

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

Case No. IT-03-69-PT

IN THE TRIAL CHAMBER III

**Before: Judge Patrick Robinson, Presiding
Judge O-Gon Kwon
Judge Bert Swart**

Registrar: Mr. Hans Holthuis

Filed on: 19 July 2004

PROSECUTOR

v.

**JOVICA STANIŠIĆ
FRANKO SIMATOVIĆ**

PARTIALLY CONFIDENTIAL

PROSECUTION'S PRE-TRIAL BRIEF

The Office of the Prosecutor:

Mr. Dermot Groome
Mr. David Re
Ms. Melissa Pack

Counsel for the Accused Stanišić

Mr. Geert-Jan Alexander Knoops
Mr. Wayne Jordash

Counsel for the Accused Simatović

Zoran Jovanović

Pre-Trial Brief

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1. Pursuant to Rule 65 *ter* (E) (i) of the Rules of Procedure and Evidence, the Prosecution hereby files its pre-trial brief. As required by Rule 65 *ter* (E)(i), this is a summary of the evidence which the Prosecution intends to bring regarding the crimes with which the Accused are charged and the forms of responsibility they incurred. References to particular witnesses and proposed exhibits are provided as examples of the evidence the Prosecution will adduce on the particular matter alleged.

2. At Annex B, the Prosecution submits an appendix of the source references used in the course of the brief. In addition, pursuant to Rule 65 *ter* (E) (iii), the Prosecution respectfully submits its exhibit list as Confidential Annex C. The list is divided into three parts: In category 1 are listed those exhibits upon which the Prosecution intends to rely at trial; in category 2 are listed exhibits tendered through witnesses in earlier proceedings which it is intended to adduce through Rule 92 *bis* (D). Although the Prosecution does not intend to rely upon these exhibits, it considers that it is obliged to disclose them. Category 3 is a

P r e - T r i a l B r i e f

separate list of the intercepts upon which it is intended to rely and which were admitted and authenticated in *Prosecutor v. Slobodan Milošević*.¹

Dermot Groome
Senior Trial Attorney

Dated this 19th day of July 2004
At The Hague
The Netherlands

¹ Case No. IT-02-54-T.

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INTRODUCTION

1. This case concerns war crimes and crimes against humanity committed in connection with a scheme to forcibly remove a majority of the Croat, Muslim and other non-Serb populations from large portions of Croatia and Bosnia and Herzegovina² in order to make them part of a Serb-dominated state. This scheme was executed by a joint criminal enterprise³ of which the Accused Jovica Stanišić and Franko Simatović were members.
2. From the beginning of 1991 to at least the end of the indictment period, Jovica Stanišić was the most powerful man in the Republic of Serbia Ministry of Internal Affairs.⁴ Throughout 1991 Jovica Stanišić was deputy head of the Republic of Serbia State Security Service, and from 31 December 1991 until 27 October 1998 he was head of the Republic of Serbia State Security Service.⁵ In at least this period, his *de facto* power and influence exceeded his *de jure* authority.
3. Franko (aka “Frenki”) Simatović aka Franko Stamatović was very close to Jovica Stanišić and reported directly to him. During at least the indictment period (between 1 August 1991 and 30 December 1995) and, in fact, earlier, he was commander of the Special Units of the Serbian DB, directing their operations in Croatia and BiH.
4. The criminal conduct of each of the Accused, by itself and with acts committed by others with whom they shared the common purpose, makes them each criminally liable for the charges contained in the Indictment under Article 7(1) of the Statute of the Tribunal.⁶
5. In the positions they held in the MUP Serbia as a whole, and the DB in particular, together with other high ranking members of the MUP Serbia and the Serbian DB, with Croatian Serb and Bosnian Serb political and military figures, and with other leading figures in Serbia and Montenegro, the Accused were key participants in the implementation of a common criminal plan to remove forcibly non-Serbs from targeted regions of Croatia and BiH. This was achieved through the forcible expulsion of hundreds of thousands of non-Serb civilians from their homes, massacres, and a range of other persecutory conduct designed to drive them out of the region.

² Hereinafter “BiH.”

³ Hereinafter “JCE.”

⁴ Hereinafter “MUP Serbia.”

⁵ Hereinafter “Serbian DB.”

⁶ Hereinafter “the Statute.”

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THE FACTS

The Common Plan

6. The violations of international humanitarian law committed against hundreds of thousands of non-Serb civilians in Croatia and BiH, including the crimes charged in the indictment against the Accused, were the consequence of a plan to bring targeted regions of BiH and Croatia under Serb control by forcibly expelling non-Serb inhabitants through persecutory campaigns.

7. Under the direction of Slobodan Milošević, Jovica Stanišić and Franko Simatović, and other members of the JCE, including members of the Croatian and Bosnian Serb political and military leadership, collaborated to effect the take-over of municipalities throughout Croatia and BiH. This occurred in a consistent pattern that evidenced planning, preparation and direction from members of the joint criminal enterprise. This take-over employed similar methods and mechanisms in a coordinated effort to quickly and irrevocably wrest control from legal municipal governments that were not solely controlled by Serbs.

8. Beginning in 1991, Milošević provided political support, logistical aid, and military assistance to Croatian and Bosnian Serbs engaged in achieving ethnic control of territory by forcibly removing non-Serbs.⁷ In Croatia, this group of Serb leaders included Milan Babić, Milan Martić and Goran Hadžić.⁸ In BiH, they included Radovan Karadžić, Momčilo Krajišnik, Nikola Koljević and Biljana Plavšić. Milošević exerted substantial influence over the Croatian and Bosnian Serb leadership, including co-ordinating their actions with each other, with senior officers in the JNA⁹ and their interaction with the international community. Jovica Stanišić played a key role in influencing and providing a channel of communication between Milošević and these protagonists.

⁷ C-061; "Decision on the Public Auditing Service of the Serbian Autonomous District of Krajina," ERN 0219-5962-0219-5966 (BCS), ERN 0219-5967-0219-5974 (ENG); "Republic of Serbian Krajina request to the Government of the Republic of Serbia re: request for a unified credit and monetary system," ERN 0207-6873 (BCS), ERN L007-0183-L007-0185 (ENG); "Request for necessary ammunition and other military equipment," ERN 0207-7593-0207-7602 (BCS), ERN 0301-9255-0301-9266 (ENG); "Report on providing assistance to Serbian Districts in Croatia," ERN 0212-9683-0212-9690 (BCS), ERN L003-4411-L003-4419 (ENG); "Letter from Milan Martić to Zoran Sokolović," ERN 0207-6692-0207-6692 (BCS), ERN L005-3780-L005-3781 (ENG).

⁸ C-061.

⁹ According to the SFRY Constitution (ERN 0046-0834-0046-1076 (ENG)) and the Law on All People's Defence adopted by the SFRY Assembly at the conference of the Federal Assembly held on 13 April 1982 (ERN 0216-6067-0216-6102 (BCS); ERN L004-8941-L004-9076 (ENG)) the SFRY armed forces consisted of the JNA and the Territorial Defence (TO). The JNA was a federal body, whereas the TO was organised, funded and equipped on the republic level. The TO comprised all armed formations that were not part of the JNA or the police.

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9. Within the JCE, civilian, military and police organs, as well as paramilitary/volunteer formations, collaborated to take over municipalities and territories throughout Croatia and BiH. These take-overs were marked by a pattern demonstrating the significant organisation, preparation and planning which preceded them. The take-overs had the common goal and result of establishing Serb control, although the steps taken were sometimes adapted from place to place. This pattern included the following common elements designed to effect the expulsion of non-Serbs and prevent their return:

- i) covert arming of Serbs (including civilians), and forcible disarming of non-Serbs;
- ii) the declaration of large parts of Croatia and BiH as “Serb autonomous regions¹⁰”;
- iii) the take-over of public institutions and local governmental structures where practicable, and the establishment of parallel structures where not, including the establishment of a Serb controlled MUP;
- iv) the involvement of and co-ordination of the JNA, special forces units of the Serbian Ministry of Internal Affairs, Croatian Serb police forces, Bosnian Serb MUP, the units of the self-established local Serb Territorial Defence¹¹, and volunteers/paramilitary formations;
- v) the systematic “cleansing” of Croat, Muslim and other non-Serb inhabitants from their homes and the plunder or destruction of their homes and personal property;
- vi) the killing of non-Serb civilians on discriminatory grounds;
- vii) the incarceration of large numbers of non-Serb civilians in detention camps where they were subjected to inhumane treatment; and
- viii) the systematic destruction of Catholic churches, mosques and other cultural property essential to the normal lives of the expelled peoples.

Implementation of the plan in Croatia and Bosnia and Herzegovina

I. Implementation of the Plan in Croatia

Republic of Serbian Krajina

10. On 17 February 1990,¹² the Serbian Democratic Party¹³ was founded in Croatia with a platform that recited the problems faced by Serbs in Croatia and evoked the threat of

¹⁰ Hereinafter “SAOs.”

¹¹ Hereinafter “TO”. When the conflict in Croatia began, the police and the TO of the Republic of Croatia split into Croatian and (local) Serb structures. In areas where local Serbs had a majority or significant minority, they took over the existing structures or set up their own police and TO units and staffs that did not answer to the republican authorities in Croatia, but stayed loyal to what remained of the SFRY, and Serbia. The process of creating a (local) Serb-only TO in Croatia started in January 1991 (Records on the conference held on 3 August 1993 re: war experiences of RSK and Slunj Municipality in the period from June 1991 until June 1993, ERN 0152-8131-0152-8138 (BCS), ERN L004-2885-L004-2897 (ENG)) and became more organised in April 1991 (Order to mobilise the TO of the SAO Krajina and volunteers units, Milan BABIĆ, 1 April 1991, ERN 0217-2109-0217-2109 (BCS), ERN ET 0217-2109-0217-2109 (ENG)).

¹² C-061; Decision of the Republican Secretariat for Justice and Administration, Socialist Republic of Croatia, ERN 0214-1797-0214-1798 (BCS & ENG).

¹³ Or *Srpska demokratska stranka*, hereinafter “SDS.”

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genocide. In June 1990, Milan Babić and others formed the Association of Serbian Municipalities of Northern Dalmatia and Lika whose purpose was to introduce local autonomy in Serb-dominated municipalities.¹⁴ On 25 July 1990, SDS leaders participated in a Serbian Assembly in Srb, attended by approximately one hundred thousand Croatian Serbs. The Assembly passed a Declaration stating that the Serbian nation within Croatia was a “sovereign nation with all the rights entailed in the sovereignty of a nation.”¹⁵ During August and September 1990, a referendum was held in which 97.7% of those who voted (nearly all of whom were Serbs) supported autonomy and sovereignty for Serbs in Croatia.¹⁶

11. On 21 December 1990, under the leadership of Milan Babić, the Association of Municipalities of Northern Dalmatia and Lika became the Serb Autonomous Region (SAO) Krajina. The Statute of the SAO Krajina stated that the SAO Krajina “shall bear the form of territorial autonomy” within Croatia and that the citizens of the SAO Krajina would rule themselves through referendums or through representatives elected to the SAO Krajina Assembly.¹⁷ Milan Babić became the highest political leader of the SAO Krajina. On 1 April 1991, the Executive Council of the SAO Krajina passed a decision joining the SAO Krajina to the Republic of Serbia, thus separating it from Croatia and its authorities. The decision further stipulated that the Constitution and laws of Serbia would apply to the SAO Krajina.¹⁸ On 12 May 1991, a referendum was held in the SAO Krajina which asked: “Are you in favour of the SAO Krajina annexing to the Republic of Serbia and remaining in Yugoslavia with Serbia, Montenegro and others who wish to preserve Yugoslavia?” The referendum

¹⁴ C-061; Decision on establishment of community of municipalities, 27 June 1990, ERN 0214-1845-0214-1848 (BCS), ERN L006-4035-L006-4039 (ENG).

¹⁵ C-061. Declaration of the Sovereignty and autonomy of the Serbian people in Croatia, ERN 0214-1952-0214-1953 (BCS), ERN L006-4356-L006-4358 (ENG), hereinafter “Sovereignty Declaration.”

¹⁶ C-061; A report on the referendum conducted among the Serbian people in the Republic of Croatia on the Serbian autonomy submitted by the Central Commission for Referendum on 30 September 1990, ERN 0214-1960-0214-1960 (BCS), ERN L005-9602-L005-9603 (ENG).

¹⁷ C-061. Decree to adopt the Statute of the Serbian Autonomous Region of Krajina issued by the Knin Municipal Assembly on 26 December 1990, signed by Dr. Milan BABIĆ, President of the Municipal Assembly. ERN 0217-2149-0217-2149 (BCS & ENG); Statute of the Serbian Autonomous Region of Krajina, Knin, December 1990, ERN 0214-1849-0214-1852 (BCS), ERN L006-4148-L006-4161 (ENG).

¹⁸ C-061; An official decision on the annexation of the Serbian Autonomous Region of Krajina to the Republic of Serbia issued by the SAO Krajina Executive Council at the conference held on 1 April 1991, ERN 0207-7887-0207-7896 (BCS), ERN 0300-4741-0300-4742 (ENG); An official decision on the annexation of the SAO Krajina to the Republic of Serbia issued by the Executive of the SAO Krajina at the conference held on 1 April 1991, ERN 0207-7897-0207-7898 (BCS), ERN 0303-1779-0303-1780 (ENG).

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was approved by 99.80% of those voting.¹⁹ On 8 October 1991 Croatia's declaration of independence became effective.²⁰

12. The SAO Krajina declared itself the so-called Republic of Serbian Krajina (RSK) on 19 December 1991.²¹ On 26 February 1992, the two other SAOs in Croatia (Eastern and Western Slavonia) joined the RSK.²² Goran Hadžić was elected President. He remained in this position until December 1993.

SAO Slavonia, Baranja and Western Srem

13. The SDS of Slavonia, covering the whole of the region from Vukovar to Kutina, was established in May 1990.

14. On 7 January 1991 the Serbian National Council (SNC) for SAO Slavonia, Baranja and Western Srem²³ was formed in Šidski Banovci. On 26 February, the SNC of SBWS adopted a Declaration on Sovereign Autonomy of the Serbs, proclaiming the Serbs in Croatia to be a sovereign people, with a right to autonomy.

15. On 25 June 1991, the "Great National Assembly of SBWS" was formed in Bačka Palanka, Serbia at a meeting attended by representatives of all the Serb villages in the SBWS. The Great National Assembly decided that the region of SBWS was to be constituted as SAO SBWS and was to secede from Croatia. Goran Hadžić, until then President of the SNC, was elected Prime Minister-designate.

16. At its second session on 25 September 1991, the Great National Assembly made appointments to its Government. Goran Hadžić was appointed Prime Minister, and Ilija Kojić Minister of Defence.²⁴

¹⁹ Report of the Central Commission for Referendums */Centralna Komisija za sprovođenje referenduma na području SAO Krajine/* of 14 May 1991, ERN 0214-1854-0214-1859 (BCS), ERN L006-5834-L006-5842 (ENG).

²⁰ Conference on Yugoslavia Arbitration Commission (Badinter Commission): Opinions on Questions Arising from the Dissolution of Yugoslavia (Opinion No. 11), ERN 0066-1539-0037-1541 (BCS), ERN 0035-9856-0035-9855 (ENG).

²¹ C-061; Report on the proclamation of the Republic of Serbian Krajina by the SAO Krajina Assembly in Knin on 19 December 1991, ERN 0207-8206-0207-8207 (BCS), ERN L006-3307-L006-3313 (ENG).

²² The Amendments to the Constitution of the Republic of Serbian Krajina and the Decree on the Ratification of the Amendments Number 1 to 4 to the Constitution of the Republic of Serbian Krajina issued by the Assembly of the Republic of Serbian Krajina, presided over by President Mile Paspalj on 26 February 1992, ERN 0216-6106-0216-6107 (BCS), ERN 0304-5780-0304-5782 (ENG).

²³ Hereinafter "SBWS."

²⁴ Decision on the Appointment of President, Vice-President and Ministers of the Government of the Serbian District of Slavonia, Baranja and Western Srem, 25 September 1991, ERN 0089-0430-0089-0430 (BCS & ENG).

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17. As noted above, in February 1992, the SAO SBWS joined SAO Krajina and SAO Western Slavonia to form the RSK. Within the RSK it was organised as a Serbian District with a degree of autonomy vis-à-vis the RSK government.

18. In November 1995, after Operation Storm (August 1995), the government of Croatia and Serbian representatives, including Hadžić, signed the Erdut Agreement on peaceful re-integration of Eastern Slavonia, Baranja and Western Srem into Croatia. In November 1997, Eastern Slavonia, Baranja and Western Srem were re-integrated into Croatia.

Croatian Serb Ministry of Internal Affairs

19. Parallel to the establishment of separate regional structures, the Serbs in the Croatian SAOs built up a separate police and military structure.

20. As early as 1990, Martić's Police²⁵ were formed in the SAO Krajina by Milan Martić, who was then emerging as a local political and military force. With the support of Slobodan Milošević and government organs, in particular the MUP Serbia, and officials of Serbia and SFRY, and in co-operation with military forces including the JNA, Martić's police established Serb controlled military/police posts in the entire SAO Krajina.²⁶ Without the active support and encouragement of Jovica Stanišić and Franko Simatović, Martić would not have been in a position to form or run his police. As soon as the military/police posts were created, Martić's police clashed with the Croatian police.²⁷

21. In mid-August of 1990, Milan Babić went to Belgrade and asked the President of Yugoslavia's (SFRY's) presidency for help. Babić demanded either JNA assistance or arms. On 17 August 1990, two days before the SAO referendum, the Croatian police began to disarm the police stations in Serbian municipalities. Under Martić's command, reserve police arms were seized and distributed to Serbs, and barricades were erected. Martić distributed about 300 rifles and created a battalion separate from the regular police. At the same time Milan Babić proclaimed a state of war with Croatia.²⁸

²⁵ Aka Martić's *Milicija*, SAO Krajina's *Milicija* and Martićevci.

²⁶ Transcript of audio tape conversation between Stanišić and Milošević, ERN 0206-6311-0206-6311 (BCS), ERN 0092-3212-0092-3212 (ENG); C-001.

²⁷ C-061.

²⁸ Interview with Milan Martić, BBC Death of Yugoslavia, ERN 0219-5504-0219-5518 (ENG); C-061.

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22. The Secretariat (later Ministry) of Internal Affairs of the SAO Krajina was established by the Executive Council of the SAO Krajina on 4 January 1991, and Milan Martić was appointed the Secretary of the SUP.²⁹

23. In late March 1991, Martić's police took control over Plitvice National Park, a main tourist attraction on the road from Zagreb to the Croatian coast.³⁰ On 31 March 1991, the Croatian MUP arrived at the park, but Martić's police had erected barriers. In the firefight that followed, the first casualties of the conflict occurred: both a Croat and a Serb policeman were killed.³¹

24. The Golubić training camp, located in a former youth village a few kilometres from Knin, was established in March/April 1991 with the active participation of Milan Martić, Franko Simatović³² and Dragan Vasiljković, aka Captain Dragan.³³ This camp was used as a training centre for special units of the Serbian DB and for Martić's police.³⁴ Serbs trained there were also deployed to the TOs in the SAO Krajina and the SAO SBWS.³⁵ Instructors were provided by the Serbian DB.³⁶ Franko Simatović made arrangements for salaries of those involved at Golubić. Jovica Stanišić was responsible for supplying everything required to run the camp.³⁷ Golubić operated at its outset under Simatović's and Martić's command. Dragan Vasiljković took his orders from Jovica Stanišić.³⁸ He was used as a screen to hide the role of the Serbian DB.³⁹ Men trained by him were moved, with the TO, to the fortress in Knin. They became known as the Knindžas. Some of these men later formed part of a unit recruited by Simatović for training at Mount Fruška Gora, in Serbia.⁴⁰

25. On 29 May 1991, the Assembly of SAO Krajina elected Martić as Minister of Defence of the SAO Krajina.⁴¹ It also passed the decision formalising Martić's special police unit as *milicija Krajine* (Krajina police), and placed it under the authority of the Ministry of

²⁹ Minutes of the Session of the Executive Council of 4 January 1991, ERN 0217-2061-0217-2061 (BCS & ENG); Decree of the internal organisation of the SUP of SAO Krajina, ERN 0217-2062-0217-2064 (BCS), ERN ET 0217-2062-0217-2064 (ENG); Decision on appointment of the Secretary of the SUP, ERN 0217-2060-0217-2060 (BCS & ENG).

³⁰ *Tanjug*, 29 March 1991, ERN R029-3732-R029-3732 (ENG); C-0-61.

³¹ C-061.

³² Order on Training Centre Golubić, signed by Frenki Simatović, dated 16 June 1991, ERN 0113-3707-0113-3707 (BCS), ET 0113-3703-0113-3707 (ENG).

³³ C-058.

³⁴ C-058.

³⁵ C-028.

³⁶ C-058.

³⁷ C-058.

³⁸ B-056.

³⁹ C-028.

⁴⁰ B-073.

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Defence of the SAO Krajina.⁴² At the same time, the Assembly of the SAO Krajina elected Milan Babić President of the government of the SAO Krajina.⁴³

26. Within one month the Assembly of the SAO Krajina appointed Martić Minister of Internal Affairs of SAO Krajina on 27 June 1991.⁴⁴ He retained his command over Martić's police.⁴⁵ Milan Babić fulfilled both the position of President and Minister of Defence.⁴⁶

27. On 8 August 1991, Babić appointed Martić to the position of Deputy Commander of the TO of the SAO Krajina.⁴⁷ Through this appointment, Martić took control of what would become the armed forces in the RSK, and of the police.⁴⁸ On 25 August 1991, Martić declared himself commander of all armed forces, and of the TO of SAO Krajina, and adopted a decision on the application of laws on defence of the Republic of Serbia in the territory of the SAO Krajina.⁴⁹

28. The TO structures reported to Martić and not to the President of the SAO. The TO did not function within the legally defined TO framework but within the police structures.⁵⁰

29. After training, men from Golubić camp were sent to locations on the confrontation line around Knin, under the command of Milan Martić.⁵¹ As early as summer 1991, the local Serb TO and Martić's Police, with the absolute support of Stanišić, Simatović and other members and agents of the Serbian DB and primarily financed by Serbia, started to persecute non-Serbs within the SAO Krajina by attacking their villages, arbitrarily arresting non-Serbs, mostly Croats, detaining, beating and killing them, and looting and burning their houses.⁵² Whereas at the beginning of the conflict in Croatia, the official role of the JNA was that of a buffer between the local armed Serbs and the Croatian police, in August 1991, the JNA 9th

⁴¹ Decision on election of Ministry of Defence of SAO Krajina, ERN 0214-1844-0214-1844 (BCS); L004-8236-L004-8236 (ENG).

⁴² Decision of the Assembly of the SAO Krajina to form a special police unit "Krajina Militia" that will be placed under the authority of the Ministry of Defence of Krajina, ERN 0214-1921-0214-1921 (BCS), L004-8301-L004-8302 (ENG).

⁴³ C-061.

⁴⁴ Decision on appointment of the Minister of Internal Affairs, ERN 0214-1944-0214-1944 (BCS), ERN L004-8737-L004-8738 (ENG).

⁴⁵ Law on Internal Affairs of the SAO Krajina, ERN 0217-2213-0217-2227 (BCS), ERN ET 0217-2213-0217-2227 (ENG).

⁴⁶ See as an example of this double function: An Order issued by Milan Babić, President of the SAO Krajina Government and Minister of Defence to mobilize all TO headquarters and units on the territory of SAO Krajina, ERN 0207-7900-0207-7900 (BCS), ERN 0303-1781-0303-1781 (ENG).

⁴⁷ Order of Milan Babić, 8 August 1991, ERN 0217-2075-0217-2705 (BCS).

⁴⁸ Order of Milan Babić, 8 August 1991, ERN 0217-2075-0217-2705 (BCS).

⁴⁹ *Danas*, 26 February 1993, ERN R032-2166-R032-2166 (ENG).

⁵⁰ C-061.

⁵¹ C-058.

⁵² C-061; C-1166; C-1220; C-1211. See also Document signed by Milan Martić, Ministry of Interior SAO Krajina, 18 August 1991, ERN 0050-1494-0050-1494 (BCS), ERN L005-0035-L005-0036 (ENG).

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Corps openly joined with Martić's Police in an attack on Kijevo.⁵³ This attack was the first visible demonstration that the JNA's role had transformed from one of interposing between the conflicting parties to one of creation and control of Serb-held areas in those parts of Croatia that the Serbian leadership considered Serb. Martić's Police participated in wide-scale attacks against predominantly Croat villages throughout the SAO Krajina and municipalities bordering the SAO Krajina, including Škabrnje,⁵⁴ Saborsko, Dubica, Cerovljani, and Baćin.⁵⁵

30. On 28 August 1991, Colonel Milorad Bošković, Chief of the 3rd Department of the Security Administration⁵⁶ at the SFRY Federal Secretariat for People's Defence,⁵⁷ sent the Strictly Confidential Report Number 437, "*Some information on Daniel Snedden, Australian Citizen, alias Kapetan Dragan*", to the Federal Secretary for People's Defence (SSNO), Army General Veljko Kadijević, and to five other addressees. The report provides a detailed overview of the activities of Dragan since his return to Serbia, including his visit to Bor with Nikola Sainović, then a minister in the Government of Serbia, to ask the local authorities there for their support in setting up a training centre for volunteers. The UB report to Kadijević also mentions the involvement of Dragan in the training of the "special unit" of the SAO Krajina MUP in Golubić (vicinity of Knin), and Dragan's "*close*" connection with "*several organs of the MUP Serbia who are engaged in the same mission*". These "*organs*" are identified in a footnote, as Stamatović (aka "Frenki") and Dragoljub Filipović (aka Fico). According to the report, the aforementioned close connection between Dragan and organs of the MUP Serbia indicates that "*we are talking about an organ or person engaged on behalf of the MUP of Serbia.*"⁵⁸

31. On 26 February 1992, when the SAO Krajina united with the two other SAOs in Croatia to become the Republic of Serbian Krajina (RSK), the Assembly of the RSK appointed Martić as Minister of Internal Affairs.⁵⁹ As Minister of Internal Affairs for the

⁵³ Minutes of the 16th Session of the Assembly of the Serbian People in BiH, Banja Luka, 12 May 1992, ERN 0084-7711-0084-7761 (BCS), 0091-3501-0091-3562 (ENG).

⁵⁴ The male civilians of Škabrnje were beaten in prisons in Knin, including one run by Martić's Police. C-1202; C-1201; C-1113.

⁵⁵ C-1063; C-1201; C-1202; C-1234.

⁵⁶ Hereinafter "UB."

⁵⁷ Hereinafter "SSNO."

⁵⁸ UB Report "Some Information on Daniel SNEDDEN alias "Kapetan Dragan" by Colonel Milorad Bošković, to Veljko Kadijević, 28 August 1991, ERN 0340-4983-0340-4985 (BCS), ERN ET 0340-4983-0340-4985 (ENG).

⁵⁹ C-061.

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RSK, Martić increased his powers and Martić's Police became part of the police forces of the RSK.⁶⁰ In January 1994, Milan Martić was elected President of the RSK.

II. Implementation of the plan in Bosnia and Herzegovina

32. As in Croatia, the SDS played an important role in the creation of Serb territories within BiH. The SDS in BiH was led by Radovan Karadžić, Momčilo Krajišnik, Biljana Plavšić and Nikola Koljević.⁶¹

33. By spring 1991, communities of Serb municipalities were established in three regions.⁶² Although Bosnian Serbs claimed that their motives in establishing the new communities were merely economic, the justification was tenuous in view of the fact that the Croatian SDS had earlier established communities of municipalities that had been transformed into Serbian autonomous regions (SAOs).⁶³ In BiH the pretext was fully exposed in September 1991 when these communities were proclaimed to be Serbian autonomous districts.⁶⁴ The establishment of several other SAOs in BiH soon followed.

34. The establishment of formal organs of a parallel government in October 1991 occurred during a period of rising tension between the Bosnian Serbs, Muslims and Bosnian Croats. On 14-15 October 1991, a vote in favour of sovereignty took place in the Assembly of the Socialist Republic of Bosnia and Herzegovina in the absence of SDS deputies.⁶⁵ At a meeting of the SDS Council on 15 October which was attended by virtually all party leaders, including Karadžić, Krajišnik, Plavšić and Koljević, a member noted, "This evening we must shed the illusion that a form of co-existence with the Muslims and Croats can be found."⁶⁶

⁶⁰ C-061.

⁶¹ See, for example, "The commander of the 2nd MD will soon have a discussion with the top leadership of the Serbian people (Karadžić, Koljević, Plavšić, Krajišnik and Dukić)," ERN 0046-5452-0046-5459 (BCS).

⁶² The founding session of the Assembly of the Bosanska Krajina Community of Municipalities was held in late April 1991, ERN 0051-2391-0051-2398 (ENG). This was followed in May by the founding of communities of municipalities of Romanija ERN 0089-6733-0089-6733 (BCS) and of Eastern Herzegovina ERN 0089-6734-0089-6734 (BCS).

⁶³ Decree to establish and found the Community of Municipalities of Northern Dalmatia and Lika, Knin Municipal Assembly, 27 June 1990, ERN 0217-2142-0217-2143 (BCS), ERN 0308-7595-0308-7596 (ENG); Inauguration of the Community of Municipalities of Northern Dalmatia and Like, ERN 0214-1845-0214-1848 (BCS), ERN L006-4035-L006-4039 (ENG); SAO Krajina formed 21 December 1990.

⁶⁴ *Borba*, 14-15 September 1991, "The Third Serbian Krajina", ERN 0089-6731-0089-6731 (BCS).

⁶⁵ Minutes of the Joint Sessions of the Assembly of the Republic of Bosnia and Herzegovina, 10, 11, and 14 October 1991, ERN 0218-9560-0218-9563 (BCS), ERN 0307-5714-0307-5718 (ENG).

⁶⁶ Minutes of the SDS Part Council at the Deputies Club, 15 October 1991, ERN SA01-4270-SA01-4274 (emphasis added) (BCS).

