵⁹ Therefore, the evaluation of the accused's

²⁴⁵⁴ See "Findings on Jadranko Prlić's Contribution to the Implementation of the JCE" in the Chamber's findings with regard to Jadranko Prlić's responsibility under the JCE.

²⁴⁵⁵ The Chamber recalls that the Accused were notified of the Indictment on 31 March 2004. See "Order on Provisional Release of Jadranko Prlić", public, 30 July 2004, para. 3. See also "Decision on Jadranko Prlić's Motion for Provisional Release", public with a confidential annex, 24 November 2011, para. 28.

²⁴⁵⁶ See "Decision on the Accused Prlić's Motion for Provisional Release", confidential with confidential annex 10 December 2008, paras 32 to 34; "Decision on Motion for Provisional Release of the Accused Prlić", confidential with confidential annex, 17 July 2008, paras 28-31.

²⁴⁵⁷ See notably "Decision on Jadranko Prlić's Motion for Provisional Release", public with a confidential annex, 24 November 2011, para. 28 and the references in that paragraph, in particular "Order on Provisional Release of Jadranko Prlić", public, 30 July 2004; "Order on Jadranko Prlić's Motion for Variation of Conditions of Provisional Release", public, 1 July 2005.

²⁴⁵⁸ P 09078, p. 2.

²⁴⁵⁹ *Blaškić* Appeals Judgement, para. 774.

cooperation depends on both the quantity and the quality of the information he provides.²⁴⁶⁰ In the case at hand, the Chamber deems that the single interview between Jadranko Prlić and the Prosecution in December 2001 is insufficient to be taken into account as a mitigating circumstance.

1322. With respect to the post-conflict conduct of Jadranko Prlić, the Chamber took into account the preliminary statement of Jadranko Prlić during the trial²⁴⁶¹ and the Rule 92 *bis* statements of Jacques Paul Klein, Carlos Westendorp, Wolfgang Petritsch and Carl Bildt. According to *Carl Bildt*,²⁴⁶² *Jacques Paul Klein*,²⁴⁶³ *Wolfgang Petritsch*²⁴⁶⁴ and *Carlos Westendorp*,²⁴⁶⁵ Jadranko Prlić was an essential political actor for the international community during the Dayton Accords negotiations, and in the period subsequent to the signing of these accords, particularly as he worked on reconciling the three constitutive peoples of BiH and made efforts to resolve inter-ethnic political problems, notably within the Federation of BH.²⁴⁶⁶ According to *Carlos Westendorp*, while serving as the Minister of Foreign Affairs of BiH after 1997, Jadranko Prlić had a fundamental role in the creation of a multi-ethnic diplomatic corps and contributed to the stabilisation of the situation in BiH.²⁴⁶⁷ In light of the Appeals Chamber case-law on this issues, more particularly of the fact that the Appeals Chamber specifically recognised the important role of an accused in the Dayton Accords and in promoting reconciliation in the former Yugoslavia as a mitigating circumstance,²⁴⁶⁸ the Trial Chamber consider that Jadranko Prlić's post-conflict conduct constitutes a mitigating circumstance.

4. Credit for Time Served by Jadranko Prlić

1323. The Chamber recalls that pursuant to Rule 101(C) of the Rules, the Accused are entitled to credit for the time spent in detention pending and during their trial.²⁴⁶⁹

1324. Consequently, after deducting the time spent on provisional release granted to him, the fact that Jadranko Prlić has been in Tribunal custody since 5 April 2004 must be taken into account.

²⁴⁶⁰ *Blaškić Appeals Judgement*, para. 774.

²⁴⁶¹ See the transcript of 5 and 6 May 2008, more particularly T(F), pp. 27575-27576.

²⁴⁶² Representative of the international community from late spring 1995 to the summer of 1997.

²⁴⁶³ Representative of the international community from January 1996 to January 2003.

²⁴⁶⁴ Representative of the international community from August 1999 to May 2002.

²⁴⁶⁵ Representative of the international community from 1997 to 1999.

²⁴⁶⁶ 1D 03098, p. 1; 1D 03041; p. 1; 1D 03042, pp. 1 and 2; 1D 03043, p. 3.

²⁴⁶⁷ 1D 03043, p. 3.

²⁴⁶⁸ *Blagojević Appeals Judgement*, para. 330. See also "Aggravating and Mitigating Circumstances" in the Chamber's findings with regard to sentencing.

²⁴⁶⁹ See "Legal Framework for Sentencing" in the Chamber's findings with regard to sentencing.

B. Bruno Stojić

1325. In its Final Trial Brief, the Prosecution submits that, as the head of the Department of Defence, Bruno Stojić was a top political and executive official notably with regard to HVO military operations and camps; that he joined and implemented the JCE and that, like the other Accused, Bruno Stojić was a nationalist dedicated to a cause.²⁴⁷⁰

1326. The Stojić Defence puts forth mitigating circumstances and submits that the Accused Stojić did not attempt to evade justice and surrendered voluntarily to the Tribunal; that he displayed exemplary conduct both during the trial and during his provisional releases, complying with the conditions imposed, and lastly, that the absence of a prior criminal record and the good character of the Accused should be taken into account by the Chamber.²⁴⁷¹

1327. The Chamber will analyse (1) the extent of Bruno Stojić 's participation in the crimes, the (2) aggravating and (3) mitigating circumstances applicable to the case, and (4) the duration of his detention pending and during trial.

1. Extent of his Participation in the Commission of the Crimes

1328. The Chamber considered Bruno Stojić one of the key members of the JCE.²⁴⁷² As the head of the Department of Defence and a member of the HVO/HR H-B government from 3 July 1992 to 15 November 1993, Bruno Stojić had significant *de facto* and *de jure* authority over the majority of the components of the HZ(R) H-B armed forces and the Military Police and was the link between the civilian government of the HZ(R) H-B and the military component of the HVO.²⁴⁷³ The Chamber recalls that he participated in planning the HVO military operations in Mostar on 9 May 1993 and in the days that followed as well as in campaigns to evict Muslims in West Mostar in the summer of 1993 and that he continued to exercise control over the armed forces all the while knowing that its members were committing crimes in other BiH municipalities.²⁴⁷⁴ Bruno Stojić had the intent to discriminate against the Muslims for the purpose of facilitating their eviction from

²⁴⁷⁰ Prosecution Final Trial Brief, para. 1306.

²⁴⁷¹ Closing Arguments by the Stojić Defence, T(F), pp. 52402-52405.

²⁴⁷² See "Findings on Bruno Stojić's Responsibility under JCE" in the Chamber's findings with regard to Bruno Stojić's responsibility under the JCE.

²⁴⁷³ See "Findings on Bruno Stojić's Responsibility under JCE" in the Chamber's findings with regard to Bruno Stojić's responsibility under the JCE.