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35. On 24 October 1991, the Bosnian Serb leadership began the formal establishment of a parallel government, declaring the establishment of the Assembly of the Serb People in BiH in order to “establish full authority over the Serbian territories in BiH.”⁶⁷

36. Karadžić explained to Slobodan Milošević on 24 October 1991 that the Bosnian Serbs would prevent Bosnian sovereignty over “Serbian territories” by taking control over them:

(...) we have prepared everything to create a *de facto* situation that cannot be cha... , which they will break their teeth on, they simply have to break them, there is no way we will live in a country with them (...) We will establish full authority over the Serbian territories in Bosnia and Herzegovina and none of his /Izetbegović’s/ lawyers will be, will be able to show his nose there. He will not be able to exercise power. He will not have control over 65% of his territory. That is our goal.”⁶⁸

37. Among its first acts, the Assembly authorised a plebiscite of the Serbian People of BiH on whether Bosnian Serbs wished to remain in Yugoslavia,⁶⁹ which was held on 9-10 November 1991. The plebiscite was conducted on a segregated basis, with different colour ballot papers containing different wording for non-Serbs. As expected, few non-Serbs voted, and the results were overwhelmingly in favour of remaining in a Serb dominated Yugoslavia. The Bosnian Serb leadership would repeatedly invoke the plebiscite thereafter to legitimise further steps toward ethnic separation.⁷⁰

38. On 19 December 1991, the SDS leadership intensified local organisational efforts to seize power, distributing to SDS municipal boards “strictly confidential” instructions detailing “tasks, measures and other activities” for implementing the results of the plebiscite (the “19 December Instructions”). The 19 December Instructions, distinguishing between municipalities where Serbs were a majority (“Variant A” municipalities) and those where they were a minority (“Variant B”), were directed to SDS municipal leaders and instructed them, in the first of two enumerated steps, to form crisis staffs, proclaim Serbian Assemblies

⁶⁷ Transcript of a conversation between Slobodan Milošević and Radovan Karadžić, 24 October, 1991, ERN 0211-6674-0211-6679 (BCS), ERN 0302-7804-0302-7806 (ENG).

⁶⁸ Transcript of a conversation between Slobodan Milošević and Radovan Karadžić, 24 October, 1991, ERN 0211-6674-0211-6679 (BCS), ERN 0302-7804-0302-7806 (ENG).

⁶⁹ That is to say, the SFRY without Slovenia and Croatia.

⁷⁰ On 21 November 1991, the Assembly cited the plebiscite in declaring the autonomous regions to be federal units of Yugoslavia. In December, Karadžić told the Assembly that “We have the right and the ability to prevent anyone on the territories where we conducted our referendum to secede from Yugoslavia. In all territories where Serbs took part in the referendum, regardless of whether they make 5% or 55% of the population, they are the constituent element of that town or that republic. All territories where we voted in our referendum to remain in Yugoslavia must stay in Yugoslavia if we decide so” (applause) (Shorthand record of the 4th session of the Assembly of the Serbian People in BiH held on 21 December 1991, ERN 0089-8124-0089-8227 (BCS) 0093-9674, ERN 0093-9637-0093-9686 (ENG)).

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and carry out “preparations for the formation of municipal government bodies.”⁷¹ In stage two, SDS leaders would mobilise Serbian police and subordinate them to JNA command. They would also call up JNA reserves, TO units and take other steps. These measures were to be taken upon receipt of an order “given exclusively by the SDS Bosnia president, using a secret procedure.” Just prior to the Serb take-over of Zvornik, Bijlana Plavšić met members of the Crisis Staff at their headquarters in Zvornik town. She inquired whether they had carried out all the preparatory steps directed by Variant B of the 19 December instructions.⁷²

39. The Bosnian Serb leadership continued the construction of a parallel government in the succeeding months with the proclamation of the Serbian Republic of Bosnia and Herzegovina (9 January 1992⁷³), the proclamation of the constitution and selection of Plavšić and Koljević as Acting Presidents (28 February 1992⁷⁴), and the declaration of independence of the Serbian Republic (7 April 1992).

40. At the 26 January 1992 Assembly session, the coordinator of the governments of the Serbian Autonomous Regions, Jovan Čizmović, called for the implementation of the second phase of the 19 December Instructions.⁷⁵ Less than one month later, positive steps were being taken at the municipal level to do so.⁷⁶

41. On 28 February 1992, the Serbian Republic of Bosnia and Herzegovina National Defence Law was proclaimed, establishing the framework of a Bosnian Serb Ministry of Defence and the latter’s role in the drafting of plans for the establishment, equipment and training of a Bosnian Serb TO force.⁷⁷

42. As Bosnian Serb municipality leaders prepared the groundwork for the take-over, the Bosnian Serbs, Muslims and Croats engaged in discussions with representatives of the international community. By March 1992, in the face of negotiations on the possibility of an ethnic division of BiH, the Bosnian Serb leadership urged local leaders to press ahead

⁷¹ Instructions for function of Serb authorities in state of an emergency, ERN 0018-4274-0018-4283 (BCS), ERN 0027-0650-0027-0656 (ENG); B-1796.

⁷² B-024.

⁷³ Official Gazette of the Bosnian Serb republic, Volume I (1992), Issue 2, ERN 0044-7328-0044-7331; ERN SA01-2055-SA01-2164; Transcript of the meeting of the SDS Deputies Club in SRBiH Parliament, ERN SA01-2055-SA01-2164 (BCS) ERN 0301-5390-0301-5449 (ENG).

⁷⁴ Article 5 of RS February Constitutional Act, ERN SA02-3012-SA02-3014 (BCS), ERN 0305-5192-0305-5194 (ENG).

⁷⁵ Transcript of the 6th meeting of the Assembly of the Serbian People in BiH, ERN SA01-1639-SA01-1703 (BCS), ERN 0301-8032-0301-8068 (ENG).

⁷⁶ B-1796. In Bratunac municipality, Goran Zekić, a member of the Bosnian Serb Republic Assembly from Srebrenica, and a member of the SDS Main Board, conveyed the order to implement the second phase, B-1796.

⁷⁷ Decree on the Enactment of the Law on National Defence, Official Gazette of the Serbian People in BiH, ERN 0018-4319-0018-4333 (BCS), 0092-1463-0092-1492 (ENG).

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quickly. On 18 March 1992, at the 11th Assembly session,⁷⁸ Krajišnik strongly stressed the need to begin the actual and physical process of seizing territory: "... it would be good if we could do one thing for strategic reasons: if we could start implementing what we have agreed upon, the ethnic division on the ground."⁷⁹

43. On 24 March 1992, Karadžić advised the Assembly that "in a month or two, everything will be resolved. We shall either achieve our goals or be ruined. There is no other option."⁸⁰ Within the next few days, he advised, a significant step in that direction was to be taken. Karadžić told the deputies that, in accordance with instructions to be given, "the actual and sovereign authority of the Serbian Assembly be established on the ground as soon as possible." Responding to calls for the immediate establishment of a national army, later in the same session he explained that, for the moment, "the JNA is much better." In any event, he also assured the Assembly, "you can be sure that the police is absolutely sufficient."⁸¹

44. The Bosnian Serb leadership had ensured that the forces on whom they would rely to implement the take-overs and subsequent control of territories were extensively armed. Local Serbs had been armed, Bosnian Serb TO and volunteer units had been established, and many JNA senior officers in BiH, by then in charge of a largely Serbian force, were co-ordinating closely with crisis staffs.⁸² As Karadžić said in an intercepted telephone conversation on 12 October 1991, months earlier, "there are three, four hundred thousand armed Serbs in Bosnia ... plus there's an army and the hardware and everything."⁸³

45. On 6 April 1992, the European Community recognised BiH as an independent and sovereign republic, followed the next day by the United States. This period signalled the onset of military attacks and take-overs by Serb forces. By 12 May 1992, when the Bosnian Serbs held the 16th session of the Serbian Assembly in Banja Luka, many municipalities had been taken over, including Bijeljina on 31 March, Zvornik on 9 April, Bosanski Šamac on 17 April, Sanski Most on 21 April and Doboj on 3 May.⁸⁴

⁷⁸ Short-hand record of the 11th session of the Assembly of the Serbian People in Bosnia and Herzegovina held on 18 March 1992 in Sarajevo, ERN SA01-1169-SA01-1238 (BCS), ERN 0190-4669-0190-4716 (ENG).

⁷⁹ Short-hand record of the 11th session of the Assembly of the Serbian People in Bosnia and Herzegovina held on 18 March 1992 in Sarajevo, ERN SA01-1169-SA01-1238 (BCS) (emphasis added).

⁸⁰ 12th Assembly session, 24 March 1992 ERN SA01-1122-SA01-1168 (BCS), ERN 0300-2027-0300-2053 (ENG)

⁸¹ 12th Assembly session, 24 March 1992 (ERN SA01-1122-SA01-1168 (BCS), ERN 0300-2027-0300-2053 (ENG) (emphasis added).

⁸² Main Staff of the Army of Republika Srpska, Analysis of the Combat Readiness and Activities of the Republika Srpska in 1992, ERN 0060-7339-0060-7480 (BCS), ERN L000-9548-L000-9712 (ENG).

⁸³ Transcript of a telephone conversation between Radovan Karadžić and Gojko Đogo dated 12 October 1991 ERN 0303-1271-0303-1287 (ENG) (emphasis added).

⁸⁴ See "Crimes in Bosnia and Herzegovina" below.

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46. On 12 May 1992, the Presidency of the Serbian Republic of Bosnia Herzegovina (“Presidency”) was established and Karadžić, Plavšić and Koljević elected as its members. The establishment of the Bosnian Serb Army (VRS) followed⁸⁵. JNA personnel and equipment were transformed into an army for the Bosnian Serbs. The Bosnian Serb army continued to receive significant support from the FRY even after the transition.⁸⁶ General Ratko Mladić, a veteran of the Croatian campaign, was named as the Commander of the Main Staff and six strategic goals for the Serbian people were announced by Karadžić. The first political goal was separation from the other two national communities in the SRBiH: “separation from those who are our enemies and who have used every opportunity, especially in this century, to attack us, and who would continue with such practices if we were to stay together in the same state.”⁸⁷

47. By the 17th RS Assembly Session the Bosnian Serbs controlled 70% of the territory in BiH. According to Karadžić: “Today we control all our territory. Perhaps we also control some territory that would belong to, or will belong to, other nations or communities if there is an agreement. But for reasons of security we cannot give up that territory during the war;” and Plavšić: “65% of Serbian territory belongs to our people according to the cadastres, and 70% is conquered. That’s only a 5% advantage.”⁸⁸

48. Over the next few months, hundreds of thousands of non-Serbs were forcibly expelled from their homes⁸⁹ and many others killed, assaulted or imprisoned in brutal and degrading facilities in municipalities across BiH.⁹⁰ The pattern that unfolded demonstrates that the crimes were the consequence of a co-ordinated plan to use ethnic cleansing to seize and hold territory. The Prosecution relies upon the pattern as evidence of the existence of a

⁸⁵ Main Staff of the Army of Republika Srpska, Analysis of the Combat Readiness and Activities of the Republika Srpska in 1992, ERN 0060-7339-0060-7480 (BCS), 0110-3019-0110-3182 (ENG).

⁸⁶ C-039; Main Staff of the Army of Republika Srpska, Analysis of the Combat Readiness and Activities of the Republika Srpska in 1992, ERN 0060-7339-0060-7480 (BCS), ERN L000-9548-L000-9712 (ENG); Radovan Karadžić at 40th RS Assembly Session, ERN 0215-2478-0215-2481, 0215-2482-0215-2616 (BCS).

⁸⁷ Karadžić at RS 16th Assembly Session on 12 May 1992, ERN 0084-7711-0084-7715, 0084-7716-0084-7761 (BCS), 0190-8511-0190-8514, 0190-8515-0190-8570, 0091-3501-0091-3562 (ENG).

⁸⁸ RS 17th Assembly Session on 24-26 July 1992, ERN 0214-9486-0214-9495, 0214-9496-0214-9600, 0214-9601-0214-9631 (BCS), L007-7099-L007-7131 (ENG).

⁸⁹ Demographic evidence shows that an estimated 329,869 Muslims and 62,373 Croats in the area which later became Republika Srpska (as defined by the Dayton Accords 1995) were forcibly transferred or deported from the region. Expert Report of witness Ewa Tabeau in IT-02-54-T, entitled Ethnic Composition, Internally Displaced Persons and Refugees from 47 Municipalities of Bosnia and Herzegovina 1991 to 1997, dated 4 April 2003, ERN 0291-5501-0291-5738 (ENG), ERN 0308-1733-0308-1814 (BCS).

⁹⁰ See Crimebase in Croatia and Bosnia and Herzegovina (below).

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widespread and systematic attack directed against the civilian population in BiH, and further, as evidence of each of the Accused's intent.⁹¹

The Accused's participation in the Common Plan

49. Stanišić and Simatović actively participated in this JCE through:
- i. Acting as channels for communication between Slobodan Milošević and Croatian and Bosnian Serb political leaders.
 - ii. Participating in the formation, financing, supply and support of special units of the Serbian DB; and providing arms, funds, training, logistical support and other substantial assistance or support to special units of the Serbian DB that were involved in the commission of crimes in Croatia and BiH between 1 August 1991 and 31 December 1995.
 - iii. Training and support of paramilitary formations, including Šešeljevci,⁹² and "satellite units" of the special units of the Serbian DB.
 - iv. Arming of local Serbs in Croatia and Bosnia.
 - v. Directing members and agents of the DB, including Arkan, who participated in the perpetration of the crimes in the indictment.
 - vi. Coordination of joint operations between the JNA (and subsequently the VJ), SVK⁹³, VRS, RS MUP and Special Units of the Serbian DB.⁹⁴

I. MUP Serbia and Serbian DB

The Minister of Internal Affairs

50. The MUP Serbia had enormous resources. Radmilo Bogdanović resigned as Minister of Internal Affairs as a result of the public outcry over MUP Serbia actions at the demonstrations in Belgrade in March 1991.⁹⁵ Zoran Sokolović was his successor, but a figurehead more than anything else.⁹⁶ Bogdanović retained his influence even after his retirement,⁹⁷ considered by some to be the "real" Minister of Internal Affairs even then.⁹⁸ Whilst Jovica Stanišić was very close to Bogdanović, the relationship between him and

⁹¹ C-061; B-1796.

⁹² Volunteers recruited, organised and supported by the Serbian Radical Party (hereinafter "SRS") and Serbian Chetnik Movement (hereinafter "SČP"), and led by extreme nationalist and co-perpetrator Vojislav Šešelj.

⁹³ Army of the RSK.

⁹⁴ These modes of participation overlap, and the Prosecution will not deal with each under separate headings.

⁹⁵ C-013.

⁹⁶ C-039.

⁹⁷ C-039: Bogdanović exerted a strong influence on key persons in the ministry after his retirement.

⁹⁸ B-056.

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Sokolović was not good.⁹⁹ With Sokolović as the minister, real power in the MUP Serbia resided in Stanišić.¹⁰⁰

The Serbian DB

51. The Serbian Ministry of Internal Affairs consists of two basic services, called departments: the State Security Department¹⁰¹ and the Public Security Department.¹⁰² There are also organisational units outside the departments called administrations, which are constituted according to the line of work. The RJB has secretariats of Internal Affairs¹⁰³, which are in charge of particular territories where departments and police (*“milicija”*)¹⁰⁴ are organised.

52. Slobodan Milošević, in his direct contacts with both Radovan Stojičić aka Badža, head of the RJB and Deputy Minister of the Interior from 31 December 1991¹⁰⁵ to 10 April 1997 (when he was killed), and Jovica Stanišić, would bypass not only the Minister, but also, in the months when Stanišić was deputy Head of the Serbian DB, the Head of that department. On 21 April 1997, Milošević legitimised what had been the practice throughout the indictment period when he issued a decision that the Serbian DB would henceforth work “pursuant to instructions of the President of the Republic and the Government of Serbia.”¹⁰⁶ In 1997, the *de facto* authority of Jovica Stanišić as head of the Serbian DB is illustrated at the anniversary celebration of the founding of the JSO¹⁰⁷ in May 1997 at the training camp at Kula, where Milošević is accompanied not by the then Minister of Internal Affairs, Vlatko Stojiljković, but by Jovica Stanišić.¹⁰⁸ The Minister did not attend the ceremony.¹⁰⁹

⁹⁹ B-056.

¹⁰⁰ C-039. See also B-161: Sokolović effectively did not perform his role as Minister of Internal Affairs at all.

¹⁰¹ Hereinafter “RDB” (*Resor državne bezbednosti*).

¹⁰² Hereinafter “RJB” (*Resor javne bezbednosti*).

¹⁰³ Hereinafter “SUP” (*Sekretarijat za unutrašnje poslove*).

¹⁰⁴ Later “*policija*.” *Milicija* is sometimes translated as “militia.”

¹⁰⁵ Letter from Dragan Lalić, Secretary of the Interior of the RSK, Vukovar, to the Ministry of the Interior of the RSK in Knin, 3 August 1992, ERN 0207-6696-0207-6697 (BCS), L005-5590-L005-5592 (ENG).

¹⁰⁶ Budimir Babović: Expert report in IT-02-54-T: Analysis of Regulations Regarding Responsibility for Control of Internal Affairs Ministry of the Republic of Serbia, 0290-7773-0290-7831(BCS), ERN 0306-2479-0306-2540 (ENG); Decision DT No. 1/97 In Belgrade, 21 April 1997: Department of State Security will carry out their duties in accordance with guidelines of the President of the Republic of Serbia Government and regulate the security in the framework of the FRY, ERN K022-7740-K022-7740 (BCS); K022-7742-K022-7742 (ENG).

¹⁰⁷ Units for Special operations.

¹⁰⁸ Budimir Babović: Expert report in IT-02-54-T: Analysis of Regulations Regarding Responsibility for Control of Internal Affairs Ministry of the Republic of Serbia, 0290-7773-0290-7831(BCS), ERN 0306-2479-0306-2540 (ENG).

¹⁰⁹ Budimir Babović: Expert report in IT-02-54-T: Analysis of Regulations Regarding Responsibility for Control of Internal Affairs Ministry of the Republic of Serbia, 0290-7773-0290-7831(BCS), ERN 0306-2479-0306-2540 (ENG).

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53. Stanišić's *de facto* authority in both the Serbian DB and the MUP Serbia was a direct consequence of his relationship with the President, Slobodan Milošević.¹¹⁰ It was well known that he reported to Milošević directly and that he was given instructions by Milošević directly. In the indictment period, and later, Jovica Stanišić was President Slobodan Milošević's number two. He was described as Milošević's executioner and protector,¹¹¹ referred to by some as the "man of ice",¹¹² or "Ledeni".¹¹³ He once said to Milan Babić that he dealt with the internal affairs of the country, whereas Milošević dealt with foreign affairs.¹¹⁴

Jovica Stanišić and Franko Simatović

54. Whatever his *de jure* position in the Serbian DB, Franko Simatović was directly subordinated to Jovica Stanišić at all times relevant to this indictment. From around May 1991, he commanded, under Jovica Stanišić's, and ultimately, Slobodan Milošević's authority, special units of the Serbian DB in operations in Croatia and Bosnia.¹¹⁵ He remained, at all times relevant to this indictment, a close associate and ally of Jovica Stanišić.

Jovica Stanišić's subordinates in the Serbian DB

55. Milan Tepavčević was an Assistant to the Head of the Serbian DB under Zoran Janačković. When Stanišić took over, he became his Deputy.¹¹⁶ He was then in charge of equipment, finances, weapons and ammunitions.¹¹⁷ The Head of the 8th Department, the Department for Legal and Material Affairs was Milan Prodanić, who later became Assistant for material, financial and legal issues.¹¹⁸ The Head of the Intelligence Department, or Second Administration of the Serbian DB in 1991 and 1992 was Marko Lazović, then Zoran Mijatović for a few months before he was replaced in 1993 by Franko Simatović.¹¹⁹ Simatović later (in late 1996 or early 1997) became Head of the Second Administration¹²⁰. Dragan Filipović became Head of the Second Administration after Simatović.¹²¹

¹¹⁰ B-161.

¹¹¹ C-061.

¹¹² B-252.

¹¹³ C-058.

¹¹⁴ C-061.

¹¹⁵ B-161.

¹¹⁶ C-040.

¹¹⁷ B-161.

¹¹⁸ C-040.

¹¹⁹ C-040.

¹²⁰ Franko Simatović interview, ERN V000-3800-V000-3800; ENG Transcript Tape 2, p.26.

¹²¹ C-040.

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Before January 1992

56. Zoran Janačković, Stanišić's predecessor as head of the Serbian DB, was appointed to this position on 31 October 1990, retiring on 1 December 1991. He had no professional police experience, was new to the service and did whatever Slobodan Milošević told him to do.¹²² Members of the DB did not have a high opinion of Janačković,¹²³ and, from mid 1991, he had the sense that he did not have support as the head of the Serbian DB; that he was being bypassed. Whereas a large number of DB agents did not accept Janačković as their chief because they saw him as a political appointment, Jovica Stanišić was very well respected in the Serbian DB.¹²⁴ Agents considered him to be a professional DB officer. They were also aware of his direct link to the President, Milošević.¹²⁵

57. The dynamic between Zoran Janačković and Jovica Stanišić, and Stanišić and Slobodan Milošević, and the impact of this upon Stanišić's participation in the criminal plan in the months before his appointment as Head of the Serbian DB is illustrated by the following intercepted telephone conversation: On 24 June 1991, Mihalj Kertes was intercepted in a telephone conversation with Radovan Karadžić in Bosnia complaining to Radovan Karadžić about problems in providing assistance because of Zoran Janačković's interference.¹²⁶ Kertes tells Karadžić that "it" could be going well but Zoran Janačković is slowing things down; because of Janačković they could only move 50 "furnitures" that day, and nothing on the list written by Karadžić has been done.

Mihalj Kertes: This could be going much better. However the main problem, is that Janačković is holding up everything.

Radovan Karadžić: But why? Fucking bastard.

MK: Fucking bastard! I'm going to go and see Slobo tomorrow, but I wanted to ask you, er, without him. He wouldn't let anything /probably: be done/. Jovica's hands are tied. Jovica went mad and I'm worried that he'll soon be your patient.

RK: Rude fucking bastard!

MK: That's why I've called you. Please, I'm going to Slobo's tomorrow, you ring him. The list you gave us and he didn't do anything, we'll kill him /?/ and lose face.

¹²² C-040.

¹²³ C-040.

¹²⁴ C-040.

¹²⁵ B-221.

¹²⁶ Intercept of telephone conversation between Mihalj Kertes and Radovan Karadžić on 24 June 1991, ERN 0212-8448-0212-8450 (BCS), ERN 0212-8448-0212-8450 (ENG) (emphasis added).

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...

RK: Who is to blame for that? Sloba or he?

MK: No, *bre*, not Sloba. I bloody brought him. I did. Sloba trusted him. That's the trouble...

RK: Right. Does Sloba demand that he should decide about every business?

MK: No. Sloba has given Jovica and me *carte blanche*, but then he's Jovica's boss and he's driving Jovica crazy."

After January 1992

58. On Stanišić's appointment to Head of the Serbian DB, his participation in the joint criminal enterprise continued, remaining as secretive as before.

59. Stanišić's meetings in 1992 and 1993 with members of the joint criminal enterprise illustrate the degree of influence Stanišić held over the shape of events in Croatia and Bosnia. In August 1992, Stanišić attended a meeting in Novi Sad at which Mihalj Kertes, Goran Hadžić, Milovan Popivoda, Head of DB Vojvodina and Milorad Vučelić, Director of RTS, were present. Stanišić had just come from a meeting with Milošević. He said that the day's topic would be Serb held territory in eastern Croatia. Stanišić said these areas must be "cleansed of the Ustashas." Stanišić instructed Kertes to avoid human casualties, and to coordinate his activities with Simatović.¹²⁷

60. The same group was joined by Franko Simatović and Radovan Pankov, President of the Vojvodina board of the SPS, at a meeting in September 1992 at the same location: Stanišić told Simatović that "the boss," meaning Milošević, had told him to step up actions in Eastern Slavonia as he had heard that the Croats would try to enter Krajina by force on 1 November 1992. Stanišić also told Simatović to "quiet down his guys," particularly Pero Divljak¹²⁸ aka Petar Divljaković a reference to the Red Beret units under Simatović's command.

61. In the first weeks of March 1993, Milošević attended a meeting with Stanišić, Kertes and other members of the joint criminal enterprise.¹²⁹ Milošević asked Stanišić about the situation in Eastern Slavonia and Baranja. Stanišić replied that everything was going "according to the plan," that the terrain had been cleansed of Croats, and that the situation on

¹²⁷ C-048.

¹²⁸ C-048. Pera Divljak, according to B-152, perpetrated crimes in the Nevesinje/Mostar area; C-017.

¹²⁹ C-048.

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the ground was stable. Milošević said: “Very well. So we have completed the main part of the job. Just continue working like that, but in a subtle way.”¹³⁰

Consolidation of intelligence services by Jovica Stanišić

62. Jovica Stanišić made the Serbian DB the most powerful institution in the Former Yugoslavia. He was responsible for a consolidation of power in the Serbian DB which brought the Security Services of both the military and the Federal MUP under its control.¹³¹ Nedeljko Bošković, a retired airforce Colonel, was brought in to bring about the task of putting the military security services under the full control of the Serbian DB. In March 1992, he was appointed head of the security organs of the Air Force (RViPVO), and on 10 June 1992 he was appointed head of the VJ’s security organs, replacing General Vasiljević.¹³²

63. Petar Gračanin, a close associate and ally of Slobodan Milošević, was appointed as Federal Minister of Internal Affairs in 1989.¹³³ A former JNA General, Gračanin was brought out of retirement to take on this appointment, replacing Dobrosav Čulafić. Gračanin was replaced in January or February 1992 by Pavle Bulatović, another close associate of Slobodan Milošević. He was later replaced by Vukašin Jokanović, a member of the SPS and, again, loyal to Milošević. From around 1991, the Federal DB ceased to function properly as a federal institution, or at all, because it lacked staff – who were generally, as they left, replaced by Serbs from Serbia – and because the Serbian DB was taking active steps around this time to assume power over the Federal DB, and other federal structures.¹³⁴

64. On 9 October 1992, members of the MUP Serbia, including members of the Serbian DB, broke into the Federal MUP building and took it over.¹³⁵ The Serbian DB took over the archives of the Federal SUP.¹³⁶ In the first couple of days after the take-over, Ljubomir Ristić, Head of the Belgrade Security Centre, and close to Stanišić, took relevant documents away from the building.¹³⁷ The Federal MUP was left with a side wing located to the rear of the building it had formerly occupied. Half of the 20 officers remaining in the Federal DB left the service after the take-over. Other services of the Federal MUP were also reduced in

¹³⁰ C-048.

¹³¹ C-039.

¹³² C-039.

¹³³ C-040.

¹³⁴ B-299.

¹³⁵ C-039.

¹³⁶ C-040.

¹³⁷ B-221.

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size. The work of the Federal MUP later became formal in nature only, and when the FRY lost its membership to Interpol in 1993, the MUP Serbia took over all its vital functions.¹³⁸

65. Mihalj Kertes was Assistant Federal Minister for Internal Affairs from April to August 1992. He was a close associate of both Jovica Stanišić and Franko Simatović. In 1992, he was involved in the take-over of the Federal SUP building.¹³⁹ After its take-over, members of the Federal SUP were barred from entering. Only Jovica Stanišić and Mihalj Kertes were allowed inside.¹⁴⁰

II. Communication between Slobodan Milošević and Croatian and Bosnian Serb political leaders

66. It is the Prosecution case that:

- i) Jovica Stanišić and Franko Simatović both provided a channel of communication and influence between Slobodan Milošević and the Croatian Serb political leadership, in particular, Milan Babić, Milan Martić and Goran Hadžić.
- ii) Stanišić provided a channel of communication and influence between Slobodan Milošević and the Bosnian Serb political leadership, in particular, Radovan Karadžić.

Vojna Linija

67. The structure of Vojna Linija (meaning the “Military Line”) can trace its roots to the outbreak of the war in Croatia in 1991. The Vojna Linija allowed for the coordination and control of military operations by members of the MUP Serbia.¹⁴¹ Stanišić was foremost in this “military line.” Others associated with it were the Accused Simatović, Stojičić in the public security sector of the MUP Serbia, Radmilo Bogdanović, who at one point was head of the Vojna Linija, Kertes and others. MUP Serbia members of the Vojna Linija communicated with the Croatian and Bosnian Serb leadership about military matters. They were in contact with loyal JNA generals and other senior officers to co-ordinate the activities of MUP paramilitaries with those of the JNA units operating in the area.

¹³⁸ B-299. Budimir Babović: Expert report in IT-02-54-T: Analysis of Regulations Regarding Responsibility for Control of Internal Affairs Ministry of the Republic of Serbia, 0290-7773-0290-7831 (BCS), ERN 0306-2479-0306-2540 (ENG).

¹³⁹ B-221.

¹⁴⁰ B-221.

¹⁴¹ C-039.

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Serb leadership in SAO Krajina

Milan Martić

68. Milan Martić was under the direct influence and control of Slobodan Milošević, Jovica Stanišić, with the participation Franko Simatović.¹⁴² Milan Martić would visit Milan Tepavčević, Stanišić's assistant, at least once a week along with Predrag Ješurić, head of the Bijeljina SUP and Dragan Spasojević, head of the traffic police in Zvornik.¹⁴³ All communication between Milan Martić and Belgrade had to go through Stanišić first. If Martić wanted to speak to Slobodan Milošević, he had to go through Stanišić. Martić had a direct telephone line to Stanišić.¹⁴⁴

69. The parallel structure consisting of members of the MUP Serbia, the public security service of Serbia, the SDS in Croatia and policemen in Serb municipalities in Croatia played an important role in all events in the Krajina starting from August 1990 and in the years following. Stanišić had a prominent role in the operation of this parallel structure.¹⁴⁵ Through Stanišić and Simatović, the DB within the MUP in the SAO Krajina, and later the RSK police, was directly responsible to the Serbian DB.¹⁴⁶ In January 1991, Dušan aka Dule Orlović was appointed by Milan Martić as head of the DB of the SAO Krajina.¹⁴⁷ Orlović also became a member of the Serbian DB. He answered directly to Jovica Stanišić.¹⁴⁸ It was through Orlović, and others, that Stanišić supported, and conveyed his directives to, the Krajina DB. Orlović was transferred to Serbia in 1995 where he continued to work directly for Stanišić.¹⁴⁹ He was number two in the line up of members of the JSO shaking hands with Milošević at Kula camp in 1997.

Milan Martić's arrest

70. A striking example of the co-ordination between the Accused Stanišić and other members of the joint criminal enterprise, before his appointment as head of the Serbian DB at the end of 1991, may be seen in the Serb response to the arrest of Milan Martić in northern Bosnia in September 1991. In early September, Martić and two JNA officers were detained by BiH police in a Muslim majority village near the Croatian border. From 6 to 10 September 1991, a series of intercepted telephone conversations show Slobodan Milošević,

¹⁴² C-061.