²⁴⁷⁴ See "Findings on Bruno Stojić's Responsibility under JCE" in the Chamber's findings with regard to Bruno Stojić's responsibility under the JCE.

these territories²⁴⁷⁵ and did not make serious efforts to prevent or punish the crimes committed by HVO armed forces and the Military Police even though he had control over them.²⁴⁷⁶

1329. Therefore, Bruno Stojić played a key role in the commission of all of the crimes.

2. Aggravating Circumstances

1330. Bruno Stojić played a key role in the commission of crimes by virtue of his functions and powers within the Department of Defence and the HZ(R) H-B government. He thus abused his authority as the head of the Department of Defence and member of the HVO to facilitate the crimes by using the resources at his disposal for the implementation of all those crimes.

3. Mitigating Circumstances

1331. The Chamber notes that the Accused Stojić voluntarily surrendered to the Tribunal on 5 April 2004, shortly after notification of the Indictment.²⁴⁷⁷ The Chamber considers Bruno Stojić's voluntary surrender as a mitigating circumstance in the determination of his sentence.

1332. The Chamber notes the fact that he complied with the conditions and guarantees imposed on him during his provisional releases, pursuant to the orders and decisions of the Chamber since 30 July 2004.²⁴⁷⁸ The Chamber considers that Bruno Stojić's good behaviour while in detention pending and during trial and during his provisional releases is a mitigating circumstance in the determination of his sentence.

²⁴⁷⁵ See "Findings on Bruno Stojić's Responsibility under JCE" in the Chamber's findings with regard to Bruno Stojić's responsibility under the JCE.

²⁴⁷⁶ See "Bruno Stojić Denied the Crimes against Muslims in the HZ(R) H-B" in the Chamber's findings with regard to Bruno Stojić's responsibility under the JCE.

²⁴⁷⁷ The Chamber recalls that the Accused were notified of the Indictment on 31 March 2004, see *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, "Order on Provisional Release of Bruno Stojić", public, 30 July 2004, para. 3. See also "Decision on Accused Stojić's Motion for Provisional Release", confidential and *ex parte*, 1 December 2011, para. 26.

²⁴⁷⁸ See notably "Decision on Accused Stojić's Motion for Provisional Release", confidential and *ex parte*, 1 December 2011, para. 26 and the references in that paragraph, particularly *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, "Order on Provisional Release of Bruno Stojić", public, 30 July 2004; *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, "Order on Bruno Stojić's Motion for Variation of Conditions of Provisional Release", public, 15 July 2005; "Decision on Provisional Release of the Accused Stojić", confidential, 26 June 2006; "Decision on the Accused Stojić's Motion for Provisional Release", partially confidential, 8 December 2006; "Decision on Provisional Release of the Accused Stojić", public with confidential annex, 11 June 2007; "Decision on Provisional Release of the Accused Stojić", public with confidential annex, 29 November 2007; "Decision on Provisional Release of the Accused Stojić", public with confidential annex, 17 July 2008; "Decision on the Accused Stojić's Motion for Provisional Release", public with confidential annex, 2 December 2008; "Decision on Accused Stojić's Motion for Provisional Release", confidential with confidential annex, 9 December 2010; "Decision on Motion for Provisional Release of the Accused Stojić", confidential with confidential annex, 21 June 2011; "Decision on Motion for Provisional Release of Accused Bruno Stojić", confidential with confidential annex, 2 November 2011.

1333. The Chamber recalls, furthermore, that the Accused Stojić has no prior criminal record and that this may constitute a mitigating circumstance.²⁴⁷⁹ Nevertheless, the Chamber considers that, in view of the gravity of the crimes for which he has been convicted and the scope of his participation in the commission of those crimes, the absence of a prior criminal record has no weight in the determination of the sentence of the Accused Stojić.

1334. The Chamber notes that the Stojić Defence refers to the *viva voce* testimony of Hamid Bahto, Nedžad Čengić and Andjelko Makar in order to attest to the good character of Bruno Stojić.²⁴⁸⁰ The Chamber analysed that testimony and considers that its content does not particularly illustrate the Accused's good character insofar as the testimony is limited to discussing Bruno Stojić's role in supplying MTS to the TO and the ABiH.²⁴⁸¹ Consequently, the Chamber does not consider this a mitigating circumstance.

4. Credit for Time Served by Bruno Stojić

1335. The Chamber recalls that pursuant to Rule 101(C) of the Rules, the Accused are entitled to credit for the time spent in detention pending and during their trial.²⁴⁸²

1336. Consequently, after deducting the time spent on provisional release granted to him, the fact that Bruno Stojić has been in Tribunal custody since 5 April 2004 must be taken into account.

C. Slobodan Praljak

1337. In its Final Trial Brief, the Prosecution submits that, as a Croatian general, Assistant Minister of Defence of Croatia and subsequently the Commander of the HVO Main Staff, Slobodan Praljak was tasked with implementing the JCE in accordance with orders from the Croatian government.²⁴⁸³ He also zealously promoted the goal of evicting Muslims from Herceg-Bosna.²⁴⁸⁴

1338. In its Final Trial Brief, the Praljak Defence puts forth mitigating circumstances, more particularly the Accused Praljak's moral character and integrity, referring inter alia to the assistance

²⁴⁷⁹ *Kordić Appeals Judgement*, para. 1090; *Krajišnik Appeals Judgement*, para. 816.

²⁴⁸⁰ Closing Arguments by the Stojić Defence, T(F), pp. 52404-52405.

²⁴⁸¹ Hamid Bahto, T(F), p. 37900: he testified about Bruno Stojić's involvement in supplying MTS to the TO; Nedžad Čengić, T(F), pp. 37943-37944: Nedžad Čengić is a friend of Bruno Stojić and spoke about a friendly and cordial meeting with Bruno Stojić, the purpose of which was the supply of MTS; Andjelko Makar, T(F), p. 38411: he also testified that Bruno Stojić assisted the 2nd Corps of the ABiH in obtaining MTS.

²⁴⁸² See "Legal Framework for Sentencing" in the Chamber's findings with regard to sentencing.

²⁴⁸³ Prosecution Final Trial Brief, para. 1307.

²⁴⁸⁴ Prosecution Final Trial Brief, para. 1307.

he provided to Muslim refugees and his desire to protect civilians, and the fact that Slobodan Praljak served his functions in the context of a particularly difficult situation.²⁴⁸⁵

1339. The Chamber will analyse (1) the extent of Slobodan Praljak's participation in the crimes, the (2) aggravating and (3) mitigating circumstances applicable to the case, and (4) the duration of his detention pending and during trial.