¹⁴³ B-161.

¹⁴⁴ C-058.

¹⁴⁵ C-061.

¹⁴⁶ C-001.

¹⁴⁷ C-061.

¹⁴⁸ C-061.

¹⁴⁹ C-061.

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and the Accused Stanišić, along with Milan Babić, Karadžić and other members of the joint criminal enterprise reacting to the arrest of Martić and working on arrangements for his release. These conversations reveal the close association between Milošević, Stanišić and top Serbian leaders in Croatia and BiH, and demonstrate their ability to share information and co-ordinate their actions during a crisis in pursuit of a specific, common goal.¹⁵⁰

Serb leadership in SAO Slavonia, Baranja and Western Srem

Goran Hadžić

71. In Eastern Slavonia, and later when he became President of the RSK, Goran Hadžić was under the influence and control of Jovica Stanišić and Slobodan Milošević.¹⁵¹ He was part of the parallel structure led by Jovica Stanišić, with the participation of Franko Simatović.¹⁵² A striking example of this may be found in an exchange during the meeting in Novi Sad in August 1992, at which members of the joint criminal enterprise, including Stanišić and Mihalj Kertes were present, as well as Goran Hadžić. Hadžić left the room at one point. In his absence, Stanišić asked Mihalj Kertes and Franko Simatović if they had Hadžić under control. Kertes replied that he shouldn't worry, to which Stanišić said: "Good. Good. I don't really want (him) to think that he's really the President."¹⁵³ C-048 went to Erdut on one occasion with Simatović in 1993 so that Simatović could give Hadžić instructions. Red Berets – who at that time provided Hadžić's security – saluted Simatović on arrival.¹⁵⁴ On a further occasion, C-048 went to Erdut with Mihalj Kertes, again, to give Goran Hadžić instructions.¹⁵⁵

¹⁵⁰ Intercepts of telephone conversations as follows: Between Karadžić and Babić on 8 September 1991 ERN 0219-4698-0219-4703 (BCS), ERN 0305-2306-0305-2311 (ENG); Between Karadžić and Stanišić on 8 September 1991 ERN 0206-6190-0206-6192 (BCS); ERN 0206-6190-0206-6192 (ENG); Between Colonel Kostić and Karadžić on 8 September 1991 ERN 0323-2942-0323-2948 (BCS), ERN 0092-2927-0092-2929 (ENG); Between Karadžić and Milošević on 9 September 1991 ERN 0206-6168-0206-6169 (BCS), ERN 0308-6341-0308-6343 (ENG); Between Babić and Karadžić on 8 September 1991 ERN 0219-4704-0219-4707 (BCS), ERN 0305-2302-0305-2305 (ENG); Between Karadžić and Milošević on 9 September 1991 ERN 0206-6173-0206-6176 (BCS), ERN 0092-2914-0092-2917 (ENG); Between Karadžić and Koljević on 9 September 1991 ERN 0212-8664-0212-8668 (BCS), ERN 0302-7831-0302-7835 (ENG); Between Karadžić and Koljević on 9 September 1991 ERN 0211-6618-0211-6621 (BCS), ERN 0302-7828-0302-7830 (ENG); Between Karadžić and Milošević on 10 September 1991 ERN 0206-6177-0206-6180 (BCS), ERN 0206-6177-0206-6180 (ENG); Between Karadžić and Colonel Kostić on 10 September 1991 ERN 0212-8679-0212-8680 (BCS & ENG)..

¹⁵¹ C-061.

¹⁵² C-061.

¹⁵³ C-048.

¹⁵⁴ C-048.

¹⁵⁵ C-048.

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72. From August/September 1991 until the end of December 1991, Radovan Stojičić commanded the Territorial Defence in the SAO SBWS.¹⁵⁶ He took over the TO in his capacity as a representative of the Serbian SUP.¹⁵⁷ He would send reports from the field in SAO SBWS to the Serbian DB at the MUP Serbia premises in Belgrade.¹⁵⁸ His relationship with the Accused through the Vojna Linija is addressed in other parts of this brief.

73. Goran Hadžić co-operated directly with Radovan Stojičić and was also in direct contact with Željko Ražnatović aka Arkan.¹⁵⁹ Both Stojičić and Arkan provided further channels through which the Accused, and Slobodan Milošević, were able to influence the behaviour of Goran Hadžić.

Serb leadership in BiH

74. The Serbian DB had at the MUP Serbia building in Belgrade a communications centre. Only two officers were allowed to enter. Jovica Stanišić used the room for communications with the Serbian leadership in Croatia and BiH.¹⁶⁰

75. Stanišić was an important channel through which Slobodan Milošević communicated with, influenced and directed Radovan Karadžić in BiH,¹⁶¹ by 1995 acquiring, by virtue of his own influence over the Bosnian Serb leadership, a quasi-diplomatic status in negotiating the release of UN hostages in Eastern Bosnia, and in his presence at the peace talks in Dayton in November.¹⁶²

76. Stanišić would visit the Bosnian and Croatian Serb leadership – Karadžić, Krajišnik, Martić - through to the end of the indictment period.¹⁶³ C-061 first met Jovica Stanišić in April or May 1991 in Radovan Karadžić's flat, together with Milan Martić and Velibor Ostojić.¹⁶⁴ Intercepts of telephone conversations between Stanišić and members of the Serbian leadership in Croatia and Bosnia reveal the extent to which he monitored the military situation on the ground. As early as August 1991, Stanišić and Karadžić discussed aid

¹⁵⁶ K-1; C-013; C-015.

¹⁵⁷ C-15.

¹⁵⁸ B-215.

¹⁵⁹ B-215.

¹⁶⁰ B-221.

¹⁶¹ C-061.

¹⁶² B-1228: Understood from what was said in one of his meetings with Stanišić regarding release of the UN personnel – in June 1995 - that he had forces already present in Bosnia and that he would simply identify the most critical ones to the hostage situation and contact them discreetly; A fax from Kirudja (UN) to Akashi on 9 June 1995 regarding the UN hostages ERN R001-2240 (ENG).

¹⁶³ C-061.

¹⁶⁴ C-061.

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intended for Bosnian Serbs in careful, coded language.¹⁶⁵ In December 1991 and January 1992, they had regular conversations about the course of talks on the future of Bosnia, revealing Stanišić's role as a channel of communication between Slobodan Milošević and the Bosnian Serb leadership¹⁶⁶ and his complicity in and furtherance of the common plan in Bosnia as its manner of execution crystallized in the minds of the Serb leadership. On 4 December 1991 Stanišić and Karadžić were recorded discussing the situation at the Western Slavonia front in great detail – including praising Šešelj's men in combat. Stanišić spoke about sending some men from Belgrade.¹⁶⁷ In a conversation on 21 December 1991,¹⁶⁸ Karadžić, updating Stanišić on the course of talks on the future of Bosnia, proposed a confederal Bosnia with the Serb part having ties with Serbia and the Croat parts with Croatia. On 12 January 1992, they spoke in guarded terms of the proposed strategy for Serbs in Bosnia in the wake of EC recognition of Croatia.¹⁶⁹ Karadžić would seek to arrange meetings with Milošević through Stanišić.¹⁷⁰ An intercept of a very guarded telephone conversation between Franko Simatović and Radovan Karadžić on 28 January 1992 provides an illustration of his association with the Bosnian Serb political leadership.¹⁷¹

III. Formation, training, arming and supporting of Serb forces in Croatia and Bosnia

77. It is the Prosecution case that:

- i) The Red Berets, the JATD and the JSO were formed and operated under Jovica Stanišić and Franko Simatović's authority and direction.

¹⁶⁵ Conversation between Jovica Stanišić and Radovan Karadžić dated 8 August 1991; ERN 0206-6293-0206-6297 (BCS), ERN 0206-6293-0206-6297 (ENG).

¹⁶⁶ See in particular, conversations dated 28 November 1991, ERN 0323-7043-0323-7045 (BCS), ERN 0323-7043-0323-7045 (ENG); 29 December 1991, ERN 0324-4477-0324-4479 (BCS); ERN 0324-4477-0324-4479 (ENG) (Stanišić and Karadžić refer to Milošević as the "chief"), two conversations on 5 January 1992, ERN 0206-6284-0206-6288 (BCS), ERN 0308-6302-0308-6306 (ENG); and ERN 0206-6280-0206-6283 (BCS), ERN 0308-6320-0308-6322 (ENG); two conversations on 6 January 1992 between Jovica Stanišić and Radovan Karadžić, ERN 0206-6289-0206-6290 (BCS), ERN 0308-6195-0308-6196 (ENG); and ERN 0206-6291-0206-6292 (BCS), ERN 0308-6549-0308-6550 (ENG) (conversation between Stanišić and Karadžić is followed by a conversation between Karadžić and the Serbian Minister of Internal Affairs).

¹⁶⁷ Conversation dated 4 December 1991 between Jovica Stanišić and Radovan Karadžić, ERN 0206-6270-0206-6274 (BCS), ERN 0308-6594-0308-6598 (ENG).

¹⁶⁸ Conversation dated 21 December 1991 between Jovica Stanišić and Radovan Karadžić; ERN 0206-6275-0206-6279 (BCS), ERN 0308-6506-0308-6512 (ENG).

¹⁶⁹ Conversation between Jovica Stanišić and Radovan Karadžić dated 12 January 1992; ERN 0324-4968-0324-4976 (BCS); ERN 0324-4968-0324-4976 (ENG).

¹⁷⁰ In two conversations on 5 January 1992, ERN 0206-6284-0206-6288 (BCS), ERN 0308-6302-0308-6306 (ENG); and ERN 0206-6280-0206-6283 (BCS), ERN 0308-6320-0308-6322 (ENG); and in two conversations on 6 January 1992, ERN 0206-6289-0206-6290 (BCS), ERN 0308-6195-0308-6196 (ENG); and ERN 0206-6291-0206-6292 (BCS), ERN 0308-6549-0308-6550 (ENG).

¹⁷¹ Conversation between Radovan Karadžić and "Braco" (Mihalj Kertes); and between Karadžić and Franko Simatović dated 28 January 1992, ERN 0211-6588-0211-6594 (BCS), ERN L004-3464-L004-3471 (ENG).

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- ii) Red Beret training centres were set up in Croatia, Bosnia and Serbia under Franko Simatović's and Jovica Stanišić's authority and direction.
- iii) These camps were used to train members of Martić's police, members of the *milicija* of the SAO SBWS and the TOs of the SAO Krajina and the SAO SBWS, and Serb volunteers from Croatia, Bosnia, and Serbia, who were then deployed in Croatia and Bosnia as members of Martić's police, of Red Beret units, or "satellite units" of the Serbian DB, of the *milicija* of the SAO SBWS or as members of the VRS, the TO or other local units in Croatia and Bosnia. Serb volunteers trained at Serbian DB camps in this way included volunteers recruited through political parties, including Šešeljevci.
- iv) The Serbian DB, under the authority of Jovica Stanišić, armed and financed Serb forces operating in Croatia and Bosnia. These forces included Martić's police and the TO and *milicija* of the SAO SBWS, and Arkan's SDG. Simatović participated in the arming, supplying and financing of Serb forces including special forces of the Serbian DB in Croatia and in Bosnia.
- v) Arkan set up a training centre in Erdut in Eastern Slavonia under Stanišić and Simatović's authority. The training centre and Arkan's paramilitary unit were armed, supplied, financed and supported in part under Simatović and Stanišić's authority and direction. Arkan's paramilitary unit participated in operations in Croatia and Bosnia under Stanišić and Simatović's authority and in particular operations under their direction.¹⁷²

(i) The Red Berets, the JATD and the JSO were formed under Stanišić and Simatović's authority and direction.

78. Jovica Stanišić was responsible for the founding of the first Special Unit of the Serbian DB in around May 1991. He was responsible for obtaining the finances required to support the special unit, obtaining funds from private businessmen through extortion, and through Mihalj Kertes' fraudulent activities.¹⁷³ On 16 March 1991, Slobodan Milošević had affirmed:

79. "Already yesterday I ordered the mobilisation of the reserve police-force. Furthermore, the engagement and formation of new police forces, and the government

¹⁷² For the purposes of this indictment, the Prosecution defines special units of the Serbian DB and associated units as including the following groups: the Red Berets, the JSO and the JATD, Martić's police, the *milicija* of the SAO SBWS, Arkan's Tigers, and other "satellite units" of the Serbian DB.

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received the task of preparing the appropriate formations that will give us security in every event, in other words make us capable of defending the interests of our republic and, by God, of the Serb nation outside Serbia... I have been in contact with our people from Knin, from Bosnia; the pressures are enormous. Last night sometime after midnight Milan Babić told me that they have raised everything, that they do not know for how long, because the provocations are constant.”¹⁷⁴

80. In 1991, an in-service telegram was circulated to agents of the Serbian DB, instructing them to identify possible candidates for a special unit of the Serbian DB. They were to be tough, unscrupulous and willing to follow orders without question. Agents were told not to be concerned about any previous convictions.¹⁷⁵ The MUP Serbia frequently released convicts and pre-trial detainees from prison in exchange for enrolling in special units of the Serbian DB.¹⁷⁶

81. Frenki Simatović told a group of special unit members, at a meeting in 1995, that “The president’s doors are open to me”. Simatović implied that Slobodan Milošević would supply whatever the unit required, and went on to say that they were authorised to operate on behalf of Serbia’s interest anywhere in the former Yugoslavia or, if necessary, in the world.¹⁷⁷

82. In 1997,¹⁷⁸ Franko Simatović and Jovica Stanišić attended a ceremony at Kula camp in Serbia celebrating the anniversary of the founding of the Special Operations Unit of the DB – (JSO) as it was then known.¹⁷⁹ The ceremony was attended by Slobodan Milošević, Mihalj Kertes (who received a commendation from Jovica Stanišić in the course of the ceremony), Milan Tepavčević, Milan Prodanić, Petar Gračanin, and other influential figures including Milorad Vučelić, then Vice-President of the SPS party, Milan Popivoda, and General Zivota Panić.¹⁸⁰

¹⁷³ B-056.

¹⁷⁴ Slobodan Milošević addressing members of local councils in Serbia on 16 March 1991, quoted in NIN, Belgrade, 12 April 1991, pp. 40-42. ERN 0214-4020-0214-4022 (BCS), ERN 0303-5753-0303-5760 (ENG).

¹⁷⁵ B-221.

¹⁷⁶ C-017.

¹⁷⁷ K-2.

¹⁷⁸ C-039 gives the date as 13 May 1997.

¹⁷⁹ Video showing an Award Ceremony with members of the JSO, political leaders and military leaders including: Slobodan Milošević, Franko Simatović, Jovica Stanišić, Mihalj Kertes, political leaders and military leaders giving and receiving awards (hereinafter “Kula camp video”), ERN V000-3533-V000-3533, transcript ERN R018-5499-R018-5518 (BCS), ERN R018-5519-R018-5532 (ENG), as corrected by B-073 ERN R041-9022-R041-9041 (BCS), ERN R041-9008-R041-9021 (ENG).

¹⁸⁰ B-073.

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83. Simatović, in a speech in the course of the ceremony, identified 4 May 1991, approximately 6 weeks after Milošević declared that he ordered the formation of new police forces, as the foundation day of the special units of the Serbian DB. He articulated what were alleged to have been the unit's founding aims:

“Mr. President, we thank you for accepting the invitation to attend the ceremony marking the anniversary of the formation of the Special Operations Unit of the State Security Service. It was constituted on 4 May 1991 at the time of break-up of the former Yugoslavia. Its combat operations were anti-terrorist, directed at preventing war crimes, mass retaliation and genocide.”¹⁸¹

84. At the conclusion of Simatović's speech, Stanišić, in presenting a gift to Milošević, said: “Mr. President, we are proud of our unit and of the opportunity to serve our people in a momentous time...”

85. A special JATD¹⁸² testimonial was established in 1991, and given as a “memorial badge” for “participation in the defence of the Serbian people”. It talks of the “defence of the Serbian people”, in accordance with its founding aims to protect “the Serbian people throughout its territory”.¹⁸³ The unit was, according to Simatović, “forced to operate in complete secrecy”.¹⁸⁴

Red Berets

86. On 25 August 1991, the unit - a select group of trainers from Golubić camp - were deployed under Simatović's command in an operation at Plitvice. The mission was planned by Rajo Božović, Žika Crnogorac (aka Živojin Ivanović) and Simatović. Both Božović and Crnogorac attended the 1997 ceremony at Kula camp. Following the operation, the group was selected by Simatović as an “anti-terrorist” unit, and transferred to a training camp at Mount Fruška Gora – Ležimir - some 50 kilometres from Novi Sad on the Serbian-Croatian border, arriving in about September 1991. This is the group which formed the nucleus of the unit which later became known as the Red Berets. The group was also deployed, in

¹⁸¹ Kula camp video, ERN V000-3533-V000-3533, transcript ERN R018-5499-R018-5518 (BCS), ERN R018-5519-R018-5532 (ENG), as corrected by B-073 ERN R041-9022-R041-9041 (BCS), ERN R041-9008-R041-9021 (ENG).

¹⁸² Unit for Anti-Terrorist Operations of the State Security Service (*Jedinice za antiteroristička dejstva*).

¹⁸³ Budimir Babović: Expert report in IT-02-54-T: Analysis of Regulations Regarding Responsibility for Control of Internal Affairs Ministry of the Republic of Serbia, 0290-7773-0290-7831(BCS), ERN 0306-2479-0306-2540 (ENG).

¹⁸⁴ Kula camp video, ERN V000-3533-V000-3533, transcript ERN R018-5499-R018-5518 (BCS), ERN R018-5519-R018-5532 (ENG), as corrected by B-073 ERN R041-9022-R041-9041 (BCS), ERN R041-9008-R041-9021 (ENG).

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September 1991, under Simatović's command, on operations in Sarengrad, Bapska and Ilok, in Eastern Slavonia.

87. At the May 1997 anniversary celebration in Kula, Simatović says that the "JSO" took part in "joint operations" (presumably with the JNA, and later the VJ, the SVK, the RS police¹⁸⁵) in Eastern Slavonia, on the corridor at Brčko, in the Drina and Sarajevo operations and in Western Bosnia, where its members made up the backbone of Fikret Abdić's army. Only in September 1991, did "part of the unit move to Serbia".¹⁸⁶

88. The first Red Berets of the Serbian DB were recognisable by their red berets and the "Vuk" (Wolf) insignia which they wore on their uniforms: they were directly subordinated to Simatović and Jovica Stanišić.¹⁸⁷ Jovica Stanišić came to visit the men at the camp at Fruška Gora on more than one occasion. He told them they were an "anti-terrorist" unit, and that they would be used in anti-terrorist operations in Serbia and for securing important persons and foreign delegations. This was not the case and the range of equipment at the unit's disposal far exceeded what one might expect to be available for use by a unit whose operations were limited to containment of domestic terrorism, or civilian protection. Notably, the unit was supported by an air helicopter squadron, also formed in May 1991. In 1992, the unit began building and securing a network of small airfields in BiH, and forming a combat squadron.¹⁸⁸ At Kula camp, equipment stored included anti tank weapons, grenade launchers, multiple rocket launchers and other military-style equipment and armoured vehicles.¹⁸⁹

JATD and JSO

89. In the Autumn of 1996, the camp at Kula was officially opened.¹⁹⁰ Present at the opening ceremony were Franko Simatović, Jovica Stanišić, Dragan Vasiljković and Milan Martić, amongst others. From then on, the unit was known as the JSO (*Jedinice specijalne operacije* or special operations unit) (and also for a short time the Unit for Anti-Terrorist

¹⁸⁵ See section on "Examples of coordinated actions of Serb force," below.

¹⁸⁶ Kula camp video, ERN V000-3533-V000-3533, transcript ERN R018-5499-R018-5518 (BCS), ERN R018-5519-R018-5532 (ENG), as corrected by B-073 ERN R041-9022-R041-9041 (BCS), ERN R041-9008-R041-9021 (ENG).

¹⁸⁷ Photo of uniform patch worn by the Grey Wolves paramilitary unit, ERN 0290-9441-0290-9441.

¹⁸⁸ See Simatović's speech at the Kula camp ceremony in 1997, Kula camp video, ERN V000-3533-V000-3533, transcript ERN R018-5499-R018-5518 (BCS), ERN R018-5519-R018-5532 (ENG), as corrected by B-073 ERN R041-9022-R041-9041 (BCS), ERN R041-9008-R041-9021 (ENG).

¹⁸⁹ Visible on the video of the ceremony at Kula camp in 1997, Kula camp video, ERN V000-3533-V000-3533, transcript ERN R018-5499-R018-5518 (BCS), ERN R018-5519-R018-5532 (ENG), as corrected by B-073 ERN R041-9022-R041-9041 (BCS), ERN R041-9008-R041-9021 (ENG).

¹⁹⁰ K-2.

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Operations of the State Security Service, or the JATD (*Jedinice za antiteroristička dejstva*)). Simatović remained commander, with Stanišić in ultimate charge.¹⁹¹

90. The JSO was formed out of members of the original group of Red Berets and the satellite units,¹⁹² units led by members of the original group of Red Berets, including Raja Božović, Vasilije Mijović and Žika Crnogorac, and out of former members of Arkan's Tigers. Milorad Ulemek aka Legija, former member of Arkan's Tigers, assumed leadership of this new unit.¹⁹³

(ii) Red Beret training centres were set up in Croatia, Bosnia and Serbia under Franko Simatović's and Jovica Stanišić's authority and direction/These camps were used to train Serb forces.

Training camps in Croatia, Bosnia and Serbia

91. Members of the original group of trainers at Golubić, and the original group (Red Berets) trained at Mount Fruška Gora – including Rade Božić, Rajo Božović and Žika Crnogorac - and other members and agents of the Serbian DB became commanders and instructors at other training camps in Serb held areas in Croatia and Bosnia, and at training camps in Serbia. Simatović identified 26 training camps in his speech at the 1997 ceremony at Kula, including, in SAO Krajina: Golubić, Dinara, Obrovac, Gračac, Plitvice, Šamarice, Petrova Gora, Lički Osik, Benkovac; in Eastern Slavonia: Ilok (Pajžos camp)¹⁹⁴ and Vukovar; in western Bosnia: Banja Luka and Mrkonjić Grad; along the Posavina Corridor: Bosanski Šamac and Brčko; eastern Bosnia: Bijeljina and Višegrad; central Bosnia: Trebinje, Doboј and Ozren.¹⁹⁵ In Serbia, there were training camps in Ležimir (the Fruška Gora camp),¹⁹⁶ at Mount Tara,¹⁹⁷ and in Kula.¹⁹⁸ Other camps included Lipovica, near Belgrade,¹⁹⁹ and Korenica – commanded by Major Filipović, Simatović's deputy in the Serbian DB – in the Knin area.²⁰⁰

¹⁹¹ K-2; B-073.

¹⁹² C-063.

¹⁹³ C-039.

¹⁹⁴ K-1; C-015.

¹⁹⁵ Kula camp video, ERN V000-3533-V000-3533, transcript ERN R018-5499-R018-5518 (BCS), ERN R018-5519-R018-5532 (ENG), as corrected by B-073 ERN R041-9022-R041-9041 (BCS), ERN R041-9008-R041-9021 (ENG).

¹⁹⁶ C-017.

¹⁹⁷ C-017; B-1796; B-129.

¹⁹⁸ Kula camp video, ERN V000-3533-V000-3533, transcript ERN R018-5499-R018-5518 (BCS), ERN R018-5519-R018-5532 (ENG), as corrected by B-073 ERN R041-9022-R041-9041 (BCS), ERN R041-9008-R041-9021 (ENG).

¹⁹⁹ K-1.

²⁰⁰ B-300.

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Training camps in Croatia

92. Arkan set up his training centre in Erdut in August 1991. There, he trained local Serbs and volunteers from Serbia and elsewhere.²⁰¹ Other training camps in Croatia are addressed above.

Training camps in BiH

93. Men would come from BiH to be trained at the Red Beret camp in Fruška Gora, Serbia.²⁰² They would return to Bosnia wearing red berets, and would set up training camps and form special units of the Serbian DB, which operated with the support of Jovica Stanišić and Franko Simatović and, in operating in furtherance of the common purpose, under the authority of Jovica Stanišić and ultimately Slobodan Milošević.²⁰³

94. Training camps were established in BiH by members/agents of the Serbian DB as identified by Simatović in his speech at the Kula camp ceremony. In early 1992, a Red Beret training centre for local Serb forces was established at Mount Ozren in the municipality of Doboje.²⁰⁴ C-017 received training at Buna camp, a military camp used by Red Berets and SRS volunteers, near Mostar. In charge there were Red Berets from the original group from Golubić and Knin. There was a further Serbian DB military training camp in the region, at Boračko Jezero.²⁰⁵ In about June 1992, Serbian DB camps were set up in Eastern Bosnia.²⁰⁶ At a meeting in Bajina Bašta, Serbia, of Serb municipal leaders from Bratunac, Višegrad and Zvornik in June 1992, Simatović himself informed those present that training camps were to be established in municipalities in Eastern Bosnia. Instructors and commanders came from the Serbian DB, with Simatović in charge of the whole operation. One of these camps was set up in Skelani; another in Bratunac. Vasilje Mijović, from the Serbian DB (and present in the line up of men meeting Milošević at the 1997 ceremony at Kula camp) was involved in the establishment of the Bratunac camp. Supplies came from Serbia, and volunteers recruited for training were paid by the MUP Serbia.²⁰⁷ The command for the area was based at Mount Tara, in Serbia.²⁰⁸

²⁰¹ See relevant section below.

²⁰² B-050: Testimony in IT-02-54-T.

²⁰³ B-050: Testimony in IT-02-54-T.

²⁰⁴ B-1115; Kula camp video, ERN V000-3533-V000-3533, transcript ERN R018-5499-R018-5518 (BCS), ERN R018-5519-R018-5532 (ENG), as corrected by B-073 ERN R041-9022-R041-9041 (BCS), ERN R041-9008-R041-9021 (ENG).

²⁰⁵ C-017.

²⁰⁶ B-1796.

²⁰⁷ B-1796; Mijović was also a member of a group of Red Berets operating in Brčko in 1992: B-258.

²⁰⁸ B-1796.

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Volunteers through political parties and satellite units of the Serbian DB

95. Volunteers recruited through political parties were also trained at Red Beret training camps. Stanišić would contact Vojislav Šešelj, ask him for volunteers and Šešelj would recruit them. In a coordinated exercise, they would be armed from JNA, later VJ, stores,²⁰⁹ and then sent to training centres or directly to the front where they were subordinated to local TO, JNA or VRS units, or to units of the Serbian DB,²¹⁰ retaining their links to Šešelj through their membership of the SRS or the SČP.²¹¹ Volunteers recruited through Šešelj's SRS party in Serbia, together with local volunteers from Bosanski Šamac, were trained by Red Berets at both Ležimir camp, in Serbia, and Pajžos camp, near Ilok, in Eastern Slavonia, and then deployed as members of a Red Beret unit to Bosanski Šamac on 11 April 1992. Simatović himself addressed the men at the camp in Ilok before they left.²¹² Instructors at the Ilok camp included Red Beret Dragan Đorđević aka Crni.²¹³ SRS volunteers were also trained at Red Beret training camps at Boračko Jezero and at Buna camp, near Mostar.²¹⁴

96. Volunteers recruited through the White Eagles, or Beli Orlovi, in Serbia were also trained at Red Beret training camps. The best of these volunteers became Red Berets, retaining their White Eagles uniforms on operations in Bosnia so as not to reveal their identity as members of the Special Units of the Serbian DB.²¹⁵ The others became members of reserve units of the Serbian DB.²¹⁶

97. There were special units of the DB formed as "satellite units" to the Red Beret units described above. These satellite units operated with the support of Simatović and Stanišić and, in operating in furtherance of the common purpose, under the authority of Jovica Stanišić and ultimately Slobodan Milošević.

98. The Scorpions, commanded by Slobodan Medić, aka Boca, were a satellite unit of the Serbian DB. The unit was formed at a meeting in 1993 at which, amongst others, Mihalj Kertes, Slobodan Medić aka Boca, Radovan Stojičić and Rajo Božović (an original Red Beret), were present. It was based at Deletovci in the SAO SBWS, and some of its members were Red Berets trained at Kula and the camp at Mount Tara. Equipment was provided by the Serbian DB; salaries were paid by the Serbian DB. Examples of joint operations

²⁰⁹ C-047.

²¹⁰ K-1; C-047; B-1244.

²¹¹ C-047.

²¹² B-258; see relevant section below; B-1244.

²¹³ B-1244. according to b-1244 this will identify him.

²¹⁴ C-017, see above.

²¹⁵ B-189.

²¹⁶ B-189: Training at Red Beret camps in Serbia – Mount Tara and Kula camp.

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involving the Scorpions, Arkan's Tigers and the Red Berets, serving under the command of Rajo Božović and Franko Simatović, and Stanišić's authority and direction are addressed below.²¹⁷

(iii) The Serbian DB, under the authority of Jovica Stanišić, and with Franko Simatović's participation, armed and financed Serb forces operating in Croatia and Bosnia.

Serb forces in Croatia and Bosnia, including special forces of the Serbian DB

99. From early 1991, the Serbian DB, under Stanišić's authority, supplied arms and other military equipment, and cash, in huge quantities to special forces of the Serbian DB in Croatia and Bosnia.

100. In Croatia, Franko Simatović was responsible on behalf of the Serbian DB for arranging the supply and financing of special forces of the Serbian DB in the Krajina. In Eastern Slavonia, Radoslav (Rade) Kostić aka Ante carried this responsibility, with the participation of Franko Simatović, each acting under Stanišić's authority and direction.

101. In Bosnia, the supply of military equipment and financial assistance to Serb forces, including special forces of the Serbian DB, continued,²¹⁸ again under the direction of Jovica Stanišić in Belgrade and Franko Simatović and Radoslav Kostić, under his responsibility, on the ground.

Serbian DB HQ in Belgrade

102. In Belgrade, arrangements for the supply and support of Serb forces, including special forces of the Serbian DB, in Croatia and Bosnia were made through, amongst others, DB officials Milan Tepavčević, deputy head of the Serbian DB²¹⁹ and Milan Prodanić, head of the 6th Administration of the Serbian DB.²²⁰

Role of Mihalj Kertes

103. Co-perpetrator Mihalj Kertes claimed to Miroslav Deronjić, President of the SDS in Bratunac, that he was responsible for arming Serbs in Croatia and Bosnia. He told General Vasiljević, head of the security organs of the JNA, that he was involved in "looking after the Serbs outside of Serbia, specifically in Slavonia and in the Krajinas".²²¹ In April 1992, Mihalj Kertes became (until August 1992) deputy Federal Minister for Internal Affairs. He

²¹⁷ C-063.