1. Extent of his Participation in the Commission of the Crimes

1340. Slobodan Praljak was one of the key members of the JCE.²⁴⁸⁶ Between the autumn of 1992 and 9 November 1993, Slobodan Praljak had and exercised significant *de facto* and later *de jure* and *de facto* authority over the HVO armed forces and the Military Police.²⁴⁸⁷ The Chamber recalls, as an example, that he participated in planning the HVO military operations in Prozor and Mostar during the summer of 1993 and later in Vareš in October 1993.²⁴⁸⁸ Moreover, he played a key role as a conduit between Croatia and the HVO government, notably by participating in meetings with senior Croatian officials to ensure Croatian control over territories of the HZ(R) H-B and implement the common criminal purpose.²⁴⁸⁹ Slobodan Praljak had the intent to discriminate against the Muslims for the purpose of evicting the Muslim population from the HZ(R) H-B and did not make serious efforts to prevent or punish the crimes committed even though he continued to exercise control over the HVO armed forces until 9 November 1993.²⁴⁹⁰

1341. Therefore, Slobodan Praljak played a key role in the implementation of the crimes.

2. Aggravating Circumstances

1342. Slobodan Praljak played a key role in the commission of the crimes by virtue of his functions and powers within the HV, within the Croatian Ministry of Defence and within the HVO. By using the HVO armed forces and Military Police to facilitate the crimes, Slobodan Praljak abused his authority by using the resources at his disposal for the implementation of the crimes.

²⁴⁸⁵ Praljak Defence Final Trial Brief, paras 7, 611, 613-619.

²⁴⁸⁶ See "Findings on Slobodan Praljak's Responsibility under the JCE" in the Chamber's findings with regard to Slobodan Praljak's responsibility under the JCE.

²⁴⁸⁷ See "Findings on Slobodan Praljak's Responsibility under the JCE" in the Chamber's findings with regard to Slobodan Praljak's responsibility under the JCE.

²⁴⁸⁸ See "Findings on Slobodan Praljak's Responsibility under JCE" in the Chamber's findings with regard to Slobodan Praljak's responsibility under the JCE.

²⁴⁸⁹ See "Slobodan Praljak as a Conduit Between Croatia and the Government of the HVO" in the Chamber's findings with regard to Slobodan Praljak's responsibility under the JCE.

²⁴⁹⁰ See "Findings on Slobodan Praljak's Responsibility under JCE" in the Chamber's findings with regard to Slobodan Praljak's responsibility under the JCE.

1343. The Chamber recalls that the commission of a crime is aggravated when it is committed enthusiastically.²⁴⁹¹ The Chamber analysed the evidence put forth by the Prosecution in order to demonstrate the "enthusiastic participation" of the Accused Praljak in the commission of crimes.²⁴⁹² Two of these documents are presidential transcripts of the Croatian government that illustrate, on the one hand, the role of Croatia and of Slobodan Praljak in BiH and, on the other, demonstrate Slobodan Praljak's state of mind regarding the events in BiH.²⁴⁹³ The third document is a transcript of the meeting of the HVO's Central Bosnia OZ, dated 2 April 1993, which illustrates the political objective of the JCE.²⁴⁹⁴ The Chamber considers that, although this evidence allows it to establish Slobodan Praljak's role and state of mind in its analysis of his participation in the JCE, it does not demonstrate beyond reasonable doubt that the Accused Praljak acted with particular zeal in the commission of the crimes.²⁴⁹⁵ Consequently, the Chamber did not take zeal into account as an aggravating circumstance in the determination of his sentence.

3. Mitigating Circumstances

1344. The Chamber notes that the Accused Praljak voluntarily surrendered to the Tribunal on 5 April 2004, and did so rapidly after the notification of the Indictment.²⁴⁹⁶ The Chamber considers Slobodan Praljak 's voluntary surrender as a mitigating circumstance in the determination of his sentence.

1345. The Chamber notes that he complied with the conditions and guarantees imposed on him during his provisional releases, pursuant to the orders and decisions of the Chamber since 30 July 2004.²⁴⁹⁷ The Chamber considers moreover that Slobodan Praljak 's good behaviour while in detention pending and during trial and during his provisional releases is a mitigating circumstance in the determination of his sentence.

²⁴⁹¹ See "Aggravating and Mitigating Circumstances" in the Chamber's findings with regard to sentencing.

²⁴⁹² Prosecution Final Trial Brief, para. 1307; P 00466, pp. 52-54; P 00524, pp. 17-18; P 01788, pp. 1-3.

²⁴⁹³ P 00466, pp. 52-54; P 00524, pp. 15-8.

²⁴⁹⁴ P 01788.

²⁴⁹⁵ This evidence enabled the Chamber to reach findings regarding Slobodan Praljak's role in the JCE and therefore is part of the Accused's contribution and criminal intent and not of the motive (aggravating circumstance), see *Blaškić Appeals Judgement*, paras 693-695.

²⁴⁹⁶ The Chamber recalls that the Accused were notified of the Indictment on 31 March 2004. See *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, "Order on Provisional Release of Slobodan Praljak", public, 30 July 2004, para. 3. See also "Decision on Slobodan Praljak's Motion for Provisional Release", confidential and *ex parte* with confidential and *ex parte* annexes, 30 November 2011, para. 31.

²⁴⁹⁷ See notably "Decision on Slobodan Praljak's Motion for Provisional Release", confidential and *ex parte* with confidential and *ex parte* annexes, 30 November 2011, para. 31 and the references in this paragraph, such as for example "Order on Provisional Release of Slobodan Praljak", public, 30 July 2004 ; "Order on Jadranko Prlić's Motion for Variation of Conditions of Provisional Release", public, 1 July 2005; "Decision on the Motion for Provisional Release of the Accused Praljak", public with confidential annex, 11 June 2007; "Decision on the Motion for Provisional Release of the Accused Praljak", confidential with confidential annex, 12 July 2010.

1346. The Praljak Defence submitted that Slobodan Praljak exercised his functions under difficult circumstances,²⁴⁹⁸ which may constitute a mitigating factor.²⁴⁹⁹ The Chamber deems that in light of the gravity of the crimes for which he was convicted, notably the fact that most of the crimes followed a clear pattern of conduct over a period of several months and that the Accused Praljak did not make serious efforts to end these crimes, this factor has no weight in the determination of his sentence.

1347. The Chamber recalls that it admitted three Rule 92 *bis* statements relating to his "moral character": Bogoljub Zurovac, Duško Luština and Goran Moro, all three Bosnian Serbs.²⁵⁰⁰ The three statements note Slobodan Praljak's positive attitude and assistance to the Bosnian Serbs in Grabovine and Sunja in 1992.²⁵⁰¹ The Chamber notes, furthermore, that other witnesses attested to the respect shown by Slobodan Praljak towards "his men" in the HVO and towards the population of Sunja and Grabovine in 1992.²⁵⁰² Insofar as this evidence does not relate to the events relevant to the Indictment, it fails to allow the Chamber to establish Slobodan Praljak's positive attitude towards or assistance to the victims of the crimes for which he has been convicted or even to the Bosnian Muslim population in general. Furthermore, the evidence fails to demonstrate positive post-conflict conduct of the Accused. Consequently, in view of the gravity of the crimes for which he was convicted and the extent of his participation in the commission of these crimes, the Chamber considers that the evidence does not allow it to grant it weight as a mitigating circumstance in the determination of Slobodan Praljak's sentence.

²⁴⁹⁸ Praljak Defence Final Trial Brief, para. 611.

²⁴⁹⁹ *Čelebići* Judgement, para. 1248; *Hadžihasanović* Judgement, para. 2081.

²⁵⁰⁰ See "Decision on Slobodan Praljak's Motion for Admission of Evidence Pursuant to Rule 92 *bis* of the Rules", confidential with confidential annexes, 6 October 2010, paras 27-29. See also the following statements for status of the witnesses, 3D 03666, 3D 03609 and 3D 03707.

²⁵⁰¹ The written statement of Bogoljub Zurovac concerns the attitude shown by the Accused Praljak to the witness and his family members, Bosnian Serbs, and the protection he gave them during an HVO attack on the JNA in Grabovina, Čapljina Municipality, in 1992 (3D 03666); the written statement of Duško Luština concerns the attitude shown by the Accused Praljak to the witness, a Bosnian Serb, and the assistance he provided to him and to the other Serbs in Sunja during the conflict (3D 03609); the written statement of Goran Moro concerns the attitude shown by the Accused Praljak during the capture of the JNA barracks in Čapljina in 1992 (3D 03707). See also "Decision on Slobodan Praljak's Motion for Admission of Evidence Pursuant to Rule 92 *bis* of the Rules", confidential with confidential annexes, 6 October 2010, paras 27-29.

²⁵⁰² *Žarko Pavlović* stated that Slobodan Praljak made efforts to prevent bloodshed during an HVO attack against the JNA in Grabovina in the Municipality of Čapljina, 3D 03624, pp. 14-16. *Zvonimir Skender* stated that Slobodan Praljak was "very much liked by his men" and liked "direct contact [...] human contact and he always wanted to prove, to show to his men in the field that he was with them, amongst them", T(F), pp. 45191 and 45201. Lastly, in his testimony about the events that took place in Sunja, *Mahmud Eid*, a doctor in Sunja, stressed Slobodan Praljak's integrity and that he had established overall good relations with the population, regardless of their ethnic or religious affiliation, 3D 03679, para. 6.

4. Credit for Time Served by Slobodan Praljak

1348. The Chamber recalls that pursuant to Rule 101(C) of the Rules, the Accused is entitled to credit for the time spent in detention pending and during his trial.²⁵⁰³

1349. Consequently, after deducting the time spent on provisional release granted to him, the fact that Slobodan Praljak has been in Tribunal custody since 5 April 2004 must be taken into account.

D. Milivoj Petković

1350. In its Final Trial Brief, the Prosecution submits that Milivoj Petković led the armed forces responsible for brutal crimes against the Muslims throughout Herceg-Bosna, revealing his nationalistic underpinnings, and that he caused suffering to thousands of Muslim families in BiH by seeking to establish Croatian rule in Herceg-Bosna.²⁵⁰⁴

1351. In its Final Trial Brief, the Petković Defence submits that several factors should be taken into account by the Chamber in its determination of Milivoj Petković's sentence, should the Chamber find him guilty, such as, in particular, his family situation;²⁵⁰⁵ his age;²⁵⁰⁶ his medical situation;²⁵⁰⁷ his good behaviour vis-à-vis the Tribunal, including during his various provisional releases;²⁵⁰⁸ his voluntary and rapid surrender;²⁵⁰⁹ no previous criminal record;²⁵¹⁰ the fact that he carried out his functions under testing circumstances;²⁵¹¹ and, lastly, the efforts he made to improve the situation of vulnerable persons and to cooperate with ABiH commanders to end the conflict through negotiations.²⁵¹²

1352. The Chamber will analyse (1) the extent of Milivoj Petković's participation in the crimes, the (2) aggravating and (3) mitigating circumstances applicable to the case, and (4) the duration of his detention pending and during trial.

²⁵⁰³ See "Legal Framework for Sentencing" in the Chamber's findings with regard to sentencing.

²⁵⁰⁴ Prosecution Final Trial Brief, para. 1308.

²⁵⁰⁵ Petković Defence Final Trial Brief, para. 672 (i).

²⁵⁰⁶ Petković Defence Final Trial Brief, para. 672 (ii).

²⁵⁰⁷ Petković Defence Final Trial Brief, para. 672 (iii).

²⁵⁰⁸ Petković Defence Final Trial Brief, para. 672 (iv), (vi), (vii) and (viii).

²⁵⁰⁹ Petković Defence Final Trial Brief, para. 672 (v).

²⁵¹⁰ Petković Defence Final Trial Brief, para. 672 (iii).

²⁵¹¹ Petković Defence Final Trial Brief, para. 672 (xi).

²⁵¹² Petković Defence Final Trial Brief, paras 672 (ix) and (xii).

1. The Extent of his Participation in the Commission of the Crimes

1353. The Chamber considered Milivoj Petković to be one of the key members of the JCE.²⁵¹³ From 14 April 1992 to 26 April 1994, as the Chief of the Main Staff and subsequently the deputy commander and ultimately the deputy Chief of the HVO Main Staff, he ordered, planned, facilitated, encouraged and concealed the crimes committed by members of the HZ(R) H-B armed forces over which he had effective control.²⁵¹⁴ The Chamber recalls, as an example, that he took part in planning the military operations in the Municipality of Gornji Vakuf in January 1993, in the Municipality of Jablanica in April 1993, in the Municipality of Prozor in July and August 1993 and in the Municipality of Vareš in October 1993; that he planned the arrest of men who did not belong to any armed force in the municipalities of Mostar, Stolac and Čapljina; that he participated in the crimes committed during the siege of East Mostar; and that he ordered and authorised the forced labour of detainees from the Heliodrom and the Vitina-Otok Camp.²⁵¹⁵ Milivoj Petković had the intent to evict the Muslim population from the HZ(R) H-B and did not make serious efforts to end the commission of crimes even though he continued to exercise control over the HVO armed forces until April 1994.²⁵¹⁶

1354. Therefore, Milivoj Petković played a key role in the implementation of all the crimes.

2. Aggravating Circumstances

1355. Milivoj Petković played a key role in the commission of crimes by virtue of his functions and powers as the chief, subsequently the deputy commander and ultimately the deputy chief of the HVO Main Staff. Therefore, he abused his authority in order to facilitate the crimes by using the resources at his disposal for the implementation of all the crimes.

3. Mitigating Circumstances

1356. The Chamber notes that the Accused Petković voluntarily surrendered to the Tribunal on 5 April 2004, and did so rapidly after the notification of the Indictment.²⁵¹⁷ The Chamber considers

²⁵¹³ See "Findings on Milivoj Petković's Responsibility under JCE" in the Chamber's findings with regard to Milivoj Petković's responsibility under the JCE.