²¹⁸ B-1796: Kertes said he was responsible for arming Serbs in Croatia and Bosnia.

²¹⁹ C-040.

²²⁰ B-161; B-1244.

²²¹ C-039.

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was, well before then, closely associated with Stanišić, Simatović, Slobodan Milošević and other members of the Serbian leadership.

Radoslav Kostić

104. Radoslav Kostić was an official of the Serbian DB. The Red Beret/JATD/JSO camp at Kula was said by Simatović in his speech at the 1997 anniversary ceremony to be named after Kostić, “a distinguished member of this unit who was killed three years ago”. Over the course of the videoed event, Stanišić can be seen laying a wreath at his memorial stone in the presence of Milošević.

Association of Serbs and Emigrant Serbs

105. The Association of Serbs and Emigrant Serbs,²²² a humanitarian organisation run by Milošević’s associate and friend, Brana Crnčević, was closely involved in the arming of Serbs in both Croatia and Bosnia on the instructions of the Serbian DB and in close collaboration with senior officers of the JNA. In Belgrade, Jovica Stanišić participated directly in arranging the arming of Serbs in this manner, or worked through his subordinates, Milan Tepavčević and Milan Prodanić. Meetings would take place every day at the premises of the Serbian DB in Belgrade attended by Milan Prodanić, Jovica Stanišić, Milan Tepavčević and Mihalj Kertes (while he was at the Federal MUP). Milan Prodanić would then go to Bubanj Potok where he would meet with Lieutenant Colonel Borisav Stanišić. They would discuss arrangements for arming Serbs in Croatia and Bosnia.

106. The transportation unit at Matica would transport arms from Bubanj Potok or MUP Serbia facilities in Ostruznica, and later in Lipovica, amongst humanitarian supplies to locations on the battlefield in Croatia and Bosnia. Vehicles from the MUP Serbia were also engaged in this transport of arms and other military equipment to Serb controlled parts of Croatia and Bosnia. Equipment transported included silencers manufactured in Kaludjerica near Belgrade, and paid for by the Serbian DB. Hadžić, Krajišnik and Plavšić, amongst others, were frequent visitors at the premises of Matica. Brana Crnčević at the Matica premises had direct lines installed in his office to Milošević and the Serbian DB.²²³ The JNA/VJ barracks in the Belgrade City Defence Command, in particular the barracks at Bubanj Potok, and barracks at Bogovadja, were responsible for storing and distributing

²²² Matica Iseljenika, hereinafter “Matica”.

²²³ B-179.

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ammunition and weaponry to Serbs in Croatia and Bosnia. Colonel Borisav Stanišić, Chief of Logistics in Belgrade, was in charge of these two barracks.²²⁴

Ministry of Defence of Republic of Serbia

107. The SAOs in Croatia, and their armed forces, received logistical, military and financial support from the Government of Serbia through all its Ministries. The Serbian Ministry of Defence was heavily involved in the organisation of volunteers recruited either through the MUP Serbia, the Serbian TO, the JNA or through political parties, and in their training, equipping and arming for deployment to the war theatre in Croatia and Bosnia.²²⁵ The Ministry of Defence would organise the transport of volunteers to training centres run by the Serbian DB, and to the front in Croatia; sometimes this transportation would be paid for by Matica. Ministry of Defence coordination groups existed to coordinate the roles played by the Government of Serbia, the Serbian TO, the police forces of the SAOs in Croatia, and the JNA in providing assistance to the SAOs in Croatia, and the Minister of Defence, General Simović, would receive instructions daily from Slobodan Milošević. He would attend meetings with Milošević which were sometimes attended by Zoran Sokolović, from the MUP Serbia, and the Commander of the Serbian Territorial Defence, Lt Colonel Slavoljub Đokić. Radmilo Bogdanović was often present at these meetings, but would not say a word. General Simović would refer to him as the “grey eminence”.²²⁶

Arming, financing, supply and support of SAO Krajina police

108. In August 1990, Stanišić was already arranging with Milan Martić to supply weapons to Serbs in the Krajina.²²⁷ In November and December 1990, Croatia stopped paying the police in the SAO Krajina. At the end of January 1991, Franko Simatović brought Dragan Vasiljković to the training camp at Golubić for the first time. At around the same time, Milan Martić met with Jovica Stanišić and Radmilo Bogdanović, then Minister of Internal Affairs, at the then Serbian DB building in Belgrade. Franko Simatović himself took Martić to the Serbian DB building. The meeting concerned arms, equipment, uniforms and pay for the SAO Krajina police who were going to start training at Golubić camp.²²⁸ Stanišić was responsible for the supply of everything required to run this camp and when police stations were set up by Milan Martić in the Krajina in January 1991, the money came through Jovica

²²⁴ B-235.

²²⁵ C-028.

²²⁶ C-028.

²²⁷ C-058; C-061.

²²⁸ C-058.

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Stanišić, often delivered in cash at first by Franko Simatović.²²⁹ C-001 was present in 1992 on a number of occasions when the “money-man” from Belgrade arrived and distributed money to members of police and military units in the Krajina.²³⁰ Simatović provided the money, supplies, arms and other equipment required to run Golubić camp and the SAO Krajina police.²³¹

Arming, financing, supply and support of TO and Milicija in SAO SBWS

109. As in the SAO Krajina, the Accused Stanišić had authority over and directed the actions of the Serbian DB in the SAO SBWS. He, through agents and members of the Serbian DB, including Radoslav Kostić and Mihalj Kertes, in participation with the Accused Simatović, armed Serbs, including special forces of the Serbian DB, in the SAO SBWS from early 1991. Red Beret units, operating under Simatović’s direction, were deployed to the area in around the summer of 1991.

110. Arming in Eastern Slavonia was carried out through Mihalj Kertes and Radovan Kostić.²³² From as early as April 1991, the Serbian DB was involved in supplying and transporting weapons from the JNA barracks at Bubanj Potok to the TO in Borovo Selo.²³³ Soon, huge quantities of weapons were arriving from Serbia. Deliveries were organised by the Novi Sad SUP. Radovan Kostić, along with another member of the Serbian DB, oversaw these weapons transfers.²³⁴

111. The contents of this paragraph are attached at *confidential* Annex A.

112. From around July 1991, in Borovo Selo, members of the Serbian DB from Belgrade would run meetings at the TO HQ and issue instructions almost daily to Ilija Kojić, who was at the time local Serb TO commander in Borovo Selo. They would say: “We are going to finish the Ustaša terrorists, release Serbian people and clean the SAO SBWS”. They also arranged the supply of weapons and ammunition from Novi Sad.²³⁵ The same members of the Serbian DB were also involved in planning the attack on Dalj at the beginning of August 1991.²³⁶ In Novi Sad, Mihalj Kertes would arrange the regular supply of huge quantities of

²²⁹ C-058.

²³⁰ C-001.

²³¹ C-058.

²³² B-217; C-013.

²³³ B-215.

²³⁴ C-013.

²³⁵ B-224.

²³⁶ B-224.

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weapons and ammunition through the Novi Sad DB from the MUP/TO warehouse in Novi Sad, and from other locations.²³⁷

113. Radoslav Kostić attended a meeting in mid July 1991 in Borovo Selo with, amongst others, Serb members of the Vukovar police force who had left Vukovar, and Goran Hadžić. Kostić was clearly superior to those present, and issued instructions to them to form a proper police force (or *milicija*) in the region – a Vukovar *milicija* in exile.²³⁸ New *milicija* offices were set up, and men recruited. Equipment and weapons, in practice everything, were provided in large quantities by the Novi Sad SUP, through Rade Kostić. After the take-over of Dalj, Kostić ordered that the Vukovar SUP be permanently based there.²³⁹

114. In July/August 1991, the MUP Serbia, in co-operation with the JNA, trained and equipped MUP Serbia units at the barracks at Bubanj Potok for deployment to Eastern Slavonia, where they formed part of police units or *milicija* of the SAO SBWS. Uniforms, weapons, equipment and SAO SBWS insignia for these units were provided by the MUP Serbia.²⁴⁰ The MUP Serbia provided cash for the salaries of policemen serving in the *milicija* of the SAO SBWS, and later the RSK police.²⁴¹

115. Radoslav Kostić left for Baranja around this time, and was replaced by FNU Zavišić who became Head of *Milicija* in the territory of Novi Sad and SAO SBWS.²⁴²

116. In September 1991, representatives of the Serbian DB arrived in the Baranja region. The DB Centre in Beli Manastir reported, in parallel to the local chain of command, to the MUP Serbia in Belgrade. The DB Beli Manastir received equipment from the Serbian DB, and they had a formalised exchange of information. Radoslav Kostić visited the DB Beli Manastir office regularly. He had unrestricted power in the region, and would make appointments to key positions. He would also coordinate the chain of command between the DB Beli Manastir and the DB in Sombor, in Serbia. He would deliver exclusive weapons to important individuals to bribe them.²⁴³

117. In 1993, Radoslav Kostić took over Arkan's training centre in Erdut in 1993. Simatović would visit him there.²⁴⁴ The centre was at this time established as a centre for training the special forces of the Krajina MUP. Simatović was the commander of Serb forces

²³⁷ B-224.

²³⁸ C-013.

²³⁹ C-013.

²⁴⁰ B-215.

²⁴¹ B-215.

²⁴² C-013.

²⁴³ C-025.

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in the attack on Velika Kladuša (addressed below) in 1994. He was based at the barracks at Petrovagona in Croatia, and was commander there. Kostić's men coordinated with Simatović in Petrovagona. Stanišić himself, in the company of Kostić, visited Serb forces at the barracks there.²⁴⁵ Kostić's office was located in the MUP Serbia barracks, and he reported to Franko Simatović. Kostić was shot in the vicinity of Velika Kladuša on 21 November 1994. Demonstrative of his relationship with Kostić, Jovica Stanišić and Arkan, amongst others, attended his funeral in Belgrade.²⁴⁶

118. Arkan's involvement in training men and in operations in Eastern Slavonia is addressed in other parts of this brief. Arkan would attend meetings with local TO commanders and Serbian DB officers at the Borovo Selo TO HQ between August and November 1991 to discuss coordination of the attack on Vukovar.²⁴⁷ Evidence of Simatović and Stanišić's direction, funding and supply of the SDG, and of their direction of Red Beret units in the SAO SBWS, is addressed in the relevant section below. This evidence provides further illustration of the degree to which they directed the provision of arms and other supplies to Serb forces, including the *milicija* and the TO, in the SAO SBWS.

Arming, financing, supply and support of Serbs in Bosnia

119. The arming and support of Arkan's men by the Accused in their operations in Bosnia is dealt with in other parts of this brief. Training and arming of Serbs and their incorporation into special units of the Serbian DB is addressed in the relevant section above. This section of the brief addresses the Accused's participation in arming, financing and supporting other Serb forces, and local Serbs, in Bosnia.

120. Arming of Serbs in Bosnia was taking place by 1991. Mihalj Kertes speaks to this in his intercepted conversation with Radovan Karadžić on 24 June 1991.²⁴⁸ Radoslav Kostić was partly responsible for arming Serbs in Zvornik in 1991 and 1992 on behalf of the Serbian DB from a base in Beli Manastir in Croatia.²⁴⁹ Serbs in Bosnia were also armed by Mihalj Kertes from MUP or JNA stores, including the military base at Bujanž Potok, outside Belgrade.²⁵⁰ Stanišić's involvement in arranging and directing, from Belgrade, the provision of arms and other supplies to Serb forces in Bosnia is addressed in the preceding paragraphs.

²⁴⁴ B-217.

²⁴⁵ B-217.

²⁴⁶ B-217.

²⁴⁷ B-224.

²⁴⁸ Intercept of telephone conversation between Mihalj Kertes and Radovan Karadžić on 24 June 1991, ERN 0212-8448-0212-8450 (BCS), ERN 0212-8448-0212-8450 (ENG) (emphasis added).

²⁴⁹ B-217.

²⁵⁰ B-1796.

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In August 1991, he and Karadžić were intercepted discussing aid intended for Bosnian Serbs in careful, coded language.²⁵¹

121. Towards the end of 1993, a number of individuals and institutions received letters of thanks from the RS MUP. Included on the list were Milan Tepavčević, Radoslav Kostić, Petar Mihaljović, Franko Simatović and Radojica Božović, recognising their contribution to the war effort in BiH.²⁵² Simatović attended the ceremony in Pale.²⁵³

122. A central source of support offered by the Serbian DB to Serb forces in Bosnia may be seen in its relationship with the RS MUP, and in the relationship between the Accused and members of the RS MUP. These matters are addressed in the following section.

RS Ministry of Internal Affairs

1991-1992

123. The RS Ministry of Internal Affairs co-ordinated and co-operated with SFRJ forces and forces of the Republic of Serbia in the take-over of power and maintenance of power on the territories claimed by the Serbs in BiH. Reports prepared by the Federal State Security Services in March 1992 confirm that there was a formal plan for co-operation between the Federal SUP and the Bosnian Serb police in BiH. Petar Mihaljović, an inspector in the Federal SUP, was appointed as the co-ordinator for this operation. This co-ordination plan included the deployment of members of the MUP Serbia and the Federal SUP in BiH.²⁵⁴ From at least July 1991 the Bosnian Serbs in SRBiH MUP collaborated with MUP Serbia in arming the Serbian people on the territory of BiH.²⁵⁵

124. In plans for the division of SRBiH MUP, the Bosnian Serbs specifically contemplated support from organs of the Federation and Serbia, including the JNA, Federal SUP, and the

²⁵¹ Conversation between Jovica Stanišić and Radovan Karadžić dated 8 August 1991, ERN 0206-6293-0206-6297 (BCS), ERN ET0206-6293-0206-6297 (ENG).

²⁵² B-161; Listing of Persons Receiving Awards from RS MUP, ERN 0324-5887-0324-5887 (BCS), ET 0324-5887-0324-5887 (ENG).

²⁵³ B-187.

²⁵⁴ Reports of SDB SSUP, dated 3 March 1992, ERN B003-1426-B003-B003-1439 (BCS), ERN 0308-0277-0308-0286 (ENG) and 23 March 1992 ERN B003-1440-B003-1452 (BCS), ERN 0308-0328-0308-0337 (ENG).

²⁵⁵ "In July 1991 Predrag Radulović was appointed as the SNB Banja Luka liaison officer to the MUP of Serbia. In that function, aside from collecting intelligence and counterintelligence data on enemy armed forces and intelligence services, he also helped with the arming of the Serbian people on the broader territory of the then-BiH and Slavonia. Collaboration with the MUP of Serbia was judged to be a professional and mutual requirement at that time." CSB Banja Luka SNB Sector to Under-Secretary of SNB, 20 October 1993, B008-2878-B008-2879 (BCS). On co-operation between MUP Serbia and the nascent Bosnian Serb MUP in the prewar period, see also CSB Banja Luka, SNB Sector, 21 June 1993, ERN B008-4259-B008-4263 (BCS).

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MUP of Serbia.²⁵⁶ The Bosnian Serb leadership anticipated that the SDA and the HDZ would have a “tumultuous and energetic reaction” to any attempt to decentralise or divide internal affairs in BiH. The Bosnian Serbs realised that they would, in the initial phase of operations of a Bosnian Serb MUP, be heavily dependent on “federal institutions.” In preparations for the split of the MUP, the Bosnian Serbs thought that it was “necessary to establish contact regarding this question, and with a view to concrete measures and possibilities for their assistance with personnel and equipment.”²⁵⁷ Furthermore, it was contemplated that direct action by the federal security forces would need to be ordered by the Federal Presidency. It was expected that the JNA and Federal SUP would provide material and personnel support as long as security conditions did not allow for the new Bosnian Serb MUP to operate and exist independently. Ultimately, it was contemplated that this support would enable the establishment of Serbian security forces.

125. After the outbreak of armed conflict in BiH, co-operation continued between the newly founded RS MUP on one hand, and Federal and MUP Serbia on the other hand. The entire leadership of RS MUP met in Belgrade in the presence of Federal SUP co-ordinator Petar Mihaljović on 11 July 1992.²⁵⁸ At this meeting, a diverse range of topics were discussed, including paramilitary forces, the operation of detention facilities by RS MUP, crime and war crimes.²⁵⁹

126. After April 1992, RS MUP received weapons and communications equipment from Federal SUP.²⁶⁰ RS MUP also received shipments of equipment through the Federal Republic of Yugoslavia after April 1992.²⁶¹

127. Operational information was exchanged between RS MUP and police authorities in the Federal Republic of Yugoslavia. In October 1992, the quarterly report of RS MUP SNB observed that information pertaining to state security had been shared regularly with the State

²⁵⁶ Undated paper, “Possibilities of Decentralising Internal Affairs in Bosnia and Herzegovina,” ERN 0323-7660-0323-7668 (BCS).

²⁵⁷ Undated paper, “Possibilities of Decentralising Internal Affairs in Bosnia and Herzegovina,” ERN 0323-7660-0323-7668 (BCS).

²⁵⁸ Short review of work of RS MUP with suggestions for future work - report based on meeting of leading RS MUP officials on 11 July 1992, ERN 0324-1848-0324-1879 (ENG & BCS).

²⁵⁹ Short review of work of RS MUP with suggestions for future work - report based on meeting of leading RS MUP officials on 11 July 1992, ERN 0324-1848-0324-1879 (ENG & BCS).

²⁶⁰ Letter from TO Commander of Skelani Municipality to RS MUP, 26 May 1992, ERN 0216-6864-0216-6864 (BCS & ENG); Letter of SSUP, 6 May 1992, ERN FI20-0613-FI20-0614.

²⁶¹ Receipt from company Pandur in Pale, 4 August 1992, ERN FI20-1685-FI20-1685; official note from RS MUP Assistant Minister Bogdan Košarac, 14 December 1992, ERN FI20-1344-FI20-1344.

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Security Service of MUP of the Federal Republic of Yugoslavia, as well as the State Security Services of the MUPs of Serbia and Montenegro.²⁶²

128. RS MUP could obtain material assistance from the State Security Service of MUP Serbia. For example, on 2 June 1995, Goran Sarić, the commander of the RS MUP Special Brigade of the Police, sent a request for vehicles and ammunition for both light and heavy weaponry.²⁶³ Sarić justified his request by noting that the war against “the Turks” had increased in intensity during the spring and summer of 1995. In addition, on 12 June 1995, the Special Brigade of the Police received communications equipment from the service centre “Radio-Bobi” in Belgrade.²⁶⁴

RS MUP and MUP Serbia and DB: arming of Serbs

Bijeljina

129. The first joint action of the conflict was the take-over of the municipality of Bijeljina. Arkan commanded the take-over²⁶⁵ and the Bijeljina SJB were involved in activities such as “destroy(ing) Muslim extremists” and “secure(ing) the key structures in the town”.²⁶⁶ Upon Arkan's arrival the Bosnian Serb SJB was installed and commenced “operating in accordance with the instructions and orientation of the Ministry of Internal Affairs of the Serbian Republic of Bosnia and Herzegovina”.²⁶⁷ The presence of members of the Federal MUP in Bijeljina are addressed in other parts of this brief.²⁶⁸

Zvornik

130. Radoslav Kostić instructed members of the SUP in Zvornik before the take-over to secure logistical support for Arkan's unit which was to cross from Bijeljina to Zvornik.²⁶⁹ Before arriving in Zvornik, Arkan was paid by the SUP there. Arkan later arrived in Zvornik in a vehicle bearing a Federal SUP registration number. He would pass freely over the border between Serbia and Bosnia with his men, who were armed.

²⁶² RS MUP SNB, “Report on the Work of the SNB for the Third Quarter of 1992,” ERN 0370-9660-0370-9666 (BCS & ENG).

²⁶³ Goran Sarić, Commander of Special Brigade of the Police, to MUP Serbia, State Security Service, 2 June 1995, ERN 0176-2277-0176-2278 (BCS), ERN L009-7639-L009-7640 (ENG).

²⁶⁴ RS MUP Special Brigade of the Police, 13 June 1995, ERN 0176-2250-0176-2251 (BCS), ERN L008-4106-L008-4107 (ENG).

²⁶⁵ Daily operative report dated 04 April 1992 from the Commander of the 17th Corps, Major Janković, to the Commander of the 2nd MD, ERN 0018-3969-0018-3970 (BCS), ERN 0096-1185-0096-1187 (ENG).

²⁶⁶ Report from Bijeljina Security Services to Interior Minister Mićo Stanišić (personally), on or around 9 April 1992, ERN 0074-9558-0074-9563 (BCS), ERN L000-3856-L000-3858 (ENG).

²⁶⁷ Report from Bijeljina Security Services to Interior Minister Mićo Stanišić (personally), on or around 9 April 1992, ERN 0074-9558-0074-9563 (BCS), ERN L000-3856-L000-3858 (ENG).

²⁶⁸ See below.

²⁶⁹ B-024.

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131. Brano Grujić, President of the SDS in Zvornik, and after the take-over, President of the Crisis Staff and Temporary Government, and Serb members of the SUP in Zvornik went to a meeting with Radmilo Bogdanović in Belgrade when Bogdanović occupied the position of President of the Assembly Commission for Relations with Serbs outside Serbia. Bogdanović promised to assist them in arming the Serbs in Zvornik. He told them that Radoslav Kostić, from the Serbian DB, would contact them regarding transportation of arms from Serbia to BiH. Kostić thereafter made arrangements – some time in the beginning of 1992 - for the transport of arms from Serbia. These arms were distributed to local Serbs in the municipality. They were transported from Belgrade from premises at the Belgrade fairgrounds (where the Matica storage facilities were located²⁷⁰), under the guise of humanitarian aid. The MUP Serbia in Mali Zvornik and Loznica provided assistance to the Bosnian Serb SUP in Zvornik in the form of uniforms and communications equipment.²⁷¹

132. Telephone intercepts relating to events in Zvornik and Sarajevo confirm that the MUP Serbia and the Federal Secretariat worked with the Bosnian Serb MUP on joint activities and actions. On 18 April 1992 the President of the Zvornik Municipality was in contact with the Bosnian Serb Ministry of Internal Affairs and discussed the involvement of representatives of the MUP Serbia in Zvornik.²⁷²

133. Mechanisms existed for municipalities in BiH to report to the Serbian DB in Belgrade. Reports would be made through the DB in BiH or through politicians. Contact was made by telephone or in person. In, for example, Bijeljina and Zvornik, employees from the DB in Serbia would cross over the Drina to make contact with their counterparts in these municipalities. Both Dragan Spasojević, chief of the traffic police in Zvornik, and Marko Pavlović were close to, and would frequently visit Milan Tepavčević in Belgrade. Spasojević would visit Tepavčević at least once a week or fortnightly in the first two years of the conflict.²⁷³ On several occasions, the Daily Bulletins produced by RS MUP were forwarded to MUP Serbia in Belgrade.²⁷⁴ On 16 May 1992, RS MUP Minister Mićo STANIŠIĆ

²⁷⁰ B-179.

²⁷¹ B-024; B-217.

²⁷² Intercepted conversation of Radmila dated 18 April 1992, ERN 0321-9529-0321-9531 (ENG); CD D000-0822-D000-0822.

²⁷³ B-161.

²⁷⁴ RS MUP Daily Bulletin, 10 September 1992, ERN 0324-1297-0324-1298 (BCS); RS MUP Daily Bulletin, 11 September 1992, ERN 0324-1289-0324-1290 (BCS); RS MUP Daily Bulletin, 12 September 1992 ERN 0324-1287-0324-1287 (BCS); RS MUP Daily Bulletin, 13 September 1992, ERN 0324-1281-0324-1281 (BCS). See also RS MUP Daily Bulletin 137, 1 October 1992, ERN 0323-7970-0323-7970 (BCS) which was sent to MUP Serbia ERN 0323-8200-0323-8200 (ENG).

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reminded the CSBs that they must file daily reports. Information on crimes against Serbs included in these reports would be forwarded to SSUP.²⁷⁵

Bosanski Šamac

134. The SDS appointed Chief of Police of the Serbian Municipality of Šamac met Milan Prodanić of the Serbian DB, in Belgrade, before the take-over of Bosanski Šamac by Serb forces. Miloš Bogdanović, head of the Municipal Secretariat of National Defence for Bosanski Šamac, also attended the meeting. It was agreed that Serb volunteers would be sent from the municipality for military training by the Serbian DB. In March or early April 1992, the Chief of Police drove from Belgrade, in a convoy of two vehicles behind the Accused Simatović, to the training camp at Ilok where these men were being trained.²⁷⁶ In April or early May 1992, the chief of police travelled to Belgrade with Dragan Đorđević aka Crni, a member of the Red Beret unit²⁷⁷ involved in the take-over of and commission of crimes in Bosanski Šamac, to meet Franko Simatović.²⁷⁸ In June or July 1992, the Chief of Police was again part of a delegation that went to Belgrade to a meeting with a senior officer in the VJ. The activities of the Red Beret unit under the command of Crni were discussed. Franko Simatović was also present at the meeting. In the Summer of 1992, Crni was arrested by members of the VRS. The Chief of Police went to Belgrade at Crni's request and met the Accused Stanišić outside the MUP Serbia building. Crni was released 10 days later.²⁷⁹ In autumn 1992, the Chief of Police delivered a letter signed by the President of the Crisis Staff in Bosanski Šamac to Milan Prodanić at the premises of the MUP Serbia in Belgrade – asking for the return of Crni and his Red Beret unit to the municipality.²⁸⁰ At a further meeting in Bijeljina in late October or early November 1992, attended by the Chief of Police in Bosanski Šamac, amongst others, Milan Prodanić told Blagoje Simić that if there were any problems with Crni, they would take him back to Serbia.²⁸¹

Role of JNA in arming and supporting the Bosnian Serb MUP

135. Although the Bosnian Serb MUP relied closely on the MUP Serbia for its formation and supply,²⁸² it could also count on assistance from the JNA. This assistance was regular and came in the form of substantial equipment and armaments, including Gazelle and Mi-8

²⁷⁵ Dispatch of Minister Mićo Stanišić, 16 May 1992, ERN 0323-8855-0323-8856 (ENG & BCS).

²⁷⁶ B-1244.

²⁷⁷ An example of an SRS volunteer unit absorbed by a Red Beret unit.

²⁷⁸ B-1244.

²⁷⁹ B-1244.

²⁸⁰ B-1244.

²⁸¹ B-1244.

²⁸² Report signed by Milan Gvero, at 34th Session of Narodna Skupština Republika Srpska, Banja Luka, dated 29 September 1993, ERN 0048-0967-0048-0974 (BCS), ERN 0091-6772-0091-6779 (ENG).

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helicopters and armoured personnel carriers.²⁸³ In telephone intercepts dated 17 May 1992 and 19 May 1992 between Mićo Stanišić and the federal representative Mićo Davidović and Petar Gračanin, the involvement of MUP units in combat activities around Sarajevo and co-ordination with the commander of the recently formed army of VRS, Mladić, is discussed.²⁸⁴ In the telephone intercept of 19 May 1992, Gračanin discussed with Mićo Stanišić the delivery of equipment to Stojan Župljanin, the head of the Banja Luka CSB, as well as the delivery of equipment to Sarajevo and other places.²⁸⁵

1995

136. Indications exist that, in July 1995, the acting RS Minister of Internal Affairs dispatched a special police unit, including members of RSK MUP and MUP Serbia, to Srebrenica. Prior to the fall of the Srebrenica enclave in mid-July 1995, RS MUP reports noted the presence of MUP Serbia units at the Trnovo battlefield.²⁸⁶ As of 7 July 1995, the RSK MUP and MUP Serbia units at Trnovo numbered 350 men. On 10 July 1995, Acting RS MUP Minister Tomislav Kovač ordered Ljubiša Borovčanin, the Deputy Commander of the RS Special Brigade of the Police, to deploy from the Sarajevo area to the Srebrenica area the following day and report to VRS General Krstić.²⁸⁷ The unit under Borovčanin's command was to include a mixed company of the "joint forces of RSK MUP, MUP Serbia and RS MUP." On 22 July 1995, RS MUP's forward command post at Trnovo reported that the Škorpija unit from MUP Serbia was leaving the battlefield.²⁸⁸ On 24 July 1995, the forward command post reported that the Škorpija unit had been relieved.²⁸⁹

137. In September and October 1995, RS MUP and MUP Serbia co-operated together in combat operations in northwestern BiH. On 30 September 1995, RS MUP Deputy Minister

²⁸³ Request for the replenishment of TO and SJB units with weapons, signed by Colonel Gradimir Petrović, on behalf of the Chief of the Technical Service, dated 3 March 1992, ERN 0089-1572-0089-1572 (BCS), ERN L004-2883-L004-2884 (ENG); Request From the Command of the 2nd Military District no. 31/103-41 dated 24 April 1992 to the Federal Secretariat of National Defence to the technical administration, referring to a request from the ministry of Internal Affairs of the Serbian Republic of Bosnia and Hercegovina strictly confidential No. 11, 23 April 1992, ERN 0018-3325-0018-3328 (BCS), ERN 0089-1620-0089-1626 (ENG).

²⁸⁴ Conversations between Davidović and Mico Stanišić, ERN 0203-0518-0203-0518 (ENG), Tape D000-0780-D000-0780; ERN 0212-9514-0212-9519 (BCS); Also see, notification By CSB Banja Luka to all SJB's in the Banja Luka region in respect of mobilisation ordered by the MoD, (BCS) 0063-3791-0063-3792; ERN 0190-8333-0190-8335 (ENG).

²⁸⁵ Conversation between Davidović and Mico Stanišić dated 19 May 1992, 0212-9514-0212-9519 (BCS).

²⁸⁶ Dispatch of IKM Trnovo, 30 June 1995, ERN 0297-0837-0297-0837 (BCS). ERN L010-6420-L010-6421 (ENG); dispatch of IKM Trnovo, 1 July 1995, ERN 0324-3495-0323-3495 (BCS & ENG); dispatch from Staff of Police Forces, Pale, 6 July 1995, ERN 0211-4887-0211-4887 (BCS), 0301-2663-0301-2663 (ENG); dispatch of IKM Trnovo, 8 July 1995, ERN 0323-8515-0323-8515 (BCS).

²⁸⁷ Dispatch of RS MUP Deputy Minister, 10 July 1995, ERN 0297-0146-0297-0146 (BCS), ERN L010-6818-L010-6819 (ENG).

²⁸⁸ Dispatch of IKM Trnovo, 22 July 1995, ERN 0324-3373-0324-3373 (BCS & ENG).

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(and Acting Minister) Tomislav Kovač forwarded to the Public and State Security Service and to the Joint Staff of Police Forces of RS MUP and MUP Serbia a copy of a RS Presidential order regarding mobilisation.²⁹⁰ The paramilitary group known as the “Tigers,” under the command of Željko Ražnatović “Arkan,” participated in these actions and were integrated into the tactical command and control structure of RS MUP.²⁹¹

138. In June 1995, Jovica Stanišić came to Zvornik to arrange for the release of UNPROFOR personnel who had been taken hostage by RS forces. On 4 June 1995, RS Television showed footage of Stanišić together with Acting RS MUP Minister Tomislav Kovač.²⁹²

Sanski Most

139. The Banja Luka operation started in September 1995. It encompassed Sanski Most, Mrkonjić Grad, Ključ and Prijedor. It was a coordinated operation involving the Serbian DB, Arkan’s Tigers and the RS MUP. Its aim was to prevent the fall of Banja Luka. Rajo Božović was in charge on the Serbian DB side. Arkan was engaged in the operation, although the Tigers were subordinated to the Serbian DB. Ljuban Ećim, commander of the Banja Luka DB, worked closely with Arkan on the operation. Ećim would visit the Accused Simatović and Arkan when he came to Belgrade.²⁹³

(iv) Authority, direction and arming, financing, supply and support of Arkan’s Tigers

140. Željko Ražnatović (aka “Arkan”) and his paramilitary group the Serbian Volunteer Guard,²⁹⁴ or the Tigers,²⁹⁵ were among the most brutal and notorious perpetrators of crimes in both Croatia and BiH. Arkan did not seek to hide his own, and his men’s brutality.²⁹⁶ He said on numerous occasions that he and his unit would take no prisoners, meaning that they would kill them.²⁹⁷

141. From the establishment of his paramilitary organisation, Arkan worked closely with the MUP Serbia. By May 1991, a decision had been made by the MUP Serbia to send Arkan

²⁸⁹ Dispatch of IKM Trnovo, 24 July 1995, ERN 0297-0816-0297-0816 (BCS), ERN L010-7020-L010-7021 (ENG).

²⁹⁰ Dispatch of RS MUP Deputy Minister Tomislav Kovač, 30 September 1995, ERN 0323-8781-0323-8783 (BCS & ENG).

²⁹¹ Order of RS MUP Minister Tomislav Kovač, 11 October 1995, ERN P004-6440-P004-6440 (BCS).

²⁹² SRT, *Prilog*, 4 June 1995, ERN V000-4740-V000-4740.

²⁹³ B-129.

²⁹⁴ *Srpska dobrovoljačka garda*, hereinafter “SDG.”

²⁹⁵ Also known as the “Arkanovci.”

²⁹⁶ C-028; interviews with Arkan dated September 1991 (Belgrade and Osijek) produced by French journalist Bertrand Coq, and cameraman, colleague of Coq, when they worked together for the media agency “Le 5” in Autumn 1991, ERN ET V000-1274-V000-1274 (ENG).

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to the SAO SBWS. Zoran Sokolović once described the SDG as “our forces”. In March 1993, Slobodan Milošević asked Mihalj Kertes, at a meeting in Novi Sad, if Arkan was under control. Kertes assured him that he was. Milošević said: “We need people like this now, but no one should think that they are more powerful than the state.”²⁹⁸

142. Arkan was involved in the planning and execution of coordinated actions north of Vukovar, Eastern Slavonia. Generally, in his operations in the region, he would use members of the local TO as necessary, and would coordinate with members of the JNA.²⁹⁹ In around July 1991, he set up a base in Tenja, in Eastern Slavonia.³⁰⁰ He was involved in the coordinated action to take over Dalj at the beginning of August 1991, and arrived in Borovo Selo a few days after that. Even at this time, he carried a card which identified him as a member of the Serbian DB. His paramilitary unit was formed with the approval of the Serbian DB, and he came to the region with the support and under the direction of the Serbian DB.³⁰¹

143. After the take-over of Dalj, Arkan and Radovan Stojičić, and their men, interrogated, brutalised and killed Croat detainees. Bodies were thrown into the River Danube.³⁰² Arkan was also involved in the take-over of Erdut, in another coordinated action involving Stojičić, the TO and fire support from the JNA in Serbia.³⁰³ He set up his training centre in Erdut after the take-over,³⁰⁴ and trained men there from the TO, and volunteers from Serbia, and elsewhere.³⁰⁵ The training centre was also used as a detention facility where Arkan and his men brutalised³⁰⁶ and killed non-Serb detainees before disposing of their bodies at various sites in the area. The training centre at Erdut was established with the significant support of the Serbian DB.³⁰⁷ Dragan Vasiljković would participate in the

²⁹⁷ C-028.

²⁹⁸ C-048.

²⁹⁹ B-224.

³⁰⁰ B-232.

³⁰¹ B-224; Information, Strictly Confidential Report Number 5-459, Colonel Stevan Mitrevski, 1 October 1991, ERN 0340-4868-0340-4869 (BCS), ET 0340-4868-0340-4869 (ENG).

³⁰² C-015; Information, Strictly Confidential Report Number 35-1646, Major-General Mile Babić, 18 October 1991, ERN 0340-4864-0340-4865 (BCS), ET 0340-4864-0340-4865 (ENG).

³⁰³ Information, Strictly Confidential Report Number 5-459, Colonel Stevan Mitrevski, 1 October 1991, ERN 0340-4868-0340-4869 (BCS), ET 0340-4868-0340-4869 (ENG).

³⁰⁴ Information, Strictly Confidential Report Number 35-1683, Major-General Mile Babić, 29 October 1991, ERN 0340-4874-0340-4875 (BCS), ET 0340-4874-0340-4875 (ENG).

³⁰⁵ B-224; Information, Strictly Confidential Report Number 56-582, Major-General Mile Babić, 25 October 1991, ERN 0340-4876-0340-4878 (BCS), ET 0340-4876-0340-4878 (ENG).

³⁰⁶ C-020; Information, Strictly Confidential Report Number 56-582, Major-General Mile Babić, 25 October 1991, ERN 0340-4876-0340-4878 (BCS), ET 0340-4876-0340-4878 (ENG).

³⁰⁷ B-221.

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training of men there.³⁰⁸ The training centre was very well-equipped: A Strictly Confidential Report dated 29 October 1991 from the Security Organ (OB) of the 1st Military District reports: “There is a big warehouse in the Centre with large quantities of different infantry weapons, grenade launchers, hand grenades, Zolja hand-held launchers etc, that Arkan is issuing to whomever he wants”.³⁰⁹

144. Arkan was close to Radovan Stojičić. When Stojičić died in 1997, a photograph taken during the funeral depicts both Arkan and Slobodan Milošević together.³¹⁰ Radovan Stojičić came to Eastern Slavonia after Arkan, commanding a Special Police Unit that was also stationed in Erdut.³¹¹ Goran Hadžić let Arkan do what he wanted in Eastern Slavonia, and Arkan’s SDG co-operated closely with the Serbian National Security,³¹² a group formed by Goran Hadžić, headed by Stevo Bogić aka Jajo, deputy Prime Minister of the SAO SBWS Government, and engaged in providing security services for the Government of the SAO SBWS and its President, Hadžić.³¹³ Bogić’s office was situated in the same complex as Hadžić’s in Erdut, with Arkan’s training centre located close by.³¹⁴

145. Arkan’s Tigers were supplied by the MUP Serbia, the Serbian Ministry of Defence,³¹⁵ and by the JNA (and later the VJ). In 1991, Arkan would distribute weapons and other military equipment provided by the MUP Serbia and by the Serbian Ministry of Defence to Serb TO staffs in Eastern Slavonia.³¹⁶ The Serbian DB would provide cash for payment of members of the SDG.³¹⁷ Stojičić was involved in the supply of weapons and equipment to Arkan in autumn 1991.³¹⁸ In 1995, Simatović would provide special equipment from his base in Pajžos. The SDG could do nothing without permission from the Serbian DB.³¹⁹ In later operations in Bosnia, the SDG served as a reserve force – a satellite unit – of the

³⁰⁸ Information, Strictly Confidential Report Number 56-582, Major-General Mile Babić, 25 October 1991, ERN 0340-4876-0340-4878 (BCS), ET 0340-4876-0340-4878 (ENG).

³⁰⁹ Information, Strictly Confidential Report Number 35-1683, Major-General Mile Babić, 29 October 1991, ERN 0340-4874-0340-4875 (BCS), ET 0340-4874-0340-4875 (ENG).

³¹⁰ Article titled “The Assassination of Radovan Stojičić Badza: The State and the Mafia”, in Vreme, 19/04/97, ERN 0063-2393-0063-2400 (BCS), 0063-2403-0063-2407 (ENG).

³¹¹ C-015; C-020.

³¹² Also known as the Serbian National Service or “SNB.”

³¹³ C-020; C-015.

³¹⁴ C-020.

³¹⁵ C-028; Letter from Dragan Lalić, Secretary of the Interior of the RSK, Vukovar, to the Ministry of the Interior of the RSK in Knin, 3 August 1992, ERN 0207-6696-0207-6697 (BCS), L005-5590-L005-5592 (ENG).

³¹⁶ Information, Strictly Confidential Report Number 68-443, Major-General Mile Babić, 18 October 1991, ERN 0340-4872-0340-4873 (BCS), ET 0340-4872-0340-4873 (ENG).

³¹⁷ B-129.

³¹⁸ B-235; Letter from Dragan Lalić, Secretary of the Interior of the RSK, Vukovar, to the Ministry of the Interior of the RSK in Knin, 3 August 1992, ERN 0207-6696-0207-6697 (BCS), L005-5590-L005-5592 (ENG).

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Serbian DB or the MUP Serbia.³²⁰ In the early operations, including the operations in Bijeljina and Zvornik, the Tigers could not be deployed anywhere without orders from the DB.³²¹ After the disbanding of the SDG in 1996, some of its members, including Legija, were recruited to the JSO.

146. Arkan's men were first deployed to BiH – Bijeljina - on 31 March 1992.³²² Their involvement in coordinated actions by Serb forces in the take-over of Bijeljina and other municipalities in BiH, and their commission of crimes in BiH in the period 1992 to 1995 is addressed in other parts of this brief. All operations in BiH were coordinated with the Serbian DB, and Franko Simatović. Simatović, based with his Red Beret unit in Pajzoš, near Ilok, would come to Erdut to discuss their plans. Jovica Stanišić, along with Života Panić and Momčilo Perišić, would also come to Erdut from time to time.³²³

147. In operations in BiH in 1994 and 1995, addressed in the following sections of this brief, members of the SDG were recruited to supplement Red Beret and other special units of the Serbian DB. SDG members were led by members of the Serbian DB on these operations.³²⁴ Contacts or telephone conversations between Simatović and Arkan occurred twice weekly when these operations were under way.³²⁵ In a further illustration of the close relationship between Arkan and the MUP Serbia, in 1995, the MUP Serbia engaged in a campaign of arrests of civilians in Serbia, and sent those that were not from Serbia – mostly refugees from the Knin Krajina - to Arkan's training camp in Erdut for later transfer to the front.³²⁶

IV. Directing members and agents of the Serbian DB and coordinating Serb forces

148. The Prosecution case is that:

- i) Simatović had responsibility for special units of the Serbian DB. Simatović directed their involvement in particular operations in Croatia and BiH and directed their coordinated actions with other Serb forces.

³¹⁹ B-129.

³²⁰ B-129.

³²¹ B-129.

³²² B-1738.

³²³ K-2.

³²⁴ B-129.

³²⁵ B-129.

³²⁶ B-129; Ruling of 30 June 1997, First Municipal Court Belgrade, case of Nikola Balać, ERN 0051-1972-0051-1973 (BCS), L000-7207-L000-7209 (ENG); C-001.

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- ii) These units operated in Croatia and BiH under the authority of Jovica Stanišić. Jovica Stanišić directed their involvement in particular operations in Croatia and BiH and directed their coordinated actions with other Serb forces.

SAO SBWS

149. The Prosecution relies upon the involvement of Arkan in coordinated actions by Serb forces in Eastern Slavonia, and his links to each of the Accused, as evidence of their direction of members and agents of the Serbian DB in the perpetration of the crimes charged in the SAO SBWS.

150. The Prosecution further relies upon the matters set out in the paragraphs following as evidence of the extent to which both Accused were engaged in directing the operations of Serb forces in the SAO SBWS. Evidence will, in particular, be led demonstrating the degree to which members and agents of the Serbian DB were leading the coordinated actions of Serb forces in the region.

151. There were special forces of the Serbian DB, headed by Red Berets who were members or agents of the Serbian DB, in the SAO SBWS from 1991. “Montenegrins” of the “Serbian MUP” led by Žika Crnogorac and Rajo Bozović (both members of the original Red Beret unit) were reported “cleaning the terrain around Bapska,” near Ilok.³²⁷ Franko Simatović was commanding his select unit – the nucleus of what later became the Red Berets - on operations in Eastern Slavonia in autumn 1991.³²⁸ Petar Divljaković told C-048 how he, and another Red Beret, Ivan Andrić, had killed 20 Croatian police officers in Borovo Selo in November 1991. They were both serving in a paramilitary unit under Simatović’s command at the time.³²⁹

152. In July or August 1991, Dragan Vasiljković had taken over Tito’s castle in Tikveš, Baranja, and established a training camp for his special unit of the Serbian DB. In early 1992, a Red Beret unit was based at this facility. They would carry out operations in the Baranja region.³³⁰ In 1995, the Red Beret unit based in Baranja returned to the area under the

³²⁷ C-039; Hand-written notes regarding future report (probably addressed) to OB of 1st military district in Sid regarding the presence of the Paramilitary groups, ERN 0216-3313-0216-3317 (BCS), ERN ET 0216-3313-0216-3317 (ENG).

³²⁸ Kula camp video, ERN V000-3533-V000-3533, transcript ERN R018-5499-R018-5518 (BCS), ERN R018-5519-R018-5532 (ENG), as corrected by B-073 ERN R041-9022-R041-9041 (BCS), ERN R041-9008-R041-9021 (ENG).

³²⁹ C-048.

³³⁰ C-025; C-017.

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command of Vasilje Mijović. He set up training centres for recruits from Baranja in Kneževi Vinograde and Baranjksa Petrovo Selo.³³¹

153. On around 19 or 20 September 1991, Jovica Stanišić visited the SAO SBWS Government building. He berated people there because Vukovar had not yet surrendered. A meeting was held later in the day attended by all TO Commanders in the region. The purpose of the meeting was to solve the situation around Vukovar.³³² The fight for Vukovar was in fact coordinated through JNA and DB members.³³³

154. After the fall of Vukovar, Žika Crnogorac formed a Red Beret unit there. At the beginning of 1992, the unit was officially formed in Ilok,³³⁴ under Simatović's and Stanišić's authority and direction. The Prosecution will lead evidence of reports that Red Berets in Eastern Slavonia were involved in the commission of crimes in Ilok, Vukovar Bapska, Mohovo, Opatovac,³³⁵ and Grabovac.³³⁶

Bosnia and Herzegovina

155. Jovica Stanišić and Franko Simatović directed agents and members of the Serbian DB, including Arkan, who participated in the perpetration of crimes as charged in the indictment in the respects set out in the crimebase sections of this brief.

156. Contemporaneous written reports corroborate witness evidence which the Prosecution will lead regarding the involvement of agents/members of the special units of the Serbian DB, acting under the direction of the Accused, in events in Bijeljina,³³⁷ in Dobož³³⁸, in Bosanski Šamac³³⁹ and in the persecutory campaigns conducted in other municipalities: for example, Brčko³⁴⁰ and Teslić.³⁴¹ Documents from the files held by the "Kapetan Dragan Fund" locate members of the Red Beret unit founded by Simatović in 1991, for example,

³³¹ C-025.

³³² C-013.

³³³ B-224.

³³⁴ B-224.

³³⁵ B-224.

³³⁶ C-029.

³³⁷ Daily Operations Report of 17th Corps, 04/04/92, ERN 0018-3969-0018-3970 (BCS), ERN 0096-1185-0096-1187 (ENG); Letter from Andan re: involvement of MUP in establishment of law and order in Bijeljina, 29/07/92, ERN 0084-5101-0084-5106 (BCS), ERN 0090-0120-0090-0124 (ENG); MUP report on Bijeljina situation, 09/04/92, ERN 0074-9558-0074-9563 (BCS), ERN L000-3856-L000-3858 (ENG).

³³⁸ Military Report No. 133/92, 17/05/92, ERN 0084-9896-0084-9897 (BCS), ERN 0086-9428-0086-9428 (ENG).

³³⁹ Report on morale by officers of the 2nd Posavina Brigade, ERN 0074-9872-0074-9881 (BCS), ERN 0301-3489-0301-3498 (ENG).

³⁴⁰ Order of Commander Ivanović of the Unit for Special Purposes in Brčko, dated 9 July 1992, ERN DA00-6011-DA00-6011 (BCS), ERN DA00-6011-DA00-6011 (ENG).

³⁴¹ Report on paramilitary formations by General Tolimir of the VRS 1KK Main Staff, dated 28 July 1992, ERN 0094-9847-0094-9852 (BCS), ERN 0110-5177-0110-5188 (ENG).

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Žika Crnogorac,³⁴² and Rade Božić (in Brčko),³⁴³ as commanders of special units of the Serbian DB operating in the war theatre in Croatia and Bosnia. Witness evidence reveals that members of the original Red Beret unit were commanding Serb forces in operations in Croatia and BiH from 1991 to the end of the war in 1995.³⁴⁴

157. As in the SAO SBWS, members of the Serbian DB were involved in the direction of the coordinated actions by Serb forces in BiH. Their liaison and direction of members of the RSMUP in municipalities in BiH is addressed in earlier parts of this brief.

158. In Zvornik, Radoslav Kostić was coordinating with Marko Pavlović, head of the TO in Zvornik, shortly after the take-over. Marko Pavlović aka Branko Popović was an assistant to Radoslav Kostić. He took over command in Zvornik after Arkan's departure.³⁴⁵ Brano Grujić met with Jovica Stanišić in Mali Zvornik in 1992. Grujić would also coordinate with the Bosnian Serb leadership in Pale.³⁴⁶ Arkan and Radoslav Kostić kept a room reserved at the Hotel Jezero in Mali Zvornik.³⁴⁷ The municipal Serb and Muslim leadership in Zvornik met at the hotel to negotiate a political resolution to the rising inter-ethnic tensions in the municipality. Arkan interrupted the meeting and physically abused the negotiators.³⁴⁸ He was accompanied by an officer from the Serbian DB.³⁴⁹ Arkan prohibited any further negotiation at the local level.³⁵⁰ Dragan Vasiljković arrived in Zvornik municipality with a Red Beret unit in May or June 1992.³⁵¹ He was observed using a Muslim man as a live target for training his men on the banks of the Drina river near Zvornik and Mali Zvornik.

159. Simatović's presence, in a position of command and authority over special units of the Serbian DB in BiH is reported by witnesses on numerous occasions. Simatović himself gave a briefing to Red Berets (including an SRS volunteer unit) before their deployment to Bosanski Šamac before the take-over in 1992.³⁵² In 1992, he addressed Red Berets receiving

³⁴² Representative sample of the primary documents in the KDF Collection: Case of Jovica Vejnović - Questionnaire and Certification of Service, ERN R041-9070-R041-9070 (ENG).

³⁴³ Representative sample of the primary documents in the KDF Collection: Case of Miodrag Obradović - Questionnaire and Certification of Service, ERN BG06-9689-BG06-9689 (BCS), ERN ET BG06-9689-BG06-9689 (ENG).

³⁴⁴ For example, C-017 puts Živojin Ivanović aka Žika Crnogorac in overall command of Red Berets in the Mostar region in 1992.

³⁴⁵ B-024; B-217.

³⁴⁶ B-024.

³⁴⁷ B-217.

³⁴⁸ B-024; B-217; B-1237.

³⁴⁹ B-1237.

³⁵⁰ B-024.

³⁵¹ B-024.

³⁵² B-258.

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training at the Boračko Jezero training camp in Nevesinje. He delivered a patriotic speech about the “Serbian knights” and the successes scored by the Red Berets.³⁵³

160. Stanisić and Simatović’s direction of operations in the coordinated actions by Serb forces in Eastern Bosnia in 1992 and 1993 and in Western Bosnia and Sarajevo in 1994 and 1995, is addressed in the paragraphs following, as examples of similar instances of their direction of agents and members of special units of the Serbian DB, including Arkan and Radoslav Kostić, in operations in Croatia and Bosnia.

Examples of coordinated actions of Serb forces

Operations in Drina Valley

161. Operations carried out in Eastern Bosnia in 1992 and 1993, involved a coordinated body of forces - MUP Serbia, the VJ, VRS, paramilitaries from Serbia, and the RS MUP.³⁵⁴ Some members of these different forces were placed at the disposal of Franko Simatović who established and maintained a command centre in Bajina Bašta. He regularly travelled between the command centre and Belgrade in military aircraft.³⁵⁵ Simatović’s secretary organized the billeting of these forces in a nearby hotel. Red Berets who participated were led by Rajo Božović under the direct command of Franko Simatović.³⁵⁶ Milan Lukić, working with the DB, provided weapons and ammunition from a store located in the basement of the hotel.³⁵⁷

162. These operations were conducted in a manner that ensured Serbian involvement was disguised.³⁵⁸ These clandestine joint operations would continue up until the eventual overtaking of the Srebrenica enclave in 1995. During the winter and spring of 1993, the operations focused on the area of Skelani and resulted in the death of as many as 1,000 people.³⁵⁹ Cleansing would continue through 1993 and into 1994.³⁶⁰

Operations in Sarajevo

163. Serbian State Security was also involved in joint operations engaged in perpetuating the siege of Sarajevo. In one such operation in 1994 Vaso Mijović led a DB operation in

³⁵³ C-017.

³⁵⁴ B-104; B-108; B-174.

³⁵⁵ B-104.

³⁵⁶ B-104.

³⁵⁷ C-047.

³⁵⁸ B-104 was instructed to paint over insignias on his helicopter. B-174 was instructed to remove insignias from his uniform.

³⁵⁹ B-174.

³⁶⁰ C-047.

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Treskavica that involved between 60 and 70 of Arkan's Tigers. During the course of this operation Vaso Mijović regularly visited Arkan's headquarters.³⁶¹

164. During the summer of 1995, Red Berets were deployed directly in the area of Koševo in Sarajevo.³⁶² Other satellite units of the Red Berets, such as the "Scorpions" also converged on Sarajevo under the command of Simatović and Božović to prepare a diversionary manoeuvre designed to draw ABiH forces out of Srebrenica in preparation for the take-over of that enclave.³⁶³

Operations in Western Bosnia

165. Operations in Western BiH are another example of Stanišić and Simatović playing pivotal roles in the joint covert operations of military and police forces. These operations were aimed at supporting and, when it became necessary, re-establishing the so-called Autonomous Province of Western Bosnia (APWB), declared on 27 September 1993 by Fikret Abdić in the Bihać enclave, an area of strategic importance for Serbs. A VRS combat order dated 2 July 1994 directed the 1 KK, 2 KK³⁶⁴ and the SVK³⁶⁵ to commence offensive actions in Western Bosnia in conjunction with Fikret Abdić's forces.³⁶⁶

166. In November 1994, a special covert command centre was established in Petrova Gora to conduct combat operations against Federation forces in the Bihać pocket. This command centre was code-named "Pauk" (meaning Spider) and was nominally commanded by Colonel Mile "Pauk" Novaković, a former JNA officer. The forces involved included: VRS, approximately 200 SVK troops, APWB, MUP Serbia special units numbering 200 (including Red Berets), and approximately 100 Arkan's Tigers and a contingent of Scorpions.³⁶⁷

167. Arkan's involvement began when Simatović asked Arkan to assemble some of his men for Pauk. After gathering at Arkan's Belgrade headquarters, these veterans of Vukovar and Eastern Bosnia removed their identification documents, boarded a Sebian MUP bus and

³⁶¹ B-129.

³⁶² K-002.

³⁶³ C-063.

³⁶⁴ 1st Krajina Corps and 2nd Krajina Corps of the VRS.

³⁶⁵ Army of the RSK (formerly SAO Krajina TO and RSK TO).

³⁶⁶ GŠ VRS order to 1 KK, 2 KK & SVK, 2 July 1994, ERN 0086-8848-0086-8850 (BCS), 0090-1213-0090-1216 (ENG). References to the interaction between these commanders and their subordinate units are contained in both the "Pauk" operations diary, which covers the period of its offensive operations against Velika Kladuša in the Bihać pocket, and "Pauk" Operations Logbook No. 1, which runs from 16 November through 1 December 1994. See "Pauk" Operative Diary, ERN 0087-0141-0087-0154 (BCS), ERN 0303-7012-0303-7028 (ENG), and "Pauk" Operations Logbook No. 1, ERN 0209-4543-0209-4740 (BCS), ERN 0302-2669-0302-2794 (ENG).

³⁶⁷ C-001; C-063.

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joined the Red Berets for training exercises at Mount Tara, the DB training facility. After these exercises they were outfitted and travelled to Velika Kladusa in the Bihać region.

168. During their operations Raja Božović commanded the Red Beret component of the joint force and Milorad Ulemek “Legija” commanded the Tiger veterans.³⁶⁸ Both were under the direct command of Simatović who regularly visited Petrova Gora.³⁶⁹ Božović was already familiar with the region having visited it on several occasions between 1993 and 1995.³⁷⁰ Col. General Novaković rarely gave direct orders to these units.³⁷¹ Toso Pajić, a DB operative in the SVK held an order signed by Stanišić himself directing this co-operation with Abdić.³⁷² Arkan’s men were paid from a fund of approximately 3 to 4 million DM delivered to his headquarters by the Serbian State Security.³⁷³

169. During these operations, Stanišić would stay in Petrova Gora regularly. He and Simatović would meet with Milan Martić, Fikret Abdić, Legija and Stojan Župljanin, who was head of the DB in Banja Luka.

170. On 28 June 1995 President Milan Martić presided over a celebration of the operation’s success. General Mile Mrkšić and other prominent military and police personnel attended. On a video recording of that ceremony in Slunj, Božović and Legija can both be seen serving as honour guards during the president’s speech.³⁷⁴

171. Pauk is illustrative of other similar joint operations in BiH. In 1995, Simatović met Arkan to discuss their fears that the ABiH might take Banja Luka.³⁷⁵ Similarly, approximately 1,000 men under Arkan’s command assembled near Mrkonjić Grad in an attempt to halt advancing BiH forces in the Prijedor area.³⁷⁶ When the Croatian Krajina finally fell, one of the last calls made by Toso Pajić the DB operative in the SVK before he retreated was to Jovica Stanišić who told him to “persevere.”³⁷⁷

³⁶⁸ C-020; C-001.

³⁶⁹ C-001.

³⁷⁰ C-001.

³⁷¹ C-001.

³⁷² C-001.

³⁷³ B-129.

³⁷⁴ C-001; Parade Video, BCS V000-3330-V000-3330.

³⁷⁵ B-129.

³⁷⁶ B-071.

³⁷⁷ C-001.

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172. Ultimately any nominal distinction between the Red Berets and Arkan's Tigers disappeared when in May 1996 the Tigers were "officially" incorporated into the DB Special Police Units.³⁷⁸

Crimebase in Croatia and Bosnia

Crimes in Croatia

SAO Krajina

173. From spring 1991 onwards in Croatia, Martić and his police were present in all areas of tension and conflict, provoking or aggravating clashes as a means of claiming territory within the SAO Krajina. For example, Martić wrote a letter to the Croatian police department in Split and the police station in Kijevo (targeted to become part of the SAO Krajina) warning them that the SAO Krajina would not tolerate Croatian police stations on "their territory" and threatening to attack if the police station was not abandoned within 48 hours.³⁷⁹ When the villagers did not comply, Serb forces, consisting of Martić's Police and the JNA under Ratko Mladić, attacked the village and drove out its Croat population.³⁸⁰

174. Starting in August 1991, JNA, local Serb TO, Martić's Police, and paramilitary/volunteer formations engaged in a wide-scale, carefully planned attack against predominantly Croat villages throughout the SAO Krajina and municipalities bordering the SAO Krajina.

175. These attacks were conducted in a recurring pattern. First, the JNA attacked the villages using aircraft, tanks, artillery and other heavy weapons. During this initial attack, most of the population fled, leaving behind the old, sick and weak. After the initial shelling, the Serb forces, comprised mostly of local Serb TO, Martić's Police and paramilitary/volunteer formations, entered and cleansed the villages of their non-Serb population.³⁸¹

³⁷⁸ B-129.

³⁷⁹ Letter from Martić on SAO Krajina letterhead, dated 18 August 1991, ERN 0050-1494-0050-1494 (BCS), ERN L005-0035-L005-0036 (ENG).

³⁸⁰ Report on the attack on Kijevo submitted by Ratko Mladić, COS of the 9th JNA Corps, 4 October 1991, ERN 0207-6675-0207-6676 (BCS), ERN L003-4258-L003-4261(ENG); Interview with Martić, BBC "Death of Yugoslavia," dated 14 October 1994, ERN 0219-5504-0219-5518 (ENG); Minutes of the 16th Assembly Session of the Assembly of the Serbian People in BiH, dated 12 May 1992, ERN 0084-7711-0084-7761(BCS), ERN 0190-8511-0190-8570 (ENG).

³⁸¹ According to eyewitness accounts, participants in the attack forced the civilians out of their shelters by, for example, firing into the door with a machine-gun after knocking and introducing themselves as "Krajina milicija," C-1091; C-1220; C-1063; MM-043; C-1201; C-1202; C-1234.

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176. Martić's Police participated in wide-scale attacks against predominantly Croat villages, settlements and neighbourhoods throughout the SAO Krajina and municipalities bordering the SAO Krajina. Joint military operations of the JNA, SAO Krajina TO, and Martić's Police attacked the villages of Saborsko, Poljanak, Lipovaća, Škabrnja and Nadin. Martić was then the Minister of the Interior of the SAO Krajina and Deputy Commander of the TO. The police units played the main role in crimes committed in Baćin, Cerovljani, Dubica and Bruška, after the initial attacks on the villages.

177. During the attacks, the Serb forces arbitrarily arrested non-Serbs, establishing a system of persecution that included restriction on movement,³⁸² detention, beatings, killings, looting and destruction of property. The brutality of Martić's Police became widely known.³⁸³ The JNA, including the 9th Knin Corps commanded by Ratko Mladić, co-operated with them.