²⁵¹⁴ See "Findings on Milivoj Petković's Responsibility under JCE" in the Chamber's findings with regard to Milivoj Petković's responsibility under the JCE.

²⁵¹⁵ See "Findings on Milivoj Petković's Responsibility under JCE" in the Chamber's findings with regard to Milivoj Petković's responsibility under the JCE.

²⁵¹⁶ See "Findings on Milivoj Petković's Responsibility under JCE" in the Chamber's findings with regard to Milivoj Petković's responsibility under the JCE.

²⁵¹⁷ The Chamber recalls that the Accused were notified of the Indictment on 31 March 2004. See "Order on Provisional Release of Milivoj Petković", public, 30 July 2004, para. 3. See also "Decision on Motion for Provisional

that Milivoj Petković's voluntary surrender is a mitigating circumstance in the determination of his sentence.

1357. The Chamber notes the fact that Petković complied with the conditions and guarantees imposed on him during his provisional releases, pursuant to the orders and decisions of the Chamber since 30 July 2004.²⁵¹⁸ The Chamber consider that Milivoj Petković's good behaviour while in detention pending and during trial and during his provisional releases is a mitigating circumstance in the determination of his sentence.

1358. The Chamber recalls that the age, on the one hand, and the personal and family situation of an accused – including any medical condition – on the other, may be taken into account as mitigating circumstances. The poor health of an accused at the time of the Judgement may be considered as a mitigating circumstance only in exceptional cases.²⁵¹⁹ The Chamber deems in this case that the age and family situation of the Accused Petković, namely that he is 63 years-old and the father of two married daughters, do not constitute mitigating circumstances. Moreover, the Chamber considers, in light of the evidence put forth by the Petković Defence, that the health of the Accused Petković at the time of the Judgement does not constitute an exceptional circumstance and is therefore not taken into account as a mitigating factor. His health may be a matter for consideration in the execution of the sentence.²⁵²⁰

1359. The Chamber recalls, furthermore, that the Accused Petković has no prior criminal record and that this may constitute a mitigating circumstance.²⁵²¹ The Chamber consider that in view of gravity of the crimes for which he has been convicted and the scope of his participation in the commission of the crimes, the absence of a prior criminal record has limited weight in the determination of a sentence for the Accused Petković.

Release of the Accused Milivoj Petković", public with one public and one confidential annex, 30 November 2011, para. 29.

²⁵¹⁸ See notably "Decision on Motion for Provisional Release of the Accused Milivoj Petković", public with one public and one confidential annex, 30 November 2011, para. 29 and references in this paragraph; *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT "Order on Provisional Release of Milivoj Petković", public, 30 July 2004; "Decision on Motion for Provisional Release of the Accused Petković", confidential, 26 June 2006; "Decision on the Motion for Provisional Release of the Accused Petković", public with confidential annex, 11 June 2007; "Decision on the Accused Petković's Motion for Provisional Release", public with a confidential annex, 17 July 2008; "Decision on the Accused Petković's Motion for Provisional Release", public with a confidential annex, 17 June 2009; "Decision on Milivoj Petković's Motion for Provisional Release", confidential with a confidential annex, 24 June 2011; "Order on motion to Extend Provisional Release of Accused Milivoj Petković", confidential, 7 June 2012.

²⁵¹⁹ See "Aggravating and Mitigating Circumstances" in the Chamber's findings with regard to sentencing.

²⁵²⁰ See in this respect "Aggravating and Mitigating Circumstances" in the Chamber's findings with regard to sentencing.

²⁵²¹ *Kordić Appeals Judgement*, para. 1090; *Krajišnik Appeals Judgement*, para. 816.

1360. The Petković Defence argued that Milivoj Petković exercised his functions under testing circumstances,²⁵²² which may constitute a mitigating factor.²⁵²³ The Chamber considers that in view of the gravity of the crimes for which he was convicted, notably the fact that the crimes were committed on the territory of eight BiH municipalities over a period of several months, and considering the fact that the Accused Petković did not make serious efforts to end these crimes, this factor has no weight in the determination of his sentence.

1361. With regard to efforts by Milivoj Petković to improve the situation of vulnerable people and cooperate with the commanders of the ABiH to end the conflict, as submitted by the Petković Defence,²⁵²⁴ the Chamber recalls that Milivoj Petković was tasked on behalf of the HVO to negotiate with the ABiH during the entire period relevant to the Indictment.²⁵²⁵ It notes, furthermore, that representatives of the international community perceived Milivoj Petković as a man willing to negotiate with the ABiH armed forces, as illustrated by a report from an international organisation and the testimony of a representative of the international community.²⁵²⁶ A report dated 10 July 1993 from an international organisation present in the field and the statement of *Witness DV*, a member of an international organisation, show that Milivoj Petković belonged to the "soft line" or "doves" of the HVO, who preferred negotiation over war.²⁵²⁷ Nevertheless, the Chamber holds that considering the extent of the Accused's participation in the crimes for which he was convicted and in particular his efforts to conceal the responsibility of the HVO authorities before international representatives, his preference for negotiation has limited weight in the determination of the sentence for the Accused Petković.

4. Credit for Time Served by Milivoj Petković

1362. The Chamber recalls that pursuant to Rule 101(C) of the Rules, the Accused are entitled to credit for the time spent in detention pending and during their trial.²⁵²⁸

1363. Consequently, after deducting the time spent on provisional release granted to him, the fact that Milivoj Petković has been in Tribunal custody since 5 April 2004 must be taken into account.

²⁵²² Petković Defence Final Trial Brief, para. 672 (xi).

²⁵²³ *Čelebići* Judgement, para. 1248; *Hadžihasanović* Judgement, para. 2081.

²⁵²⁴ Petković Defence Final Trial Brief, paras 672 (ix) and (xii).

²⁵²⁵ See "Milivoj Petković's Power to Negotiate and Order Cease-Fires" in the Chamber's findings with regard to Milivoj Petković's responsibility.

²⁵²⁶ P 03369 under seal, p. 2. Milivoj Petković was part of the HVO's "soft line", preferring negotiation over war; P 10217 under seal, paras 26 and 28: Milivoj Petković was described as belonging to the HVO's "doves", who wished to avoid war. See also Milivoj Petković, T(F), p. 50866

²⁵²⁷ P 03369 under seal, p. 2; P 10217 under seal, paras 26 and 28.

²⁵²⁸ See "Legal Framework for Sentencing" in the Chamber's findings with regard to sentencing.