178. Between August 1991 and June 1992, the Serb forces killed hundreds of civilians and occasionally deported some of the survivors. A large number of the non-Serb male population was held in detention facilities, primarily in Knin and Benkovac.³⁸⁴ A minority of the villagers, mostly elderly and disabled persons, were initially allowed to remain, but most were killed in the following weeks by Serb forces, principally Martić's Police. After forcing Croat and other non-Serb civilians from their villages, the Serb forces systematically looted and then destroyed Croat houses and Catholic churches. Residents of the villages saw the extent of the destruction when they returned after "Operation Storm" in August 1995.³⁸⁵ The result of these attacks was that virtually the entire non-Serb population of the SAO Krajina was forcibly removed, detained or killed, thereby fulfilling the objective of an ethnically pure SAO Krajina.

Dubica, Cerovljani, Baćin – murder of 56 non-Serb civilians; murder of 24 civilians on 21 October 1991 - paragraph 24 of the Indictment

179. Hrvatska Dubica,³⁸⁶ in the municipality of Kostajnica, faces the Una River opposite Bosanska Dubica in Croatia. In 1991 about 5,000 inhabitants lived in the municipality. The

³⁸² A preferred tool of persecution by Martić's Police was to erect barricades to control the movements of Croats. As the tensions grew, it became virtually impossible for Croats to leave their village. When the Croats attempted to cross the roadblocks, they were harassed or beaten, MM-043; C-1232; C-1234; C-1152.

³⁸³ C-1220; C-1211.

³⁸⁴ C-1072; C-1091. The male civilians of Škabrnje were beaten in prisons in Knin, including one run by Martić's Police, C-1202; C-1201; MM-043.

³⁸⁵ MM-043; C-1072; C-1231; C-1202; C-1234; C-1232.

³⁸⁶ Hereinafter "Dubica."

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town of Dubica had about 2,500 inhabitants; half of them were Serb, half of them Croat, with a small Muslim minority. Of the four surrounding villages, two were predominantly Serb (Slabinja and Živaja) and two were predominantly Croat (Baćin, Cerovljani). Relations between the ethnic groups were friendly and harmonious until 1990. The situation in the municipality worsened in 1991. Every month, an increasing number of Serb soldiers roamed the area of Dubica, threatening the Croats.³⁸⁷

180. As tensions grew between the two ethnic groups, the local Croats started to arm and mobilise themselves. In mid-September 1991, they found that resistance was no longer possible and retreated. They destroyed the bridge over the Una River in order to prevent JNA tanks from crossing the river. By 14 September 1991, most of the Croat inhabitants had fled their houses and escaped to other parts of Croatia.³⁸⁸

181. As of 7 October 1991, Serb forces controlled the entire area called Hrvatska Kostajnica, including the villages of Dubica, Cerovljani and Baćin. Martić's Police set up a police station in Dubica. Mile Popović, one of the key figures in Dubica for the Serb forces, became the head of the local community after the Baćin massacre. He was known for always wearing the uniform of Martić's Police.³⁸⁹ At that time, approximately 120 Croat civilians, mostly women, elderly, and the infirm, were the only non-Serb people still remaining in the three villages.

182. On or about 20 October 1991, Serb forces, in particular Martić's Police, arrested 53 Croat civilians and detained them in the village fire station. Ten of them were released during the day and the following night because Serb acquaintances or relatives intervened on their behalf. The next day, the remaining 43 detainees, together with thirteen people from Cerovljani and Dubica, were taken to a site in Baćin (Krečane) located on the banks of the Una River. There, they were brutally massacred by SAO Krajina forces. Most of them were elderly people. The bodies remained there unattended for days, decomposing. Later on, they were buried in a mass grave on the site of the killing. An additional thirty civilians from Baćin and twenty-four from the villages of Dubica and Cerovljani were taken away by the Serb forces to unknown locations and killed.

³⁸⁷ According to eyewitness accounts, volunteers and reservists wore JNA olive-green uniforms, most of them with a red star and some with the double-headed eagle Chetnik insignia, C-1141.

³⁸⁸ C-1141.

³⁸⁹ Indeed, at that time it was hard to tell the difference between the TO and Martić's Police. The same soldiers would interchange uniforms of different groups and seemed to be under the command of Momčilo Kovačević who was under the command of Martić in Knin. Veljko Radunović was Kovačević's deputy and both went to Knin several times to get directions from Martić, C-1211; B-1235; C-1141.

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183. Baćin was burnt down and almost razed to the ground in late October 1991. The Catholic Church was completely destroyed. The same thing happened to the churches in the neighbouring villages. The neighbourhood of Dubica where Croats lived was completely destroyed. In 1997, exhumations in Baćin revealed 56 bodies, 37 of which could be identified.³⁹⁰

Saborsko, Poljanak, Lipovača - murder of non-Serb inhabitants – paragraph 25 of the Indictment

184. The village of Saborsko is located in the Municipality of Ogulin on the main road between Plaški and Plitvice. In 1990, Saborsko had about 800 inhabitants, of which only 15 were Serbs. Saborsko was then the largest Croat village in the area.

185. The Croatian authorities maintained a police presence in Saborsko. Meanwhile, the surrounding Serb villages of Lička, Jesenica and Plaški became Serb political and military focal points. As the Serb military build-up in the area gained momentum, the Croat village of Saborsko became increasingly isolated.

186. In summer 1991, the JNA amplified its presence in the area. The first mortar attack started in August 1991 when about 150 shells were fired on the lower part of Saborsko. The following night, a group of Croat police officers, women, children and elderly people fled the village. From that day on, there were daily artillery attacks, destroying many houses. Some of the men were arrested and taken to prison camps in Croatia and in BiH where they were mistreated by members of Martić's Police.

Lipovača – murder of eight civilians on 28 October 1991 – paragraph 26 of the Indictment

187. The neighbouring villages of Poljanak and Lipovača were attacked starting in October 1991 and ultimately taken over at the beginning of November 1991. During these attacks, several civilians were killed. On 28 October 1991, TO units entered Lipovača and killed seven civilians.³⁹¹

³⁹⁰ C-1141; C-1063; video of the exhumation of mass grave in Baćin, ERN V000-2771-V000-2771 (BCS); photo album of the exhumation of the mass grave in Baćin, ERN 0106-6027-0106-6303 (BCS). As the massacre site was located on the bank of the river, a strong possibility exists that more bodies were washed away by the river.

³⁹¹ In the first house in the village, a family of three was killed as they went about their normal daily routine. In the house located 30 metres further, four people, including three elderly, were shot with an automatic rifle, C-1153.

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Poljanak – murder of nine civilians on 7 November 1991 – paragraph 27 of the Indictment

188. On or about 7 November 1991, JNA soldiers, including members of the 63rd Parachute Brigade from Niš, an elite unit of the JNA, and local Serb TO units entered the Croat hamlet of Vukovići near Poljanak and executed nine civilians.³⁹²

Saborsko – murder of at least twenty Croat civilians on 12 November 1991 – paragraph 28 of the Indictment

189. On 12 November 1991, JNA and local Serb TO and members of Martić's Police prepared a large-scale attack to finally take over Saborsko. During the attack, more than 10 JNA military aircraft flew over Saborsko and dropped several bombs on houses there. Soldiers then entered the village and forced the civilian population to come out of their cellars. As they were going from house to house they separated the men from the women, killing at least twenty Croat civilians in the process. The Serb forces burned down the entire village and the Catholic Church. The surviving villagers returned only after "Operation Storm" in August 1995.³⁹³

Škabrnja, Nadin – murder of at least 38 non-Serbs on 18 November 1991 - paragraph 29 of the Indictment

190. The villages of Škabrnja, Nadin and Bruška are in Northern Dalmatia. Although not part of the Benkovac municipality before the conflict, the Serbs claimed this part of the Zadar municipality as the so-called Serbian Zadar area. Goran Opačić was the Chief of Martić's Police in the Benkovac region. Martić and Opačić were members of the Serb-declared Benkovac Crisis Staff.³⁹⁴

191. In 1991, the villages of Škabrnja/Nadin contained approximately 2,000 residents, and all Croats lived in 400 houses. The majority of the people were farmers. The ethnic composition of the surrounding villages was mixed. For the Serb forces, the two villages were of strategic importance because they were situated on a main road linking a JNA military base with an airport, near Zadar, to the Benkovac municipality in the SAO Krajina.

192. Serb forces attacked Škabrnja and Nadin and their surrounding hamlets from late August to late November 1991.³⁹⁵ From 25 September 1991 onwards, the JNA subjected

³⁹² C-061 will testify that a member of the special unit from Niš later bragged about his participation in the attack in the Saborsko region.

³⁹³ C-1231; C-1234; C-1230; C-1232; C-1220.

³⁹⁴ C-061.

³⁹⁵ According to eyewitness accounts, on 2 September 1991, members of the JNA and Martić's Police attacked Croat villages in the district of Benkovac entering all houses by force, robbing and taking everything they

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Škabrnja to a shelling campaign. Military aircraft dropped inflammatory bombs in order to set the forest close to the village on fire and deprive the Croats of a hiding place. When people tried to extinguish the fire, the JNA soldiers shot at them. In the following days, the JNA continued to attack the village. Tanks passed through the village, frightening the civilian population. On 1 October 1991, the Crisis Committee for the municipality in Zadar decided to evacuate the civilian population from the village. Out of about 2,000 inhabitants, only 245 people stayed.

193. On 2 October 1991, the JNA, using tanks and infantry, attacked Nadin, about 5 kilometres south of Škabrnja, and the hamlet of Zemunik Gornji. Two people were killed in Nadin. When people fled from Nadin through Škabrnja, the JNA Air Force attacked Škabrnja again. On 5 November 1991, many civilians returned to the villages after a cease-fire had been agreed upon. The cease-fire lasted only until 18 November 1991.

194. On 18 November 1991, at least 1,000 Serb soldiers from the 9th (Knin) Corps, the Benkovac local Serb TO and Martić's Police - all under the command of General Mladić - attacked Škabrnja.³⁹⁶ The villagers sought refuge in basements or fled Škabrnja.

195. Taking over the village section by section, the Serb forces moved from house to house, ordered the people to leave basements and summarily executed at least 38 non-Serb civilians, including several elderly people.³⁹⁷ Many people were taken away for questioning by soldiers, first to the school in Gorim Biljan and then to Benkovac.³⁹⁸

Murder of seven non-Serb civilians in Nadin on 19 November 1991 - paragraph 30 of the Indictment

196. On 19 November 1991, with Škabrnja firmly under control, the JNA started to take over Nadin in a similar fashion. The JNA launched heavy artillery attacks against the village. The villagers had to hide in the cellars of their houses. When the shelling stopped, Serb

needed and destroying the rest. Throughout September 1991, Serb snipers targeted Škabrnja. Between 1 October and 5 November 1991, three villagers were killed by the shelling in Škabrnja, C-1201; C-1166.

³⁹⁶ During the attack, at about 11:30 a.m., a JNA ammunition truck exploded. A witness who knew General Ratko Mladić personally intercepted the radio communication between Mladić and the commander on the ground in Škabrnja, Lt. Colonel Čečović. Čečović told Mladić that he had to withdraw, because he had lost all his ammunition supplies. Mladić replied that he would shoot him if he did. He promised Čečović that he would get him the required reinforcements to proceed with the attack. Soon after the conversation between Mladić and Čečović, several helicopters landed in the surroundings, letting out young soldiers, dressed in dark uniforms. The witness understood that they were Special Forces. The Serb forces then easily marched on Škabrnja, C-1166.

³⁹⁷ During the attack on Škabrnja, a witness saw a soldier in camouflage uniform with an SAO Krajina patch on his shoulder shoot two people in the head. A group of six other soldiers wearing green camouflage with SAO Krajina patches were seen beating an elderly man, C-1072; C-1123; C-120; C-1202.

³⁹⁸ C-1166.

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troops invaded the village. They captured seven people: six elderly women and a young man. They first executed the young man by shooting him in his mouth. They then shot the six women. One woman survived by chance.³⁹⁹

Murder of 26 non-Serb civilians in Nadin between 18 November 1991 and February 1992 - paragraph 31 of the Indictment

197. Twenty-six of the remaining elderly and infirm Croat civilians were subsequently killed by Serb forces between 18 November 1991 and February 1992.⁴⁰⁰

198. After the 18 November attack, a delegation of the Civil Protection Unit of the Croatian National Guard (ZNG) and the JNA collected the bodies from the killing sites in Škabrnja and Nadin. The bodies were then brought to the Pathology Department of the General Hospital in Zadar. Their relatives identified the bodies.⁴⁰¹

199. The attacks on these villages were clearly motivated by the aim to create an ethnically homogeneous territory. A letter written by Martić to UNPROFOR refers to the “by force immigration” of the population planned for Škabrnja, Novi Grad and Pridraga. The letter threatens military action if Croats were allowed back to the areas of Škabrnja, Novi Grad and Pridraga. Thus the RSK government’s position was to prevent a Croat return.⁴⁰²

Bruška – murder of ten civilians on 21 December 1991 – paragraph 32 of the Indictment

200. Bruška and the hamlet of Marinović are about 15 kilometres north-east of Benkovac. In 1991 Bruška was an almost exclusively Croat village while the villages surrounding Bruška were exclusively Serb.

201. In the months leading to the war, the Serbs from the surrounding villages received weapons from the JNA and via other channels from Serbia. In February 1991, local Serbs erected barricades, restricting the movement of the non-Serb population and harassing the Croat inhabitants at these roadblocks. In the summer of 1991, military vehicles continually passed through the village, especially during the attack on Kruševo. Every two or three days, Serb paramilitaries/volunteers came to Bruška, went to the village square and harassed the local population by asking, “Why don’t you go to Franjo Tuđman?” They told the Croats that this was Serb country and that they should leave.

³⁹⁹ C-1166 will give additional details about the Nadin attack.

⁴⁰⁰ C-1072; expert witnesses C-1113 and C-1214.

⁴⁰¹ C-1123; C-1214; C-1113.

⁴⁰² Milan Martić to the Command of UNPROFOR Zagreb, Command of Sector South, State Committee for Cooperation with UNPROFOR, dated 28 September 1992, ERN 0040-2757-0040-2758 (BCS), ERN 0040-2759-0040-2760 (ENG).

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202. On 21 December 1991, Serb forces, in particular members of Martić's Police, entered the village of Bruška and the hamlet of Marinović where they killed ten civilians, among them nine Croats.⁴⁰³

203. The Serb forces who entered Bruška and other surrounding villages such as Medvida took the remaining Croats to detention facilities in Knin where they were psychologically intimidated, beaten, mistreated and made to perform forced labour. Martić's Police ran one of the detention facilities located in the old hospital in Knin. Another detention facility was located in the JNA barracks in Knin. Some of the detainees during their time in detention saw General Mladić inspecting the detention facilities.

204. The close relationship between Martić's Police and other Serb forces is illustrated by the fact that a section of the Knin hospital, from where Martić Police operated, was used as a dormitory for Dragan Vasiljković's men and members of the JNA. One of the tasks the Croat detainees in the Knin hospital had to carry out was cleaning after the troops and paramilitaries/volunteers in the dormitory. On or around 20 January 1992, when all the Croat villagers had left Bruška, Dragan Vasiljković came with his men and established a new training centre there.⁴⁰⁴

SAO SBWS

Erdut (paragraphs 36-41 of the Indictment)

205. The village of Erdut is located in Eastern Slavonia along the Danube River. The 1991 Croatian census revealed that 1,459 people lived in Erdut, 798 of whom were Croats, 333 Serbs, 162 Hungarians, 88 Yugoslavs, and the rest were undeclared or other nationalities.

206. The JNA arrived in Erdut on 2 August 1991. Several days after their arrival, a unit of the *milicija* (police) of the SAO SBWS and Arkan's Tigers led by Arkan established themselves in Erdut. The Government of the SAO SBWS provided Arkan with the Erdut Territorial Defence training centre, which became known as Arkan's training centre. Within

⁴⁰³ C-1152; C-1214; C-1152, a survivor, underwent surgery in the Knin hospital. During his stay, a member of Martić's Police came to interrogate him. He threatened the witness and said, "this Ustaša must be slaughtered." The doctor attending the witness heard this and saved him by telling Martić's man to leave without harming the witness. Members of Martić's Police who guarded the prisoners at the old Knin hospital taunted them by saying things like, "all the Croats have to be killed," "the Croatian nation has to be destroyed," and "all of Croatia will be burning and destroyed and it won't last long." Every day, Martić's Police guards took some of the detainees out of their cells and beat them, swore at them, and kicked them.

⁴⁰⁴ MM-043. In a speech to about one hundred of the detainees at the Knin barracks, General Mladić said, "Whoever thinks that they will build up Croatia over the bones of my father, will end up the same as those in

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the facility, Arkan set up a makeshift prison. As time progressed, the prison was often used as a detention facility for non-Serb villagers. Some of the detainees were released, but a large number were maltreated, beaten and subsequently killed. Bodies of many of them were found in various mass graves, exhumed, and identified.

Murder of twelve non-Serbs in Erdut 10 November 1991 (paragraph 36 Indictment)

207. On 9 November 1991, a number of non-Serb villagers (mostly Hungarians with the exception of Ivica Mihaljev who was a Croat) from Erdut, Dalj Planina and Erdut Planina were arrested by Arkan's soldiers in co-operation with the Erdut *milicija* and Security Staff of the Dalj TO.⁴⁰⁵ Detainees were taken to the prison at the TO training centre in Erdut.⁴⁰⁶ The same evening, of those arrested, only Mihajlo Pap (aka Mišika) was released. He went home and told his relatives that he and the other detainees had been at the Erdut training centre. The following morning, one of Arkan's men re-arrested him. The twelve detainees were shot dead. Most were buried in Čelije at the Catholic Cemetery.⁴⁰⁷

Murder of three non-Serb civilians in Erdut after 9 November 1991 (paragraph 36 Indictment)

208. Several days after this abduction, Juliana Pap (the mother of Mihajlo) started to look for her son and other family members. She went to the Erdut *milicija* and the Erdut TO training centre. As a result, Mihajlo (Mile) Ulemek, Head of Arkan's Military Police, intervened with Stevo Bogić, Head of Serb National Security (SNB), in order to liquidate the rest of the family. Juliana Pap, her son Prajo Pap, and the fiancée of her son Mihajlo Pap, Matalija Rakin, were arrested by members of the SNB and executed. Their bodies were exhumed from a well in Borovo.⁴⁰⁸

Murder of Marija Senaš in Erdut on 3 June 1992 (paragraph 36 Indictment)

209. The head of Arkan's Military Police, Mihajlo (Mile) Ulemek, ordered members of the SNB to arrest Marija Senaši, a female family member of the original Hungarian victims who had continued to make inquiries about the fate of her relatives.⁴⁰⁹ On 3 June 1992, Marija Senaši was arrested as she rode her bike on the road between Erdut and Dalj Planina.⁴¹⁰ She was transported to a house in Erdut that was used by Milorad Stričević and Mihajlo (Mile)

Škabrnja." On or about 15 October 1991, a witness saw General Mladić walking through the courtyard of the Knin hospital prison escorted by Captain Dragan's men.

⁴⁰⁵ C-1129.

⁴⁰⁶ C-020.

⁴⁰⁷ Croatian Report on Identification, ERN 0200-7902-0200-7902 (BCS & ENG).

⁴⁰⁸ C-020; Exhumation Report, ERN 0106-2529-0106-2542 (ENG); C-1113.

⁴⁰⁹ C-020.

⁴¹⁰ C-1129.

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Ulemek as a detention and interrogation centre. She was murdered and her body was thrown into an abandoned well in Dalj Planina.⁴¹¹

Murder of five non-Serb civilians from Klisa in Erdut on 11 November 1991 (paragraph 37 Indictment)

210. The village of Klisa is located in Eastern Slavonia, approximately 20 km south-east of the town of Osijek. In 1991 it had 419 inhabitants: 333 Serbs, 19 Yugoslavs, 55 Croats, and the rest undeclared or other nationalities.

211. In October 1991, Mihajlo Ulemek informed Arkan that there were Croats living close to the Klisa airfield. Arkan ordered Ulemek to bring these men to Erdut. On 11 November 1991, members of Arkan's unit led by Ulemek arrested seven non-Serb civilians and one Serb civilian in the village of Klisa. The detained civilians were transported to Erdut, where they were put in a house opposite the TO SBWS training centre. The Serb civilian was released when they discovered he was a Serb.⁴¹² The remaining seven prisoners were repeatedly interrogated and beaten and then taken to the TO SBWS training centre and interrogated and placed into a makeshift prison.⁴¹³ On 13 November 1991, two of the detainees who had Serb relatives were released.⁴¹⁴ The other five were executed and buried in a mass grave in the village of Čelije.⁴¹⁵

Murder of five non-Serb civilians in Erdut on 10 December 1991 (paragraph 39 Indictment)

212. On 10 December 1991, members of the TO of the SAO SBWS led by Arkan and members of the *milicija* of the SAO SBWS arrested five non-Serb villagers from Erdut.⁴¹⁶ The victims were taken to the TO training centre in Erdut and subsequently killed. The bodies of three of the victims were later disposed of in a well in Daljski Atar.⁴¹⁷

Murder of six Hungarian and Croat civilians in Erdut on 26 December 1991 (paragraph 40 Indictment)

213. Between 22 December 1991 and 25 December 1991 (during the Catholic Christmas holidays), members of the TO of the SAO SBWS led by Arkan and members of the *milicija* of the SAO SBWS arrested seven ethnic Hungarian and Croat civilians in Erdut and took

⁴¹¹ C-020.

⁴¹² C-1118; C-015; C-1089; C-1169.

⁴¹³ C-015; C-1169; C-1223.

⁴¹⁴ C-1169.

⁴¹⁵ Confirmations of Identification, ERN 0200-8181-0200-8193 (BCS); ERN 0200-8202-0200-8213 (BCS); ERN 0200-8194-0200-8201 (BCS); ERN 0200-8214-0200-8218 (BCS); ERN 0200-8219-0200-8226 (BCS).

⁴¹⁶ C-1075; C-1125.

⁴¹⁷ Exhumation Report, ERN 0207-2144-0207-2159 (ENG); C-1113.

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them to the TO training centre in Erdut. On 26 December 1991, they were shot and killed.⁴¹⁸
The bodies of six of the victims were buried in a mass grave in Daljski Atar.⁴¹⁹

Murder of four non-Serb civilians in Erdut on 21 February 1992 (paragraph 41 Indictment)

214. On 21 February 1992 Arkan and members of the SAO SBWS TO and the SAO SBWS *milicija* arrested four members of the Albert family in Erdut.⁴²⁰ They were all interrogated in the TO training centre in Erdut and then murdered. Their bodies were buried in a mass grave in Daljski Atar.⁴²¹

Dalj – murder of 11 Croats - paragraph 34 indictment - 21 September 1991

215. The Baranja region is situated in the north-east of Croatia, north of Vukovar. The ethnic composition of the Beli Manastir population in 1991 was 22,740 Croats; 13,851 Serbs; 8,956 Hungarians; 4,265 Yugoslavs, a total of 54,265 people.

216. In August 1991, the TO of SBWS, together with JNA units stationed in the territory, attacked and expelled Croatian Police from Beli Manastir. As a result, many Croats fled the region.

217. In early August 1991, a Serbian *milicija* was established in Dalj. In mid-September, Goran Hadžić brought approximately 25-30 Croat civilians to the Dalj *milicija* headquarters building. He said the prisoners were “Ustašas” from Baranja and that they would stand trial for horrible war crimes they had committed.⁴²²

218. During the night of 21 to 22 September 1991, Hadžić and Arkan visited the detention facility in Dalj along with approximately 20 of Arkan’s soldiers. They ordered the release of two of the detainees.⁴²³ Arkan and his men took the remaining eleven prisoners from the buildings and shot them. The bodies of seven of the eleven prisoners were later exhumed from a mass grave in the village of Čelije and in Daljski Atar.⁴²⁴ The commander of the Dalj police station prepared a report for his superiors detailing what had happened.⁴²⁵

⁴¹⁸ C-1051; C-1162.

⁴¹⁹ Exhumation Report, ERN 0207-2144-0207-2159 (ENG); C-1113.

⁴²⁰ C-020; C-1050.

⁴²¹ Exhumation Report, ERN 0207-2144-0207-2159 (ENG); C-1113.

⁴²² C-029; C-025.

⁴²³ C-029; C-013; C-1216.

⁴²⁴ C-1113; C-1214.

⁴²⁵ C-029; Official report from witnesses relating to Goran Hadžić and Arkan, dated August, 1991, September, 1991, and October 1991, ERN 0207-6365-0207-6367 (BCS), ERN ET 0207-6365-0207-6367 (ENG).

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Dalj – murder of 28 Croats - 4 October 1991 – paragraph 35

219. On 4 October 1991, again accompanied by approximately twenty of his soldiers, Arkan arrived at the Dalj *milicija* station. After ordering the policemen guarding the prisoners to leave, Arkan and his men shot or otherwise killed twenty-eight of the Croat civilian detainees, including prisoners taken by Serb forces in the Baranja region.⁴²⁶ The bodies of the victims were taken from the building and dumped into the nearby Danube River.⁴²⁷ Two bodies were found in the Danube in Novi Sad.⁴²⁸

220. Shortly afterwards, the commander of the police station wrote a report for his superiors informing them of Arkan murdering and removing at least twelve bodies from the station.⁴²⁹ Milorad Stričević, Security Officer of the TO Dalj, also signed a “receipt” for the prisoners he helped take out of the Dalj police station. At a public meeting in Dalj shortly after this incident, Arkan publicly admitted that he was responsible for removing and shooting these prisoners.⁴³⁰

Murder of 34 non-Serb detainees in Dalj on 20 November 1991 (paragraph 38 Indictment)

221. Between 18 and 20 November 1991, the JNA finalised the military operations in and around the town of Vukovar. Large numbers of Croatian soldiers surrendered to the JNA, but some of them threw away their weapons and changed into civilian clothes. Unarmed, they went to the Vukovar hospital, Borovo Komerc, and other areas that the JNA had designated for Vukovar civilians to gather before the evacuation of the town. The JNA organised buses and trucks to deport thousands of Croat and other non-Serb inhabitants of Vukovar into the territory of the Republic of Serbia. When the Government of SAO SBWS realised that Croats were being taken from the territory under their jurisdiction, Goran Hadžić demanded that the JNA hand over to them those men and women who were suspected of participation in the military operations.

222. On 20 November 1991, a large number of people were brought to the village of Dalj. Some of those people were turned over to the Dalj TO. They were screened by the TO members and those suspected of participating in the defence of Vukovar were selected for interrogation and detained in the TO detention facilities. There they were interrogated,

⁴²⁶ C-029; C-025.

⁴²⁷ C-1185.

⁴²⁸ C-1113; C-1214. The bodies of nineteen of the missing prisoners have been identified.

⁴²⁹ Official report from witnesses relating to Goran Hadžić and Arkan, dated August, 1991, September, 1991, and October 1991, ERN 0207-6365-0207-6367 (BCS), ERN ET 0207-6365-0207-6367 (ENG).

⁴³⁰ C-029.

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beaten and tortured. At least 34 were executed. The men killed were eventually buried in mass graves in Dalj Catholic Cemetery and at Dalj – Lovas Farm.⁴³¹

Vukovar Hospital

223. In the interests of time the Prosecution will not introduce evidence about the allegation in paragraph 33 of the indictment.

Crimes in Bosnia and Herzegovina

Bijeljina

224. In 1991 Muslims comprised 29.8% of the population of Bijeljina, but by 1997-1998 their presence had diminished to 2.6%.⁴³² Bijeljina was a key to the Bosnian Serb leadership's strategic goal of establishing a corridor between Serbia and the Krajina.⁴³³ In March 1991 Arkan's Tigers and Šešelj's men based themselves in the village of Amajlije, about 4 kilometres from Bijeljina, and trained and armed local Serb men in preparation for the take-over,⁴³⁴ which was one of the first conflicts of the war.

225. On 31 March 1992, Arkan and his Tigers and Serb forces, including Šešelj's men, attacked⁴³⁵ and took control of the town of Bijeljina.⁴³⁶ In Arkan's words, "the fighting was merciless".⁴³⁷ In the course of the attack at least 48 non-Serb men, women and children were killed.⁴³⁸

226. The paramilitaries in Bijeljina seemed to have more authority than the police.⁴³⁹ Members of the SDG entered the SJB, pretending to be instructors, using this as a pretext to

⁴³¹ C-1175; C-1194.

⁴³² Expert Report of Ewa Tabeau, maps, ERN 0340-4389-0340-4389 (BCS).

⁴³³ Decision on Strategic Goals by Krajišnik, 12/05/92, ERN 0114-5933-0114-6363 (BCS), ERN 0081-5457-0081-5457 (ENG).

⁴³⁴ B-1103.

⁴³⁵ Daily Operations Report of 17th Corps, 4 April 1992, ERN 0018-3969-0018-3970 (BCS), ERN 0096-1185-0096-1187 (ENG); Letter from Andan re: involvement of MUP in establishment of law and order in Bijeljina, 29/07/92, ERN 0084-5101-0084-5106 (BCS), ERN 0090-0120-0090-0124 (ENG).

⁴³⁶ MUP report on Bijeljina situation, 9 April 1992, ERN 0074-9558-0074-9563 (BCS), ERN L000-3856-L000-3858 (ENG); B-1003; Letter from Andan re: involvement of MUP in establishment of law and order in Bijeljina, 29 July 1992, ERN 0084-5101-0084-5106 (BCS), ERN 0090-0120-0090-0124 (ENG).

⁴³⁷ Newspaper article, 10 April 1992, ERN 0208-3273A-0208-3273B (BCS), ERN 0304-1695-0304-1699 (ENG).

⁴³⁸ B-1483; B-1003.

⁴³⁹ B-1003.