E. Valentin Ćorić

1364. In its Final Trial Brief, the Prosecution argues that Valentin Ćorić used his power and authority as Chief of the HVO Military Police to pursue the goals of the JCE notably by conferring a "special status" on notorious criminal units such as the KB.²⁵²⁹

1365. The Ćorić Defence submits that the medical situation of the Accused Ćorić's family members should be taken into account by the Chamber as a mitigating circumstance in the determination of his sentence.²⁵³⁰

1366. The Chamber will analyse (1) the extent of Valentin Ćorić's participation in the crimes, the (2) aggravating and (3) mitigating circumstances applicable to the case, and (4) the duration of his detention pending and during trial.

1. Extent of his Participation in the Commission of the Crimes

1367. The Chamber considered that Valentin Ćorić significantly contributed to the implementation of the JCE. From January 1993 to 10 November 1993, Valentin Ćorić, who as the Chief of the Military Police Administration, had command and control authority over the Military Police units, including the authority to re-subordinate these units to the OZs and the HVO brigades, engaged Military Police units in the eviction operations conducted in the municipalities of Gornji Vakuf in January 1993, Stolac and Čapljina in the summer of 1993, and Mostar from 9 May 1993 to at least October 1993. Furthermore, he failed to investigate the crimes committed by members of the KB, thereby contributing to the creation of an atmosphere of impunity that undoubtedly supported and encouraged the commission of other crimes after August 1993. As the Chief of the Military Police Administration, Valentin Ćorić also played a key role in the functioning of the HVO's network of detention centres until 10 November 1993, thereby contributing to the arrest and detention of thousands of Muslims in Herceg-Bosna under poor conditions of confinement and to the death of several of them by using them or allowing them to be used for work on the front line.²⁵³¹

²⁵²⁹ Prosecution Final Trial Brief, para. 1309.

²⁵³⁰ Ćorić Defence Final Trial Brief, para. 774 and Annex B of Final Trial Brief.

²⁵³¹ See "Findings on Valentin Ćorić's Responsibility under JCE" and "The Murders, Sexual Abuse and Thefts Committed During Eviction Operations" in the Chamber's findings with regard to Valentin Ćorić's responsibility under the JCE.

1368. As the Chief of the Military Police Administration, and subsequently the Minister of the Interior, Valentin Ćorić executed a part of the common plan by blocking the Muslim population of East Mostar and blocking humanitarian aid fully aware what impact this would have on the population of East Mostar. Valentin Ćorić intended to remove the Muslim population from the HZ(R) H-B.²⁵³²

1369. Therefore, Valentin Ćorić played a key role in the implementation of all the crimes.

2. Aggravating Circumstances

1370. Valentin Ćorić played a key role in the commission of the crimes by virtue of his functions and powers within the HVO Military Police. He thus abused his authority as the Chief of the Military Police Administration of the HVO in order to facilitate the crimes by using the resources at his disposal for the implementation of all the crimes.

3. Mitigating Circumstances

1371. The Chamber notes that the Accused Ćorić voluntarily surrendered to the Tribunal on 5 April 2004 and did so rapidly after notification of the Indictment.²⁵³³ The Chamber considers Valentin Ćorić's voluntary surrender to be a mitigating circumstance in the determination of his sentence.

1372. The Chamber notes the fact that, with the exception of the incidents that occurred during his provisional release in the spring and summer of 2009, he complied with the conditions and guarantees imposed during his provisional releases pursuant to the Chamber's orders and decisions since 30 July 2004.²⁵³⁴ The Chamber considers that Valentin Ćorić's good behaviour while in detention pending and during trial and during his provisional releases is a mitigating circumstance in the determination of his sentence.

²⁵³² See "Findings on Valentin Ćorić's Responsibility under JCE" in the Chamber's findings with regard to Valentin Ćorić's responsibility under the JCE.

²⁵³³ The Chamber recalls that the Accused were notified of the Indictment on 31 March 2004, see "Order on Provisional Release of Valentin Ćorić", public, 30 July 2004, para. 3. See also "Decision on Valentin Ćorić's Request for Provisional Release", confidential and *ex parte*, 29 December 2011, para. 23.

²⁵³⁴ See "Decision on Valentin Ćorić's Request for Provisional Release", confidential and *ex parte*, 29 November 2011, para. 23 and references in that paragraph, for example "Decision on Motion for Provisional Release of the Accused Ćorić", confidential, 26 June 2006; "Decision on Motion for Provisional Release of the Accused Ćorić", public with confidential annex, 29 November 2007; "Decision on the Motion for Provisional Release of the Accused Ćorić", public with confidential annex, 17 July 2008; "Decision on Valentin Ćorić's Request for Provisional Release", confidential and *ex parte*, 29 April 2009; "Decision on Request for Provisional Release of the Accused Valentin Ćorić", confidential with confidential annex and confidential and *ex parte* annex, 13 July 2010; "Decision on Valentin Ćorić's Request for Provisional Release", confidential with confidential annex and confidential and *ex parte* annex, 7 December 2010; "Decision on Request for Provisional Release of Accused Valentin Ćorić", confidential and *ex parte* with confidential and *ex parte* annex, 22 June 2011.

1373. The Chamber recalls that the family situation of an accused may be taken into account as a mitigating circumstance.²⁵³⁵ In the present case, the Chamber notes that it regularly took into account Valentin Ćorić's family situation during his detention pending and during trial.²⁵³⁶ However, the Chamber deems that Valentin Ćorić's family situation does not constitute a mitigating circumstance in the determination of his sentence.

4. Credit for Time Served by Valentin Ćorić

1374. The Chamber recalls that pursuant to Rule 101(C) of the Rules, the Accused are entitled to credit for the time spent in detention pending and during their trial.²⁵³⁷

1375. Consequently, after deducting the time spent on provisional release granted to him, the fact that Valentin Ćorić has been in Tribunal custody since 5 April 2004 must be taken into account.

F. Berislav Pušić

1376. In its Final Trial Brief, the Prosecution submits that Berislav Pušić was amongst the most powerful individuals controlling the HVO's network of prisons and had the power to determine who could be exchanged or evacuated.²⁵³⁸

1377. In its closing arguments, the Pušić Defence contends that several elements need to be considered by the Chamber in the determination of a sentence for Berislav Pušić, should the Chamber find him guilty, particularly his personal and family situation and his own medical condition,²⁵³⁹ as well as his good behaviour during the periods of provisional release.²⁵⁴⁰

1378. The Chamber will analyse (1) the extent of Berislav Pušić's participation in the crimes, the (2) aggravating and (3) mitigating circumstances applicable to the case, and (4) the duration of his detention pending and during trial.

²⁵³⁵ See "Aggravating and Mitigating Circumstances" in the Chamber's findings with regard to sentencing.

²⁵³⁶ See the analysis of "sufficiently compelling humanitarian grounds" in the context of decisions on provisional release, *see*, for example, "Decision on Motion for Provisional Release of the Accused Ćorić", public, 2 December 2008, para. 34: "Regarding the medical certificates submitted by the Ćorić Defence, the Chamber finds the state of health of his daughter [...] very serious and the psychological and physical health of the wife of the Accused Ćorić precarious. The Chamber proceeded with an in-depth assessment, given in the confidential annex attached to this decision, of the documents submitted by the Accused Ćorić in support of his Request and holds that the presence of the Accused Ćorić at the side of his daughter and of his wife for a short period could assist them in overcoming their hardships. The Chamber characterises the humanitarian grounds raised by the Ćorić Defence as sufficiently compelling to justify the provisional release of the Accused Ćorić."

²⁵³⁷ See "Legal Framework for Sentencing" in the Chamber's findings with regard to sentencing.

²⁵³⁸ Prosecution Final Trial Brief, para. 1310.

²⁵³⁹ Closing Arguments by the Pušić Defence, T(F), pp. 52793-52794.

²⁵⁴⁰ Closing Arguments by the Pušić Defence, T(F), pp. 52793.

1. Extent of his Participation in the Commission of the Crimes

1379. The Chamber considered that Berislav Pušić significantly contributed to implementing the JCE. Between April 1993 and April 1994, as a military policeman and subsequently the head of the Exchange Service and president of the Commission for HVO Prisons and Detention Centres, Berislav Pušić had substantial power to keep Muslim HVO detainees in detention or to release them, power over the conditions in which they were held and power to represent the HVO before the international community and also before the leadership of Croatia and BiH in negotiations regarding exchanges and the movement of people. During this period, he participated in and facilitated the system of detention of the Muslims by approving their transfer from one centre to another and their use for forced labour, by tolerating the deplorable conditions of confinement and mistreatment and by accepting the death of detainees sent to work on the front line. Furthermore, he organised and facilitated the system by which HVO detainees were released or exchanged in order to be sent to ABiH-held territories or third countries.²⁵⁴¹

1380. Berislav Pušić knew that these crimes were being committed against the Muslims with the sole goal of forcing them to leave the territory of Herceg-Bosna and he made no serious effort to end the crimes committed in the detention centres or those committed during the arrests of Muslims, or to condemn them, and gave vague, even false, information to representatives of the international community and the press, thereby seeking to deny or minimise the crimes committed by HVO members against the Muslims.²⁵⁴²

2. Aggravating Circumstances

1381. Berislav Pušić played a key role in the commission of the crimes by virtue of his functions and powers within the Military Police and the Exchange Commission. In particular he abused his authority as the head of the Exchange Service and president of the Commission for Prisons and Detention Centres of the HVO in order to facilitate the crimes by using the resources at his disposal for the implementation of those crimes.

²⁵⁴¹ See "Findings on Berislav Pušić's Responsibility under JCE" in the Chamber's findings with regard to Berislav Pušić's responsibility under the JCE.

²⁵⁴² See "Findings on Berislav Pušić's Responsibility under JCE" in the Chamber's findings with regard to Berislav Pušić's responsibility under the JCE.

3. Mitigating Circumstances

1382. The Chamber notes that the Accused Pušić voluntarily surrendered to the Tribunal on 5 April 2004, and did so rapidly after notification of the Indictment.²⁵⁴³ The Chamber considers Berislav Pušić's voluntary surrender a mitigating circumstance in the determination of his sentence.

1383. The Chamber notes the fact that – with the exception of the incident that occurred during his provisional release in the summer of 2008²⁵⁴⁴ – he has complied with the conditions and guarantees imposed during his provisional releases pursuant to the Chamber's orders and decisions since 30 July 2004.²⁵⁴⁵ The Chamber considers that Berislav Pušić's good behaviour while in detention pending and during trial and during his provisional releases is a mitigating circumstance in the determination of his sentence.

1384. The Chamber recalls that the personal and family situation of an accused may be taken into account as a mitigating circumstance.²⁵⁴⁶ In this respect, issues related to the poor health of an accused at the time of the Judgement may be considered as a mitigating circumstance only in exceptional cases.²⁵⁴⁷ The Chamber deems in this case that the Accused Pušić's family situation, namely that he is married and father of three children, is a mitigating circumstance that has no weight in the determination of his sentence. With respect to the Accused's personal situation, the Chamber acknowledged throughout Berislav Pušić's trial and detention pending and during trial the serious and frail health condition of the Accused.²⁵⁴⁸ Moreover, the Accused Pušić benefited from specific arrangements and continuous medical care during his provisional releases since the close of

²⁵⁴³ The Chamber recalls that the Accused were notified of the Indictment on 31 March 2004, *see* "Order on Provisional Release of Berislav Pušić", public, 30 July 2004, para. 3. *See also* "Decision on Application for Provisional Release of the Accused Berislav Pušić", confidential and *ex parte*, 7 April 2011, para. 23.

²⁵⁴⁴ "Decision on Motion for Provisional Release of the Accused Pušić", confidential with annex and confidential and *ex parte* annex, 5 December 2008, paras 30 and 31.

²⁵⁴⁵ *See also* "Decision on Application for Provisional Release of the Accused Berislav Pušić", confidential and *ex parte*, 7 April 2011, para. 23 and the references to that paragraph, particularly "Order on Provisional Release of Berislav Pušić", public, 30 July 2004; "Order on Berislav Pušić's Application for Variation of Conditions of Provisional Release", confidential, 22 August 2005; "Decision on Motion for Provisional Release of the Accused Pušić", confidential, 26 June 2006; "Decision on the Motion for Provisional Release of the Accused Pušić", public, 11 June 2007; "Decision on Motion for Provisional Release of the Accused Berislav Pušić", confidential, 5 December 2008; "Decision on the Motion for Provisional Release of the Accused Pušić", confidential, 27 October 2009; "Decision on Application for Provisional Release of the Accused Berislav Pušić", confidential, 12 July 2010.

²⁵⁴⁶ *See* "Aggravating and Mitigating Circumstances" in the Chamber's findings with regard to sentencing. The Chamber notes that this circumstance may also include the mental health of the Accused.

²⁵⁴⁷ *Galić Appeals Judgement*, para. 436; *Blaškić Appeals Judgement* para. 696; *Simić Sentencing Judgement*, paras 95-98.

²⁵⁴⁸ *See notably* T(F), pp. 7943-7953, closed session; "Decision on Application for Provisional Release of the Accused Berislav Pušić", confidential and *ex parte*, 7 April 2011; "Decision on Berislav Pušić's Application to Extend Provisional Release", confidential and *ex parte*, 13 November 2012.

the trial hearings on 2 March 2011, under the Chamber's supervision.²⁵⁴⁹ However, the Chamber considers that the health of the Accused Pušić does not constitute a mitigating circumstance in the determination of his sentence.

4. Credit for Time Served by Berislav Pušić

1385. The Chamber recalls that pursuant to Rule 101(C) of the Rules, the Accused are entitled to credit for the time spent in detention pending and during their trial.²⁵⁵⁰

1386. Consequently, after deducting the time spent on provisional release granted to him, the fact that Berislav Pušić has been in Tribunal custody since 5 April 2004 must be taken into account.