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engage, on a massive scale, in various kinds of abuse and flagrant violations of the law.⁴⁴⁰ Arkan's men in particular essentially controlled the regular police force.⁴⁴¹

227. General Janković engaged in discussions with the party leaders from 2 April 1992 and stated in his daily report on 4 April 1992 that "the town is controlled by the SDS and Arkan's men".⁴⁴² On 3 April 1992 the President of the Municipal Board of Bijeljina requested that the Main Board of the SDS and the organs of the Serbian Assembly ensure that the JNA refrain from engaging in conflict with the Serbs.⁴⁴³ Notably, on the day that the local SDS forwarded this request to the SDS leaders, a daily report to the General Staff of the JNA recorded that the "paramilitary units were increasing their activities" in Bijeljina.⁴⁴⁴ Consistent with the 3 April 1992 request, the daily report of 2 April 1992 recorded that "the MUP organs" had refused "to accept mixed patrols with JNA".⁴⁴⁵

228. In early April a shipment of police equipment arrived from Serbia.⁴⁴⁶ It was mandatory for police officers in Bijeljina to wear berets from Belgrade which were identical to the berets worn by the MUP Serbia.⁴⁴⁷ Red berets from Serbia were visible in Bijeljina from the beginning of the war.⁴⁴⁸ According to Ninković, of the Bijeljina Security Services Centre, "I managed to get a part of the supplies of berets and tri-colour badges from the MUP Serbia, and the police have been wearing them since the moment they appeared on the streets on 4 April 1992."⁴⁴⁹ Members of the Federal MUP were present in Bijeljina during the first week of April 1992.⁴⁵⁰ Federal SUP Coordinator Peter Mihajlović visited the police station on several occasions around April 1992.⁴⁵¹

229. On 4 April 1992 Biljana Plavšić came to Bijeljina and congratulated Arkan.⁴⁵² In the company of General Praščević and General Janković, she and Arkan discussed the take

⁴⁴⁰ Letter from Andan re: involvement of MUP in establishment of law and order in Bijeljina, 29 July 1992, ERN 0084-5101-0084-5106 (BCS), ERN 0090-0120-0090-0124 (ENG).

⁴⁴¹ B-1003.

⁴⁴² Video regarding attack on Bijeljina V000-1462-V000-1462, 5 April 1992; Daily Operations Report of 17th Corps, 4 April 1992, ERN 0018-3969-0018-3970 (BCS), ERN 0096-1185-0096-1187 (ENG).

⁴⁴³ Letter re: Decisions of Crisis Staff of SAO Semberija and Majevisa, 8 April 1992, ERN SA02-2698-SA02-2698 (BCS), ERN 0304-6742-0304-6742 (ENG).

⁴⁴⁴ Combat report re: rumours of dead Muslims in Bijeljina, 3 April 1992, ERN 0190-9993-0190-9996 (BCS), ERN 0018-4070-0018-4074 (ENG).

⁴⁴⁵ Military report notes fierce fighting in Bijeljina, 2 April 1992, ERN SA03-4210-SA03-4214 (BCS).

⁴⁴⁶ B-1003.

⁴⁴⁷ B-1003.

⁴⁴⁸ B-1453.

⁴⁴⁹ MUP report on Bijeljina situation, 9 April 1992, ERN 0074-9558-0074-9563 (BCS), ERN L000-3856-L000-3858 (ENG).

⁴⁵⁰ B-1003.

⁴⁵¹ MUP report on Bijeljina situation, 9 April 1992, ERN 0074-9558-0074-9563 (BCS), ERN L000-3856-L000-3858 (ENG).

⁴⁵² B-1488.

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over.⁴⁵³ General Janković informed Plavšić that “many, many more Muslims” were killed in the conflict than Serbs.⁴⁵⁴ Arkan refused to allow the army to take over the town, claiming that “first, I must clean out this place”.⁴⁵⁵ Arkan installed the SDS provisional government in Bijeljina and following his departure the SDS authority maintained control of the security forces.⁴⁵⁶ The local SDS authority reported to the Presidency of the Serbian Republic, Army Main Staff and the Ministry of Defence in respect to the situation in the municipality.⁴⁵⁷

230. The Serb authorities imposed a regime of persecutions against the non-Serbs after the take-over. In the early days of April 1992, members of Arkan's Tigers and the special units of the Serbia DB terrorised the civilian population by killing non-Serb civilians. People were raped, killed and forced to flee in fear.⁴⁵⁸ Many Muslim men were arrested, interrogated, beaten or tortured at the police station.⁴⁵⁹

231. On 29 July 1992 Karadžić received a report from the Bijeljina CSB describing the steps taken to control the situation in Bijeljina.⁴⁶⁰ In accordance with a decision of the RS Presidency and a specific direction from Mandić, numerous detention facilities were set up.⁴⁶¹ One of the major facilities in Bijeljina was at Batković, which was under the control of the VRS. Detainees in these facilities were subject to terrible conditions and continued maltreatment including beatings, torture and forced labour. Many were killed.⁴⁶² Whilst the municipality was under SDS control, all six mosques in Bijeljina were destroyed and city streets were renamed.⁴⁶³

⁴⁵³ Newspaper article, 10 April 1992, ERN 0208-3273A-0208-3273 (BCS), ERN 0304-1695-0304-1699 (ENG).

⁴⁵⁴ B-1488.

⁴⁵⁵ Newspaper article, 10 April 1992, ERN 0208-3273A-0208-3273 (BCS), ERN 0304-1695-0304-1699 (ENG).

⁴⁵⁶ Bijeljina Municipal Assembly Presidency, 30 August 1992, ERN 0074-9583-0074-9586 (BCS), ERN L000-4352-L000-4353 (ENG); Letter from the Chairman of SDS Municipal Board Bijeljina to Krajišnik, 22 November 1992, ERN 0084-5310-0084-5310 (BCS), ERN 0090-1084-0090-1084 (ENG).

⁴⁵⁷ Bijeljina Municipal Assembly Presidency, 30 August 1992, ERN 0074-9583-0074-9586 (BCS), ERN L000-4352-L000-4352 (ENG); Letter from the Chairman of SDS Municipal Board Bijeljina to Krajišnik, 22 November 1992, ERN 0084-5310-0084-5310 (BCS), ERN 0090-1084-0090-1084 (ENG).

⁴⁵⁸ Letter from Andan re: involvement of MUP in establishment of law and order in Bijeljina, 29 July 1992, ERN 0084-5101-0084-5106 (BCS), ERN 0090-0120-0090-0124 (ENG).

⁴⁵⁹ Letter from Andan re: involvement of MUP in establishment of law and order in Bijeljina, 29 July 1992, ERN 0084-5101-0084-5106 (BCS), ERN 0090-0120-0090-0124 (ENG).

⁴⁶⁰ Letter from Andan re: involvement of MUP in establishment of law and order in Bijeljina, 29 July 1992, ERN 0084-5101-0084-5106 (BCS), ERN 0090-0120-0090-0124 (ENG).

⁴⁶¹ Letter from M. Mandić to form penitentiaries, 1 May 1992, ERN 0109-2703-0109-2706 (BCS), ERN 0109-2703-0109-2706 (ENG); Schedule C of the Indictment in the case of *Prosecutor v Slobodan Milošević*, Case No. IT-02-54-T.

⁴⁶² B-1103.

⁴⁶³ A total of eleven mosques in the area, B-1750; B-1486; B-1453.

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Murders in Bijeljina in early April 1992

232. In the days following the take-over many civilians were killed in Bijeljina. One witness identifies at least 48 bodies in the streets shortly after the take-over,⁴⁶⁴ while others were killed in the vicinity of the SUP.⁴⁶⁵ Another learned that 41 civilians, including two children, were killed in the take-over: their names were announced by Radio Bijeljina and the Semberija newspaper.⁴⁶⁶

Deportation

233. Many thousands of non-Serbs were forcibly expelled from their homes and deported or forcibly transferred from the municipality, following the Serb take-over. On 22 August 1994, one witness was taken with his family and 30 or so other Muslim residents in a cattle truck towards Tuzla. Only 800-2,000 (5%) of Bijeljina's 30,000 Muslims remained.⁴⁶⁷ The population of Janja left because of the psychological pressure exerted on them following the take-over.⁴⁶⁸

Bosanski Šamac

234. The municipality of Bosanski Šamac, located in the north-eastern part of BiH, falls within the strategically important "Posavina Corridor" that linked Serbia proper to areas of Croatia and BiH with substantial ethnically Serb populations. For much of the indictment period, the Corridor was the sole route under Serb control linking the RSK and Serb-held territory in Western Bosnia with Serbia.⁴⁶⁹ In 1991 the census recorded the ethnic makeup of the municipality as 44.7% Croat, 41.5% Serb, 6.8% Muslim and 7% others.⁴⁷⁰

235. Following the 1990 municipal elections in Bosanski Šamac, in which no party won a majority, Blagoje Simić, President of the SDS, was made municipal Vice President.⁴⁷¹ The Serbian Autonomous District of Northern Bosnia was formed on 4 November 1991, and

⁴⁶⁴ B-1003.

⁴⁶⁵ B-161; B-1488.

⁴⁶⁶ B-1453.

⁴⁶⁷ B-1750.

⁴⁶⁸ B-1486.

⁴⁶⁹ B-1244.

⁴⁷⁰ The part of the municipality that would become RS Šamac after the Dayton Peace accords was 27% Croat, 10% Muslim, and 55% Serb; "Changes in the ethnic composition in Bosanski Šamac and Odžak, 1991 and 1997," Expert Report of Ewa Tabeau, ERN 0208-3390-0208-3431 (ENG).

⁴⁷¹ B-1636; Issue No. 7 of the Municipal Gazette 1990, Full edition, in particular items nos. 140, The results of the Elections, 147, The Appointment of the President of the Assembly; and 148, the Appointment of the Vice President of the Assembly, ERN 0045-6360-0045-6360 (BCS), ERN 0045-6513-0045-6513 (BCS), ERN 0046-4655-0046-4655 (ENG).

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Blagoje Simić was elected its President.⁴⁷² On 29 February 1992 the SDS established the "Serbian Municipality of Bosanski Šamac" and a municipal Assembly of the Serbian People.⁴⁷³ The SDS established a Crisis Staff on 28 March 1992, with Blagoje Simić as President and Stevan Todorović as chief of police.⁴⁷⁴

236. Militarily, Bosanski Šamac fell within the area of responsibility of the JNA's 17th Tactical Group, which was divided into four detachments. The JNA supplied the detachments with arms and uniforms. These Detachments assisted in securing the municipality and disarming the non-Serb populace during the take-over.⁴⁷⁵

237. In preparation for the forcible take-over by Serb forces, the Chief of Police in Bosanski Šamac, Miloš Bogdanović, the municipal Secretary for National Defence, and members of the local JNA command arranged for paramilitary units of the Serbian DB to be deployed to the municipality.⁴⁷⁶ In late February or early March 1992 the Chief of Police and Bogdanović travelled to Belgrade and met Colonel Jugoslav Maksimović of the Federal Secretariat for National Defence and Milan Prodanić of the DB.⁴⁷⁷ The Chief of Police and Bogdanović arranged to send a group of 20 local men from the Šamac area for special training at a DB-operated facility near Ilok in Eastern Slavonia.⁴⁷⁸

238. On 11 April 1992, over 50 Serbian DB-trained paramilitaries arrived by JNA helicopter in Batkuša, near Bosanski Šamac.⁴⁷⁹ The group consisted of the 20 locals who had been sent to Ilok for training, as well as around 30 Serbian Radical Party (SRS) "volunteers", mostly from Kragujevac in Serbia, who had been trained and armed at Ilok by the Serbian DB.⁴⁸⁰ Their commanders were Dragan Djordjević "Crni", Srećko Radovanović "Debeli" and Slobodan Miljković "Lugar" of the Serbian DB. Debeli had recruited and organised the Serbian volunteers on behalf of Šešelji's Radical Party. They wore camouflage uniforms, red

⁴⁷² Minutes of SAO for North Bosnia, 14 November 1991, ERN 0051-6372-0051-6372 (BCS), ERN 0051-6352-0051-6352 (ENG).

⁴⁷³ The decision to establish the Serbian municipality was made pursuant to the Decision on the Establishment of the Serbian Republic of Bosnia and Herzegovina, ERN 0052-6535-0052-6536 (ENG), ERN 0045-6125-0045-6127 (BCS). See also legislative history of the new Serbian municipality, ERN 0047-9557-0047-9579 (ENG), ERN 0045-6807-0045-6817 (BCS).

⁴⁷⁴ B-1244; ERN 0047-9557-0047-9579 (ENG), ERN 0045-6807-0045-6817 (BCS).

⁴⁷⁵ Report on the Morale of the 2nd Posavina Infantry Brigade, ERN 0074-9872-0074-9881(BCS), ERN 0301-3489-0301-3498 (ENG). Official note of an interview with Rajko Vujković, 31 July 1992 re: arming of Serbs in Odzak area, ERN Y000-5773-Y000-5784 (BCS), ERN Y001-9008-Y001-9016 (ENG); B-1636; B-1244.

⁴⁷⁶ B-1244; Banja Luka Military Court interview of Slobodan Miljković aka Lugar, ERN 0053-2868-0053-2874 (BCS), ERN 0305-0036-0305-0043 (ENG).

⁴⁷⁷ B-1244.

⁴⁷⁸ B-1244.

⁴⁷⁹ Waiting for them were Stevan Todorović and officers of the JNA's 17th Tactical Group, B-1244.

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berets, and Grey Wolf patches. The day after their arrival SDS and JNA leaders met the leaders of the special forces,⁴⁸¹ and soon after the special forces were integrated into the 17th Tactical Group – with the agreement of the local JNA command, the Crisis Staff, and Chief of Police.⁴⁸²

239. On 17 April 1992 special units of the DB and Serbian police under the command of the Chief of Police and sections of the JNA attacked the town of Bosanski Šamac, quickly taking over the town and neighbouring areas.⁴⁸³ Blagoje Simić was appointed President of the Crisis Staff on the same day.⁴⁸⁴ The Crisis Staff issued an order for all “members of Ustasha and Muslim formations” to surrender their weapons.⁴⁸⁵

240. The Serb forces now controlling Bosanski Šamac introduced a regime of persecutions which included arbitrary arrest and detention, forced labour,⁴⁸⁶ and the implementation of discriminatory policies against the non-Serbs.⁴⁸⁷ The Serbian special forces and the police (with some assistance from the JNA), arrested and detained non-Serb males, in particular, the most influential Muslims and Croats. In the first week they arrested and detained about sixty civilians at the police station (SUP) and the TO Building. Over the next few months several hundred more Muslim and Croat men were arrested and detained in makeshift detention centres operated by the police and Crisis Staff - the SUP, TO, and the primary and secondary

⁴⁸⁰ B-1244; Banja Luka Military Court interview of Blagoje Šimić, ERN 0067-1202-0067-1205 (ENG), ERN 0057-2330-0057-2332 (BCS). According to B-1244, some of the men (such as Aleksandar Vuković, killed 1 May 1992) were Knindas from Krajina.

⁴⁸¹ B-1244.

⁴⁸² Report on morale by officers of the 2nd Posavina Brigade, ERN 0074-9872-0074-9881 (BCS), ERN 0301-3489-0301-3498 (ENG); Banja Luka Military Court interview of Blagoje Šimić, 0067-1202-0067-1205 (ENG), ERN 0057-2330-0057-2332 (BCS); Banja Luka Military Court interview of Dragan Đorđević aka Crni, ERN 0053-2862-0053-2867 (BCS); Banja Luka Military Court interview of Slobodan Miljković aka Lugar, ERN 0053-2868-0053-2874 (BCS), ERN 0305-0036-0305-0043 (ENG).

⁴⁸³ B-1636; B-1626; Banja Luka Military Court interview of Slobodan Miljković aka Lugar, ERN 0053-2868-0053-2874 (BCS), ERN 0305-0036-0305-0043 (ENG); Report on morale by officers of the 2nd Posavina Brigade, ERN 0074-9872-0074-9881 (BCS), ERN 0301-3489-0301-3498 (ENG); B-1244; Reports from the 17th TG confirmed the take-over and requested the fly over of combat aircraft to “intimidate the enemy” in Bosanski Šamac, Document to the 2nd Military District Command re: the take-over of Bosanski Šamac, 17th Corps Headquarters, 17/04/92, ERN 0051-6367-0051-6367 (BCS), ERN 0051-6360-0051-6360 (ENG); JNA 17th Corps HQ Request to 2nd Military District for flyover of Bosanski Šamac, 17/04/92, ERN 0051-6366-0051-6366 (BCS), 0051-6361-0051-6361 (ENG); Daily Operational Report 17th Corps Command, 18/04/92, ERN 0018-3953-0018-3953 (BCS), ERN 0051-6202-0051-6202 (ENG).

⁴⁸⁴ Order appointing Blagoje Simić as President of the CS, 17/04/92, ERN 0061-2210-0061-2210 (BCS), ERN 0053-5831-0053-5831 (ENG).

⁴⁸⁵ Order of the Municipal Assembly to all “Ustasha and Muslim formations” to turn in their weapons, 17/04/92, ERN 0045-6270-0045-6270 (BCS), ERN 0052-6532-0052-6532 (ENG).

⁴⁸⁶ The non-Serb males who were not detained were ordered to report daily for forced labour, often digging trenches and building bunkers on the combat lines separating Serb military forces from Croatian and Muslim units. Forced labour assignments were ordered by the Šamac Crisis Staff and its organs pursuant to a Decree on Organizing and Implementing the Work Obligation, issued by the Serbian Republic of BiH on 8 June 1992, ERN Y001-7342-Y001-7344 (BCS), ERN Y001-7336-Y001-7338 (ENG).

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school.⁴⁸⁸ The detainees were subject to psychological, physical, and sexual abuse by the police and Serbian special forces.⁴⁸⁹

241. On 26 April 1992, Lugar murdered Anto Brandić a Croat detained at the SUP, by beating him with a wooden club and then shooting him.⁴⁹⁰

242. On 7 May 1992, approximately 50 Croat and Muslim prisoners were taken by police to a warehouse in the village of Crkvina, near Bosanski Šamac. Late that evening, members of the special units of the Serbian DB including the unit's commanders, Lugar and Crni went into the warehouse. Lugar and Crni beat the non-Serb detainees and shot 16 of them to death. Prisoners who survived the massacre were ordered to clean the blood and brain tissue off the floor and to bury the bodies of the dead in a mass grave.⁴⁹¹

243. The Serbian paramilitary forces also participated in the deportation of non-Serbs from Bosanski Šamac. By 1997, the part of the municipality which had become the municipality of Srpski Šamac was 92% Serb.⁴⁹² Croats and Muslims had largely disappeared from the territory of the new Serb municipality.

244. The Serb forces which took over Bosanski Šamac on 17 April 1992, including SRS volunteers and special units of the DB, effected the cleansing of the municipality of its non-Serb civilians through violence, mass imprisonment, and deportation. Following their arrest and abuse in the detention camps in the municipality and elsewhere, Muslims and Croats were deported to Croatia or transferred to other parts of BiH as part of a series of "exchanges". In some cases, people were forced to be exchanged. In other cases, they were "asked" whether they wished to leave the area, but in an environment of fear that vitiated any possibility of real choice. Most of the men, women, and children imprisoned in the TO, the SJB, the schools complex, and Zasavica were exchanged by the Serb authorities for Serbs from other parts of BiH and Croatia.⁴⁹³

245. On 26 April 1992, 52 prisoners from the SUP and TO were transferred to the JNA barracks at Brčko, in eastern BiH; a week later they were moved to the JNA barracks in

⁴⁸⁷ For example, three or more non-Serbs were forbidden from gathering in public places, B-1244; B-1643; Order of 4 August 1992, ERN 0025-7775-0025-7775 (ENG), ERN 0025-7774-0025-7774 (BCS).

⁴⁸⁸ B-1244; see especially Crisis Staff order of 15 May 1992 re: isolation of Croats, ERN 0061-5788-0061-5788 (ENG), ERN 0061-1202-0061-1202 (BCS); B-1636.

⁴⁸⁹ B-1244; B-1637; B-1636; B-1643; Report on morale by officers of the 2nd Posavina Brigade, ERN 0074-9872-0074-9881 (BCS), ERN 0301-3489-0301-3498 (ENG).

⁴⁹⁰ B-1636; B-1637; B-1244.

⁴⁹¹ B-1108; B-1643; B-1637; B-1244.

⁴⁹² "Changes in the ethnic composition in Bosanski Šamac and Odžak, 1991 and 1997," Expert Report of Ewa Tabeau, ERN 0208-3390-0208-3431 (ENG).

⁴⁹³ B-1626; B-1637; B-1643; B-1639; B-1244.

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Bijeljina. On 13 May 1992, most of the prisoners were moved back to camps at the primary and secondary schools in Bosanski Šamac, though others were transferred to JNA facilities in Serbia. On 3 May 1992, several prominent non-Serbs from Bosanski Šamac were transferred to a JNA base at Batajnica, in Serbia, and on 27 May some of the prisoners were taken to the JNA's Sremska Mitrovica prison in Serbia, where they were held until they were exchanged later in the year. At each of these locations, the prisoners were subject to a similar regime of severe physical and psychological abuse, including torture and confinement under inhumane conditions.⁴⁹⁴

246. In late April or early May 1992, Todorović drove Crni to Belgrade to report to Simatović on the unit's activities. Simatović asked Crni to file a written report.⁴⁹⁵ In May or June 1992, a delegation from the Bosanski Šamac Crisis Staff travelled to Belgrade to discuss Crni's recent appointment as commander of the 2nd Posavina Brigade of the East Bosnia Corps. They met at the RViPVO HQ in Zemun, with Franko Simatović, General Bajić, and Colonel Jeremić; in the course of the meeting a phone call was made to General Mladić.⁴⁹⁶

247. The East Bosnia Corps arrested Crni in the summer of 1992. Crni asked Todorović to contact Simatović to arrange his release. Todorović travelled to Belgrade but, unable to find Simatović, informed Stanišić, who said that he would telex the VRS to release Crni. Several days later he was released. Debeli then succeeded Crni as commander of the Posavina Brigade.⁴⁹⁷

248. The DB unit briefly left Bosanski Šamac in August 1992, but returned with Crni as its commander in October 1992, at the request of the Bosanski Šamac War Presidency. The request for the unit's return was delivered to Milan Prodanić and Fića Filipović of the Serbian DB, and members of the unit returned with the approval of the DB; General Bajić of the RViPVO; and Colonel Novica Simić and Lt. Colonel Mile Beronja of the VRS East Bosnia Corps. Upon its return to the area, the unit was named the Assault Battalion of the VRS 2nd Posavina Brigade.⁴⁹⁸

⁴⁹⁴ B-1636; B-1637; B-1639; B-1643; B-1244. Video Footage from Novi Sad TV of Prisoners, ERN V000-0259-V000-0259 (BCS), ERN 0069-3536-0069-3537 (BCS), ERN 0069-3538-0069-3538 (ENG).

⁴⁹⁵ B-1244.

⁴⁹⁶ B-1244.

⁴⁹⁷ B-1244.

⁴⁹⁸ Banja Luka Military Court interview of Novica Simić, ERN 0067-8208-0067-8211 (ENG), ERN 0057-2326-0057-2329 (BCS); Banja Luka Military Court interview of Blagoje Šimić, ERN 0067-1202-0067-1205 (ENG), ERN 0057-2330-0057-2332 (BCS); Banja Luka Military Court interview of Dragan Đorđević aka Crni, ERN 0053-2862-0053-2867 (BCS); Banja Luka Military Court interview of Slobodan Miljković aka Lugar, ERN 0053-2868-0053-2874 (BCS), ERN 0305-0036-0305-0043 (ENG); Report on morale by officers of the 2nd Posavina Brigade, ERN 0074-9872-0074-9881 (BCS), ERN 0301-9489-0301-3498 (ENG); B-1244.

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Doboj

249. The municipality of Doboj is located in the northern part of Bosnia, west of the entry to the “Posavina corridor”.⁴⁹⁹

250. According to the 1991 census Doboj was populated by 40% Muslims, 39% Serbs, 12,93% Croats and about 8% others.⁵⁰⁰ Doboj was the site of several JNA installations, and the regional CSB for Northern Bosnia.⁵⁰¹ Like Bijeljina and Bosanski Šamac, Doboj was a critical part of the corridor linking Serbia to Serb-controlled regions in Croatia and Bosnia.

251. During the Bosnian Serb Assembly session of 11 December 1991, Andrija Bjelošević, the CSB chief from Doboj, underlined the importance of the municipality to the corridor.⁵⁰²

252. In January and February 1992 units of Arkan’s paramilitaries and Šešelj’s White Eagles arrived in Doboj.⁵⁰³ There were approximately 500 White Eagles in Doboj.⁵⁰⁴ Other paramilitaries in Doboj were the Wolves from Vučjak Mountain, Predini Vukovi, the Martićevci from the Krajina, and Knindžas from Knin.⁵⁰⁵ Local Serbs were also trained by the Montenegrin Red Berets.⁵⁰⁶ Some paramilitary units were also set up and trained by the SDS.⁵⁰⁷ Special units of the Serbian DB established a training centre for local Serb forces at Mt. Ozren in the municipality of Doboj in early 1992.⁵⁰⁸ Paramilitary formations on Mt. Ozren included the “Cobras” led by Petar Petrušić and the “Wolves” commanded by Predo Kujundžić.⁵⁰⁹

253. By April 1992 the SDS had secretly formed a Crisis Staff in Doboj,⁵¹⁰ and the President of Doboj municipality was asked to form a regional TO staff.⁵¹¹ In spring 1992 non-Serbs were dismissed from work.⁵¹² Around the same time Serb forces erected

⁴⁹⁹ Report by the VRS 1 KK Corps, 20/06/92, ERN 0090-0792-0090-0795 (BCS), ERN 0090-4907-0090-4909 (ENG).

⁵⁰⁰ 1991 census, 1994, ERN 0357-8100-0357-8550 (BCS), ERN 0044-3829-0044-3829 (ENG).

⁵⁰¹ VRS GS order for organisational changes to the VRS, 03/07/92, ERN 0082-0936-0082-0943 (BCS), ERN 0300-5262-0300-5262 (ENG).

⁵⁰² Minutes of 3rd session of the Serbian Assembly, 11/12/91, ERN SA02-4931-SA02-5059 (BCS).

⁵⁰³ B-1445; B-1456; B-1746.

⁵⁰⁴ B-1445.

⁵⁰⁵ B-1115.

⁵⁰⁶ B-1115.

⁵⁰⁷ B-1456.

⁵⁰⁸ B-1115; Kula camp video, ERN V000-3533-V000-3533, transcript ERN R018-5499-R018-5518 (BCS), ERN R018-5519-R018-5532 (ENG), as corrected by B-073 ERN R041-9022-R041-9041 (BCS), ERN R041-9008-R041-9021 (ENG).

⁵⁰⁹ Report re: paramilitaries in Doboj, ERN L000-3902-L000-3903 (ENG).

⁵¹⁰ B-1445; B-1456.

⁵¹¹ A letter to President of Doboj municipality regarding forming of regional TO staff, 14/04/92, ERN SA03-4902-SA03-4902 (BCS).

⁵¹² B-1778.

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checkpoints in the Doboj municipality.⁵¹³ SDA efforts to have ethnically mixed police manning the checkpoints failed.⁵¹⁴ Restrictions on movement were imposed upon all Muslims⁵¹⁵ and the non-Serb population was disarmed.⁵¹⁶ Even before the official take-over of Doboj began, Muslim property was destroyed and Muslims were beaten.⁵¹⁷ A few days before the take-over of Doboj, Šešelj's troops took over the area of Ankare.⁵¹⁸

254. On or about the night of 2 May 1992 Serb forces, including the paramilitary special units of the Serbian DB, attacked and took control of the undefended town,⁵¹⁹ occupying vital municipal institutions and cutting telephone lines.⁵²⁰

255. The paramilitaries were based in the JNA barracks in Doboj.⁵²¹ Arkan's men and Šešelj's men were particularly noticeable.⁵²² A checkpoint was set up at the entrance of the hospital.⁵²³ Over the next few weeks Serb forces attacked different towns and villages in the municipality. Once the radio station was taken over it was announced that a Serb Crisis Staff would exist, that movement was restricted, and the population was requested to turn in their weapons.⁵²⁴ More than 15,000 non-Serbs escaped towards Tešelj.⁵²⁵

256. The Serb forces established a regime of persecutions against the non-Serbs and began the process of deporting them from the municipality. The non-Serbs who did not flee the town were targeted in various ways by the Serb forces that harassed, beat, arrested, interrogated and killed them.⁵²⁶ Many examples of serious harassment of the non-Serb population are contained in the Report on the work of the Doboj CSB.⁵²⁷ Soldiers wearing camouflage uniforms and red berets with "four Cyrillic S" insignia entered the town and beat people.⁵²⁸ The Red Berets, White Eagles and Special Forces committed many crimes. They arrested men, raped women and looted property.⁵²⁹ Women were brutally raped by soldiers,

⁵¹³ B-1457; B-1116.

⁵¹⁴ B-1445; B-1456; Regular report by the BiH Regional Intelligence Centre, Doboj, on the explosion on 09/03/92, ERN SA04-0275-SA04-0275 (BCS).

⁵¹⁵ B-1778.

⁵¹⁶ B-1116; B-1778.

⁵¹⁷ B-1445.

⁵¹⁸ B-1445.

⁵¹⁹ B-1777; B-1778.

⁵²⁰ B-1746; B-1778.

⁵²¹ B-1746.

⁵²² B-1445.

⁵²³ B-1778.

⁵²⁴ B-1456; B-1116.

⁵²⁵ B-1116.

⁵²⁶ Military Situation Report No. 133/92, 17/05/92, ERN 0084-9896-0084-9897 (BCS), ERN 0086-9428-0086-9428 (ENG); B-1116.

⁵²⁷ Report on work of the Doboj CSB, 01/10/92, ERN 0074-9711-0074-9716 (BCS); B-1456.

⁵²⁸ B-1778.

⁵²⁹ B-1746; B-1116.

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some in camouflage uniforms, who were never properly penalised for their crimes.⁵³⁰ Many flats in Doboj were searched, and many Muslim and Croatian citizens were arrested. During searches and arrests there was incorrect behaviour by so-called “Special Forces of the Serbian Armed Formations”.⁵³¹ A large number of private houses owned mainly by Muslim and Croatian citizens were seriously damaged.⁵³² Three mosques and the Catholic church in Doboj town were destroyed in 1992.⁵³³

257. A CSB officer recommended informing political and military authorities about the lawless conditions in Doboj.⁵³⁴ On 8 May 1992 Radislav Vukić, the President of the SAO regional board, announced that Doboj had been liberated.⁵³⁵ Despite heavy resistance Serb forces reported that their take over of the municipality was a success and that numbers of Muslims and Croats had been arrested and their property expropriated.⁵³⁶ The “Wolves from Vučjak” were responsible for mopping up the territory.⁵³⁷

258. Serb forces, including special units of the Serbian DB, detained non-Serb civilians in several locations in Doboj.⁵³⁸ The regular and military police were in charge of the camps.⁵³⁹ Members of the special units of the Serbian DB entered these facilities and killed detainees.⁵⁴⁰ Soldiers wearing red berets and members of other forces seriously mistreated prisoners in these camps.⁵⁴¹

259. The Serb forces established a detention facility at Bare, a former JNA facility, in May 1992.⁵⁴² The men were kept in pig stalls with the pigs,⁵⁴³ forced to work very long hours and

⁵³⁰ B-1746; B-1456; Military Situation Report, No.133/92, 17/05/92, ERN 0084-9896-0084-9897 (BCS), ERN 0086-9428-0086-9429 (ENG).