²⁵⁴⁹ "Decision on Application for Provisional Release of the Accused Berislav Pušić", confidential and *ex parte*, 7 April 2011; "Decision on Berislav Pušić's Application to Extend Provisional Release", confidential and *ex parte*, 13 November 2012.

²⁵⁵⁰ See "Legal Framework for Sentencing" in the Chamber's findings with regard to sentencing.

CHAPTER 10: DISPOSITION

For these reasons, pursuant to Articles 23 and 24 of the Statute and Rules 98 *ter*, 101, 102 and 103 of the Rules, and in view of all the evidence and the submissions of the Parties, the Chamber decides as follows.

The Chamber recalls that it found that it would not be appropriate to consider Count 26 of the Indictment insofar as the crime of "cruel treatment (Siege of Mostar)" is not provided for under the Statute or in Tribunal case-law.

The Chamber unanimously **FINDS** Jadranko Prlić **GUILTY**, under Article 7(1) of the Statute, of Counts 1, 6 to 13, 15, 16, 18, 19, and 21 to 25 of the Indictment. The Chamber, by a majority with Judge Antonetti dissenting, **FINDS** Jadranko Prlić **GUILTY**, under Article 7(1) of the Statute, of Counts 2 to 5 of the Indictment. Pursuant to the principles relating to cumulative convictions, the Chamber does not enter a conviction for Counts 14, 17 and 20 of the Indictment. Consequently, the Chamber unanimously sentences Jadranko Prlić to a single sentence of 25 years' imprisonment to run as of today, subject to credit being given under Rule 101(C) of the Rules for the period that Jadranko Prlić has already spent in detention pending and during trial.

The Chamber unanimously **FINDS** Bruno Stojić **GUILTY**, under Article 7(1) of the Statute, of Counts 1, 6 to 13, 15, 16, 18, 24 and 25 of the Indictment. The Chamber, by a majority with Judge Antonetti dissenting, **FINDS** Bruno Stojić **GUILTY**, under Article 7(1) of the Statute, of Counts 2, to 5, 19 and 21 to 23 of the Indictment. Pursuant to the principles relating to cumulative convictions, the Chamber does not enter a conviction for Counts 14, 17 and 20 of the Indictment. Consequently, the Chamber unanimously sentences Bruno Stojić to a single sentence of 20 years' imprisonment to run as of today, subject to credit being given under Rule 101(C) of the Rules for the period that Bruno Stojić has already spent in detention pending and during trial.

The Chamber unanimously **FINDS** Slobodan Praljak **GUILTY**, under Article 7(1) of the Statute, of Counts 1, 6 to 13, 15, 16, 18, 19, 21, 24 and 25 of the Indictment. The Chamber, by a majority with Judge Antonetti dissenting, **FINDS** Slobodan Praljak **GUILTY**, under Article 7(1) of the Statute, of Counts 2, 3, 22 and 23 and **ACQUITS** him by a majority, with Judge Antonetti dissenting, of Counts 4 and 5 of the Indictment. Pursuant to the principles relating to cumulative convictions, the Chamber does not enter a conviction for Counts 14, 17 and 20 of the Indictment. Consequently, the Chamber unanimously sentences Slobodan Praljak to a single sentence of 20 years' imprisonment to run as of today, subject to credit being given under Rule 101(C) of the Rules for the period that Slobodan Praljak has already spent in detention pending and during trial.

The Chamber unanimously **FINDS** Milivoj Petković **GUILTY**, under Article 7(1) of the Statute, of Counts 1, 6 to 13, 15, 16, 18, 19, 21, 24 and 25 of the Indictment. The Chamber, by a majority with Judge Antonetti dissenting, **FINDS** Milivoj Petković **GUILTY**, under Article 7(1) of the Statute, of Counts 2 to 5, 22 and 23 of the Indictment. Pursuant to the principles relating to cumulative convictions, the Chamber does not enter a conviction for Counts 14, 17 and 20 of the Indictment. Consequently, the Chamber unanimously sentences Milivoj Petković to a single sentence of 20 years' imprisonment to run as of today, subject to credit being given under Rule 101(C) of the Rules for the period that Milivoj Petković has already spent in detention pending and during trial.

The Chamber unanimously **FINDS** Valentin Ćorić **GUILTY**, under Article 7(1) of the Statute, of Counts 1, 6 to 13, 15, 16, 18, 24 and 25 of the Indictment. The Chamber, by a majority with Judge Antonetti dissenting, **FINDS** Valentin Ćorić **GUILTY**, under Article 7(1) of the Statute, of Counts 2 to 5, 19, and 21 to 23 of the Indictment. The Chamber, by a majority with Judge Antonetti dissenting, **FINDS** Valentin Ćorić **GUILTY**, under Article 7(3) of the Statute, of Counts 15, 16, 19 and 23 of the Indictment for the crimes that occurred in the Municipality of Prozor in October 1992. Pursuant to the principles relating to cumulative convictions, the Chamber does not enter a conviction for Counts 14, 17 and 20 of the Indictment. Consequently, the Chamber unanimously sentences Valentin Ćorić to a single sentence of 16 years' imprisonment to run as of today, subject to credit being given under Rule 101(C) of the Rules for the period that Valentin Ćorić has already spent in detention pending and during trial.

The Chamber unanimously **FINDS** Berislav Pušić **GUILTY**, under Article 7(1) of the Statute, of Counts 6 to 13, 15, 16 and 18 of the Indictment. The Chamber, by a majority with Judge Antonetti dissenting, **FINDS** Berislav Pušić **GUILTY**, under Article 7(1) of the Statute, of Counts 1 to 3, 19, 21, 24 and 25 and **ACQUITS** him unanimously of Counts 4, 5, 22 and 23 of the Indictment. Pursuant to the principles relating to cumulative convictions, the Chamber does not enter a conviction for Counts 14, 17 and 20 of the Indictment. Consequently, the Chamber unanimously sentences Berislav Pušić to a single sentence of 10 years' imprisonment to run as of today, subject to credit being given under Rule 101(C) of the Rules for the period that Berislav Pušić has already spent in detention pending and during trial.

Pursuant to Rule 103 of the Rules, pending an agreement for their transfer to a State where they must serve their sentences, Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Ćorić and Berislav Pušić shall remain in the custody of the Tribunal.

Done in French and English, the French text being authoritative.

Jean-Claude Antonetti

Presiding Judge
/signed/

Árpád Prandler
/signed/

Stefan Trechsel
/signed/

Judge Jean-Claude Antonetti attaches a separate and partially dissenting opinion to the Judgement and Judge Stefan Trechsel attaches a separate opinion and a partially dissenting opinion.

Done this twenty-ninth day of May 2013
At The Hague, The Netherlands

[Seal of the Tribunal]