⁵³¹ Military Situation Report, No.133/92, 17/05/92, ERN 0084-9896-0084-9897 (BCS), ERN 0086-9428-0086-9429 (ENG).

⁵³² B-1746; B-1456; Military Situation Report, No.133/92, 17/05/92, ERN 0084-9896-0084-9897 (BCS), ERN 0086-9428-0086-9428 (ENG).

⁵³³ B-1445.

⁵³⁴ Report by Miloš, 03/06/92, ERN B107-9275-B107-9276 (BCS), ERN 0190-3187-0190-3187 (ENG).

⁵³⁵ Typed diary dated January 1, 1992-May 13, 1993, ERN 0210-5677-0210-6076 (BCS).

⁵³⁶ Military report No. 133/92 17/05/92, ERN 0084-9896-0084-9897 (BCS), ERN 0086-9428-0086-9429 (ENG); Report by Miloš, 03/06/92, ERN B107-9275-B107-9276 (BCS), ERN 0190-3187-0190-3187 (ENG); Report of VRS 1KK 20/06/92 ERN 0090-0792-0090-0795 (BCS), ERN 0090-4907-0090-4909 (ENG).

⁵³⁷ BL Radio news, 08/05/92, Doboj is liberated and Vukovi sa Vučijaka /Wolves from Vučijak/ are mopping up the territory, ERN 0210-5694-0210-5697 (BCS).

⁵³⁸ B-1777; B-1778; B-1115.

⁵³⁹ Report by Bjelošević, Doboj CSB, on activities of paramilitary formations, responding to the 19/07/92 request, ERN 0074-1316-0074-1321 (BCS), ERN 0302-5623-0302-5625 (ENG); Report on work of the Doboj CSB, 27/07/92, ERN 0074-1316-0074-1321 (BCS), ERN 0302-5623-0302-5625 (ENG); Report 01/10/92, ERN 0074-9711-0074-9716 (BCS).

⁵⁴⁰ B-1779.

⁵⁴¹ B-1457; B-1115.

⁵⁴² B-1115; B-1116.

⁵⁴³ B-1116.

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to compromise their religious beliefs by eating pork fat.⁵⁴⁴ People were also severely beaten at the Doboј SJB, and then transferred to Spreča Prison.⁵⁴⁵ Military policemen wearing red berets beat people in the police station.⁵⁴⁶ Police ran this camp, which consisted of eight cells and housed up to 100 prisoners. At night, prisoners were taken out of their cells and never seen again.⁵⁴⁷ The Red Berets would come to the prison almost daily and beat the prisoners.⁵⁴⁸ Usora Camp was located on the premises of former JNA barracks and housed between 50 and 220 prisoners in one warehouse.⁵⁴⁹ People were transported to Usora in the luggage compartments of buses. Conditions were bad, there was a lack of food and people were beaten.⁵⁵⁰ Some of the men were transferred to an agricultural estate in furniture trucks for the purposes of forced labour.⁵⁵¹ Perčin's Disco was converted into a camp run by the Bosnian Serb police and at one time held at least 200 detainees.⁵⁵² Prisoners were beaten by different soldiers, some of whom wore red berets.⁵⁵³ They were forced to beat one another and carry out acts of gross sexual indecency upon one another.⁵⁵⁴ In addition, prisoners were forced to collect and bury human and animal corpses from surrounding villages.⁵⁵⁵ Detainees were also sent to the front lines to perform forced labour under difficult and dangerous conditions.⁵⁵⁶

260. On or about 12 July 1992, Serb forces, including special units of the Serbian DB, used non-Serb detainees from Perčin's Disco as human shields. They ordered 50 inmates to walk towards a frontline between ABiH and Serb forces. One of the soldiers shot a prisoner in the head to encourage the others to keep walking. The ABiH called to the prisoners to run towards them. As they did, the Serb forces shot at them, killing approximately twenty-seven civilians.⁵⁵⁷

⁵⁴⁴ B-1457.

⁵⁴⁵ B-1116; B-1457.

⁵⁴⁶ B-1746; B-1777.

⁵⁴⁷ B-1115; B-1457; B-1116.

⁵⁴⁸ B-1746; B-1777

⁵⁴⁹ B-1115.

⁵⁵⁰ B-1778; B-1457.

⁵⁵¹ B-1778.

⁵⁵² B-1457; B-1778

⁵⁵³ B-1459.

⁵⁵⁴ B-1457.

⁵⁵⁵ B-1778.

⁵⁵⁶ Letter to Karadžić from the International Committee of the Red Cross, 26 November 1993, ERN 0047-1180-0047-1187 (BCS).

⁵⁵⁷ B-1778; B-1459.

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Sanski Most

261. In 1991 Sanski Most had a population of just over 50,000 of which 45.4% were Muslim.⁵⁵⁸ On 26 May 1992 Serb paramilitary units, including Red Berets, and JNA troops attacked and took over Sanski Most. Over the next few months, these forces expelled the Muslim inhabitants of villages in the municipality, including Mahala, Hrustova and Vrhpolje.⁵⁵⁹

262. In mid 1995 ABiH troop advances threatened to overtake the municipality of Sanski Most. In September 1995, to stop the ABiH army advances, the municipal President Nedeljko Rašula called in Arkan's men from Serbia.⁵⁶⁰ They arrived in large number and rounded up the remaining Muslim male population, arrested them and incarcerated them in the Hotel "Sanus" in Sanski Most on about 19 September 1995.⁵⁶¹ About 30 Muslim men were imprisoned in a small "boiler room", in extremely cramped and unhygienic conditions, and were severely beaten by their captors. As a result of the severe beatings two of the men died.⁵⁶²

263. On about 20 September 1995 in the early morning hours, Arkan's men took several of the men who were held at the Hotel by bus to an abandoned house in the village of Trnova, close to Sanski Most, where they were executed two at a time. All victims were shot in the back except two victims who had their throats cut. In order to ascertain that the victims were all dead, final shots in the head were used. Only one person survived.⁵⁶³

264. On about 21 September 1995 Arkan's men took another group of thirty or more prisoners in a bus to Sasina, where a similar mass-execution took place.⁵⁶⁴ After several days the remaining prisoners of the "boiler room" at the Hotel were transferred to another prison camp in the Sanakeram, a former ceramic tiles factory. The prisoners were again physically and psychologically abused, and another 10 men were executed. On 10 October 1995 the ABiH took over the terrain and freed the prisoners.⁵⁶⁵

⁵⁵⁸ Maps referenced in the Expert Report of Ewa Tabeau, ERN 0340-4389-0340-4389.

⁵⁵⁹ B-108.

⁵⁶⁰ B-1742; Report by Chief of SJB Sanski Most, 01/10/95, ERN 0045-1852-0045-1854 (BCS); Decision of Lower Belgrade Court, re: Nikola Ballić had been unlawfully arrested and detained when he was taken to the BiH border and handed over to men from Arkan's unit, trained, serving in Sanski Most in unit of VRS, 3/06/97, ERN 0051-1972-0051-1973 (BCS), ERN L000-7207-L000-7209 (ENG). For further detail regarding the Banja Luka operation see above.

⁵⁶¹ B-1047.

⁵⁶² B-1048.

⁵⁶³ B-1047.

⁵⁶⁴ B-1049; B-1048.

⁵⁶⁵ B-1048.

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265. In the interests of time the Prosecution will not introduce evidence about the allegation in paragraph 53 of the indictment.

Zvornik

266. In 1991 the municipality of Zvornik, including the predominantly Muslim villages of Liplje, Drinjača, Kozluk and Divić, was 59% Muslim and 38% Serb.⁵⁶⁶ The local SDS made its final preparations for the take-over of Zvornik in late 1991.⁵⁶⁷

267. In early April 1992 a large JNA military build occurred on the opposite side of the Drina River on Serbian territory.⁵⁶⁸ Serbs left Zvornik and Serb-owned shops and businesses shut down. At the same time, Serbian paramilitary units arrived in Zvornik municipality and “Arkanovići”, headed by Arkan personally, took over the Alhos Textile Factory in an industrial area of Karakaj.⁵⁶⁹ On about 5 April 1992, Serbian paramilitary began erecting barricades around the vicinity of Kozluk.⁵⁷⁰ On about 5 or 6 April 1992, at the Alhos Textile Factory, Arkan selected about six civilians and told them that they were to be responsible for collecting bodies and bringing them back to the factory.⁵⁷¹ On or about 7 April 1992 Arkan met Muslim community leaders at Hotel “Jezero” in Mali Zvornik and gave them an ultimatum to surrender or the town would be attacked by troops stationed on the other side of the Drina River.⁵⁷²

268. On 8 April 1992 a state of war was declared and general mobilisation was ordered.⁵⁷³ A report prepared by the Zvornik SJB records that Serbian people left Zvornik for Karakaj on 5 April 1992.⁵⁷⁴ On 9 April 1992 Serb forces, including Arkan’s troops and JNA units launched the take-over of Zvornik. During the attack they killed many civilians.⁵⁷⁵ In the week following the take-over, one witness collected, in a truck provided by the

⁵⁶⁶ 1991 Census, dated 1994, ERN 0357-8100-0357-8550 (BCS & ENG).

⁵⁶⁷ Hand written announcement by the SDS Zvornik Municipal Board, 12/05/91, ERN SA04-1219-SA04-1222 (BCS); Announcement by Municipal Board of SDS, Zvornik, 30/05/91, ERN SA02-1015-SA02-1020 (BCS), ERN SA04-1217-SA04-1218 (BCS).

⁵⁶⁸ B-1769.

⁵⁶⁹ B-1769.

⁵⁷⁰ B-1462.

⁵⁷¹ B-1775.

⁵⁷² B-1237; B-1769.

⁵⁷³ Article from *Srpski Glas*, 14/05/92, ERN 0208-3639-0208-3640 (BCS), ERN 0303-1292-0303-1294 (ENG).

⁵⁷⁴ Assessment of the security in Zvornik, ERN 0074-9729-0074-9734 (BCS).

⁵⁷⁵ B-1237; Cable of the Command of the 17th Corps, strictly confidential No.11/43-477, 10/04/92, ERN SA03-6013-SA03-6014 (BCS & ENG); Signed request for artillery support to 2nd MD, Gen Janković requesting artillery support from Serbia, 10/04/92, ERN 0021-2318-0021-2318 (BCS); stamped and highly

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paramilitaries, the bodies of about fifty Muslim men (half of whom were in civilian clothing) from within Zvornik and took them to Alhos.⁵⁷⁶

269. SDS President Brano Grujić informed Muslims that there was no place for them in Zvornik.⁵⁷⁷ On 10 April 1992, the Muslims of Kozluk received instructions to hand over their weapons.⁵⁷⁸ On 18 April 1992 the Bijeljina CSB reported to the MUP that the city was under the control of the Serbian police, and being cleansed.⁵⁷⁹ Around May and June 1992 a witness made approximately ten trips collecting bodies from the Karakaj Technical School and taking them to Gero's slaughterhouse, also in Karakaj.⁵⁸⁰ The same witness made about four trips carrying bodies from Alhos to the Muslim cemetery in April and May 1992.⁵⁸¹

270. The paramilitary units, the JNA and the new Serb authorities instituted a regime of persecutions against the non-Serbs, which included detention, torture, murder and deportation.

271. On or about 26 June 1992, during a Crisis Staff meeting, Brano Grujić and other Serbian representatives ordered that all Muslims leave Kozluk within one hour pursuant to the deportation order issued in the name of Major Pavlović/Popović.⁵⁸² The Muslim inhabitants of Kozluk were gathered in front of the Dom Kulture before their expulsion, and were told by Brano Grujić that they would have to leave their property behind.⁵⁸³ The Muslim inhabitants were ordered to sign documents stating that they were willingly signing over their property to the Serb Municipality of Zvornik.⁵⁸⁴ The convoy of deportees was first sent to Serbia; then, as part of a prearranged plan, put on trains to Subotica-Serbia to Hungary and Austria.⁵⁸⁵

272. Other crimes in Zvornik included forced labour, the destruction of mosques, and the deportation of around 1,822 people from the village of Kozluk on or around 26 June 1992.⁵⁸⁶ The deportation of villagers from Kozluk was conducted by the Zvornik Infantry Brigade of

confidential intelligence reports re: JNA activities in BiH, 25/04/92, ERN SA00-4408-SA00-4410 (BCS), ERN SA03-3372-SA03-3374 (BCS).

⁵⁷⁶ B-1775.

⁵⁷⁷ B-1058.

⁵⁷⁸ B-1462.

⁵⁷⁹ Report on security situation in Zvornik and Brčko, 18/04/92, ERN 0074-1374-0074-1377 (BCS), ERN L000-4862-L000-4862 (ENG).

⁵⁸⁰ B-1775.

⁵⁸¹ B-1775 – estimating that he carried between ten and fifteen bodies on each occasion.

⁵⁸² B-1517.

⁵⁸³ B-1517.

⁵⁸⁴ B-1517.

⁵⁸⁵ B-1517.

⁵⁸⁶ B-1517.

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the VRS and the SDS president Branko Grujić was present.⁵⁸⁷ A letter to Radovan Karadžić dated 14 December 1992 from the President of the Serb municipality of Zvornik demonstrates that the local SDS members contacted Karadžić to resolve problems with the local Serbian police or the local main board.⁵⁸⁸

L E G A L A N A L Y S I S

Modes of Criminal Responsibility Under Article 7 of the Statute

Individual Criminal Responsibility Under Article 7 (1)

273. The Indictment charges Stanišić and Simatović with individual criminal responsibility under Article 7(1) in relation to all counts: Specifically, that they each planned, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of the crimes. They are also charged with participating, with known and unknown co-perpetrators, in a joint criminal enterprise with the objective of the forcible removal of the majority of non-Serbs from targeted areas of Croatia and BiH through the commission of crimes.⁵⁸⁹

“Committed”

274. “Committing” covers physically perpetrating a crime or engendering a culpable omission in violation of criminal law,” whether alone or jointly with co-perpetrators.⁵⁹⁰ Several perpetrators may “commit” the same crime if each individual fulfils the requisite elements of the substantive offence.⁵⁹¹ “Committed” as used in the Indictment, refers to their participation in a joint criminal enterprise as co-perpetrators.⁵⁹²

275. The principles of a common criminal plan, design or purpose, *i.e.*, joint criminal enterprise, articulate a mode of individual criminal responsibility encompassed by Article 7(1) of the Statute,⁵⁹³ in which one person can be criminally responsible for the acts of another where both participate in a common criminal plan.⁵⁹⁴

⁵⁸⁷ B-1517.

⁵⁸⁸ Document regarding problems facing Zvornik municipality, dated 14/12/92, ERN 0084-5277-0084-5278 (BCS).

⁵⁸⁹ The Accused are liable as co-perpetrators in the joint criminal enterprise, or alternatively as aiders and abettors to it.

⁵⁹⁰ *Prosecutor v. Radoslav Krstić*, Judgement, Case No. IT-98-33-T, 2 August 2001 (hereinafter *Krstić* Trial Judgement), para. 601; *Prosecutor v. Dragoljub Kunarac et al.*, Judgement, Case Nos. IT-96-23-T & IT-96-23/1-T, 22 February 2001 (hereinafter *Kunarac* Trial Judgement), para. 390.

⁵⁹¹ *Kunarac* Trial Judgement, para. 390.

⁵⁹² See *Krstić* Trial Judgement, para. 601 and note 1346.

⁵⁹³ *Prosecutor v. Duško Tadić*, Judgement, Case No. IT-94-1-A, 15 July 1999 (hereinafter *Tadić* Appeals Judgement), para. 220; *Prosecutor v. Anto Furundžija*, Judgement, Case No. IT-95-17/1-A, 21 July 2000 (hereinafter *Furundžija* Appeals Judgement), para 119; *Krstić* Trial Judgement, para. 601; *Prosecutor v.*

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276. The *actus reus* of a joint criminal enterprise requires three elements. First, there must be two or more persons, who need not be organised in a military, political or administrative structure.⁵⁹⁵ Second, there must be a common plan, design, or purpose that amounts to or involves the commission of a crime. The plan need not be previously arranged or formulated, but may “materialise extemporaneously and be inferred from the fact that a plurality of persons acts in unison to put into effect a joint criminal enterprise.”⁵⁹⁶ Thus, the plan can be agreed upon either from the beginning or develop through the acts performed by the persons involved. A joint criminal enterprise may be “vast” and encompass “other subsidiary enterprises.”⁵⁹⁷ Its objective may also change over time.⁵⁹⁸ Third, the accused must participate in the enterprise. This participation need not involve the commission of a crime but may take the form of assistance in or contribution to the execution of the common plan or purpose. It is sufficient for the participant to perform acts that in some way are *directed to* the furthering of the plan or purpose.⁵⁹⁹

277. Tribunal case law regarding joint criminal enterprise has identified three different situations, for which the mental state differs.⁶⁰⁰ All three situations may be applicable in the same case.⁶⁰¹ In the first situation, the accused intends to commit a certain crime, this intent being shared by all members of the joint criminal enterprise.⁶⁰² All perpetrators, acting pursuant to a common design, possess the same criminal intention, although their roles in the enterprise may differ. To prove liability, the Prosecutor must show that the accused “voluntarily participated in one aspect of the common design” and the accused, “even if not personally effecting the criminal act, must nevertheless have intended this result.”⁶⁰³ Where this is the case, all the accused will be considered to have jointly “committed” the crime as co-perpetrators.

Miroslav Kvočka, *et al.*, Judgement, Case No. IT-98-30/1-T, 2 November 2001 (hereinafter *Kvočka* Trial Judgement), para. 244. *Prosecutor v Milutinović & Others* CSe No IT-99-37-AR72, “Decision on Dragoljub Ojdanić’s Motion Challenging Jurisdiction – Joint Criminal Enterprise”, 21 May 2003.

⁵⁹⁴ *Tadić* Appeals Judgement, para. 185, 196, 222-23, 228; *Furundžija* Appeals Judgement, para. 117-19; *Krstić* Trial Judgement, para. 602 footnote 1349. Article 25 of the ICC Statute provides for joint criminal enterprise as a mode of liability.

⁵⁹⁵ *Tadić* Appeals Judgement, para. 227.

⁵⁹⁶ *Tadić* Appeals Judgement, para. 227, quoted also in *Furundžija* Appeals Judgement, para. 119.

⁵⁹⁷ *Kvočka* Trial Judgement, para. 307.

⁵⁹⁸ See *Krstić* Trial Judgement, para. 619, 633 (objective of joint criminal enterprise escalated from forcible transfer to destruction of Srebrenica’s Bosnian Muslim military-aged male community).

⁵⁹⁹ *Tadić* Appeals Judgement, para. 229 (iii); the *Furundžija* Appeals Judgement (para. 118-120), the *Čelebići* Appeals Judgement (para. 265-266).

⁶⁰⁰ *Tadić* Appeals Judgement, para. 227-228.

⁶⁰¹ *Kvočka* Trial Judgement, para. 268.

⁶⁰² *Tadić* Appeals Judgement, paras. 220, 228.

⁶⁰³ *Tadić* Appeals Judgement, para. 196.

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278. In the second situation,⁶⁰⁴ the accused has knowledge of a system of ill-treatment, such as a concentration camp, and intends to further this system. Knowledge may be established expressly or reasonably inferred from the position of authority held by the accused at the relevant time. The accused need only know the nature of the system and intend to further the common design of ill-treatment. It is not the Prosecution case that this “second situation” JCE theory of liability applies to these accused.

279. In the third situation, one of the participants in the joint criminal enterprise commits a crime “other than the one agreed upon in the common plan.”⁶⁰⁵ The accused may be held responsible for that crime if, under the circumstances, it was “foreseeable” that such crime might be perpetrated by some member of the group and the accused knew of and willingly took that risk.⁶⁰⁶ Foreseeability involves the concept that a crime is a “possible” consequence of the enterprise.⁶⁰⁷ The accused must intend to participate in and further the criminal activity or plan agreed upon “and to contribute to the joint criminal enterprise, or in any event to the commission of a crime by the group.”⁶⁰⁸ The Prosecution submits that the correct test is, drawing together the unsettled nature of the precise definition, is “awareness that the crime was a possibility and willingly took the risk or was indifferent to it”.

“Planning”

280. Planning implies that “one or more persons design the commission of a crime at both the preparatory and execution phases.”⁶⁰⁹ It may also include organising.⁶¹⁰ The existence of a plan can be proven through circumstantial evidence.⁶¹¹

“Ordering”

281. “Ordering” entails a person in a position of authority using that position to convince another to commit an offence.”⁶¹² No *formal* superior-subordinate relationship is required for

⁶⁰⁴ *Tadić* Appeals Judgement, para. 228.

⁶⁰⁵ *Tadić* Appeals Judgement, para. 228.

⁶⁰⁶ *Krstić* Trial Judgement, para. 613.

⁶⁰⁷ *Prosecution v. Radoslav Brdanin & Momir Talić*, Case No. IT-99-36-PT, “Decision on Form of Further Amended Indictment and Prosecution Application to Amend,” 26 June 2001, para. 29.

⁶⁰⁸ *Tadić* Appeals Judgement, para. 228.

⁶⁰⁹ *Krstić* Trial Judgement, para. 601; *Prosecutor v. Tihomir Blaškić*, Judgement, Case No. IT-94-1-T, 3 March 2000 (hereinafter *Blaškić* Trial Judgement), para. 279.

⁶¹⁰ *Prosecutor v. Jean-Paul Akayesu*, Judgement, Case No. ICTR-96-4-T, 2 September 1998 (hereinafter *Akayesu* Trial Judgement), para. 473.

⁶¹¹ *Blaškić* Trial Judgement para. 279; *see also Prosecutor v. Dario Kordić & Mario Čerkez*, Judgement, Case No. IT-95-14/2-T, 26 February 2001 (hereinafter *Kordić* Trial Judgement), para. 386.

⁶¹² *Krstić* Trial Judgement, para. 601; *Akayesu* Trial Judgement, para. 483.

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a finding of “ordering” as long as the accused possessed the authority to order.⁶¹³ It is not necessary to prove that the subordinate who executed the order shared the *mens rea* of the accused; it is therefore irrelevant whether the order was illegal on its face.⁶¹⁴ The giving of an order may be proven circumstantially, and the order need not be in writing,⁶¹⁵ need not be given by the superior directly to the person who commits the crime,⁶¹⁶ and may be express or implied.⁶¹⁷

“Aiding and Abetting”

282. The *actus reus* of aiding and abetting consists of “practical assistance, encouragement or moral support” to another person perpetrating a crime.⁶¹⁸ Aiding and abetting may assume different forms of assistance, including omissions.⁶¹⁹

283. “Proof that the conduct of the aider and abettor had a causal effect on the act of the principal perpetrator is not required,”⁶²⁰ but the accused’s act “must have had a substantial effect on the commission of the crime.”⁶²¹ There is no requirement of a pre-existing plan.⁶²² Aiding and abetting can take place before, during or after the event.⁶²³ The accused’s knowing presence when a crime is committed can constitute the act of aiding and abetting if it encourages the perpetrators.⁶²⁴ An omission by a superior can contribute to the commission of a subordinate’s crime, “for example by encouraging the perpetrator.”⁶²⁵

⁶¹³ *Kordić* Trial Judgement, para. 388; *Akayesu* Trial Judgement, para. 483; *Blaškić* Trial Judgement para. 281.

⁶¹⁴ *Blaškić* Trial Judgement, para. 282; *Kordić* Trial Judgement, para. 388.

⁶¹⁵ *Kordić* Trial Judgement, para. 388; *Blaškić* Trial Judgement, para. 281.

⁶¹⁶ *Kordić* Trial Judgement, para. 388; *Blaškić* Trial Judgement, para. 282.

⁶¹⁷ *Blaškić* Trial Judgement, para. 281.

⁶¹⁸ *Prosecutor v. Zlatko Aleksovski*, Judgement, Case No. IT-95-14/1-A, 24 March 2000 (hereinafter *Aleksovski* Appeals Judgement), para. 162; *Krnjelac* Trial Judgement, para. 88; *Kunarac* Trial Judgement, para. 391; *Blaškić* Trial Judgement, para. 283; *Furundžija* Trial Judgement at 249. *See also Tadić* Appeals Judgement, para. 229.

⁶¹⁹ *Krnjelac* Trial Judgement, para. 88; *Kunarac* Trial Judgement, para. 391; *Čelebići* Trial Judgement, para. 327 (assistance in different forms); *Blaškić* Trial Judgement, para. 284.

⁶²⁰ *Krnjelac* Trial Judgement, para. 88; *Kunarac* Trial Judgement, para. 391; *Blaškić* Trial Judgement, para. 285; *Furundžija* Trial Judgement at 233.

⁶²¹ *Krnjelac* Trial Judgement, para. 88; *Aleksovski* Appeals Judgement, para. 162. *See also Kunarac* Trial Judgement, para. 391; *Blaškić* Trial Judgement, para. 284 (“decisive effect”); *Furundžija* Trial Judgement at 234.

⁶²² *Aleksovski* Appeals Judgement, para. 163; *Tadić* Appeals Judgement, para. 229. The Appeals Chamber in the *Furundžija* Appeals Judgement relied on this reasoning, when it identified the legal elements of co-perpetration in a joint criminal enterprise, *Furundžija* Appeals Judgement, para 119, as referred to in *Prosecutor v. Mitar Vasiljević*, Judgement, Case No. IT-98-32-A, 25 February 2004 (hereinafter referred to as *Vasiljević* Appeals Judgement) at para. 109.

⁶²³ *Krnjelac* Trial Judgement, para. 88; *Kunarac* Trial Judgement, para. 391; *Čelebići* Trial Judgement, para. 327; *Blaškić* Trial Judgement, para. 285.

⁶²⁴ *Prosecutor v. Duško Tadić*, Judgement, Case No. IT-94-1-T, 7 May 1997 (hereinafter *Tadić* Trial Judgement), paras. 689-90; *see also Blaškić* Trial Judgement, para. 284; *Akayesu* Trial Judgement, para 693.

⁶²⁵ *Kordić* Trial Judgement, para. 371.

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284. For the required *mens rea*, the accused must make a conscious decision to act, either knowing that his conduct will contribute to the commission of a crime committed by another,⁶²⁶ or being aware of the substantial likelihood that it will do so.⁶²⁷ The accused must also have knowledge of the essential elements of the crime; this includes knowing - but not necessarily sharing - the perpetrator's *mens rea*.⁶²⁸ It is not necessary that the aider or abettor "know the precise crime that was intended or which was actually committed."⁶²⁹

285. An aider or abettor of a "special intent" crime, such as persecution, must not only have knowledge of the crime he is assisting, but he must also be aware that those crimes are committed with that specific intent. Thus, an aider or abettor of persecution "need not share the principal's discriminatory intent, but must be aware of the broader discriminatory context and know that his acts of assistance or encouragement have a significant effect on the commission of the crimes."⁶³⁰

General Requirements Applicable to All Counts

General Requirements of Article 3 of the Statute and Common Article 3

286. The Accused have been charged with murder as a violation of Article 3(1)(a) common to the 1949 Geneva Conventions ("common Article 3") chargeable under Article 3 of the Statute.

287. Article 3 of the Statute is a residual provision which, in addition to those offences expressly listed thereunder, enables prosecution of *all* other serious violations of the laws or customs of war.⁶³¹ In order to come within the purview of Article 3, a violation of the laws or customs of war must meet the requirements set forth in the *Tadić* Jurisdiction Decision.⁶³² The general requirements for violations of Article 3 are: (i) that there was an armed conflict; and (ii) there was nexus between the conduct and the armed conflict.

⁶²⁶ *Aleksovski* Appeals Judgement, para. 162; *Tadić* Appeals Judgement, para. 229; *Furundžija* Trial Judgement, paras. 245-46, 249.

⁶²⁷ *Blaškić* Trial Judgement, paras. 286-87; *Kvočka* Trial Chamber judgement, para. 255. *See also* *Krnjelac* Trial Judgement, para. 90; *Kunarac* Trial Judgement, para. 392.

⁶²⁸ *Aleksovski* Appeals Judgement, para. 162; *Krnjelac* Trial Judgement, para. 90; *Kvočka* Trial Judgement, paras. 255, 262; *Kunarac* Trial Judgement, para. 392; *Furundžija* Trial Judgement, para. 245.

⁶²⁹ *Kvočka* Trial Judgement, para. 255; *Blaškić* Trial Judgement, para. 287; *Furundžija* Trial Judgement, para. 246.

⁶³⁰ *Kvočka* Trial Judgement, at para. 262. Referring to the *Krnjelac* Trial Judgement, para 488, the *Vasiljević* Appeals Judgement at para 142 stated: "In order to convict him of aiding and abetting the crime of persecution, the Appeals Chamber must establish that the Appellant had knowledge that the principal perpetrators of the joint criminal enterprise intended to commit the underlying crimes, and by their acts they intended to discriminate against the Muslim population, and that, with that knowledge, the Appellant made a substantial contribution to the commission of the discriminatory acts by the principal perpetrators."

⁶³¹ *See Tadić* Jurisdiction Decision, paras. 87, 89, 91; *Furundžija* Trial Judgement, paras. 132-133.

⁶³² *See Tadić* Jurisdiction Decision, paras. 94, 143.

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288. The armed conflict may be international or internal.⁶³³ Customary international law imposes criminal liability for serious violations of common Article 3 of the 1949 Geneva Conventions⁶³⁴ which are prosecutable under Article 3, whether committed in international or internal armed conflicts.⁶³⁵

289. There is an additional general requirement under common Article 3 that the victims were persons taking no part in hostilities, including members of the armed forces who have laid down their arms and those placed *hors de combat*.⁶³⁶

General Requirements of Article 5 of the Statute

290. The Accused are charged under Articles 5(a), 5(d), 5(h), and 5(i). The general requirements of Article 5 are: (i) the existence of an armed conflict; (ii) the existence of a widespread or systematic attack directed against a civilian population; (iii) the accused's conduct was related to the widespread or systematic attack directed against a civilian population; and (iv) the accused had knowledge of the wider context in which his or her conduct occurred.

291. The armed conflict may be internal or international.⁶³⁷ The Appeals Chamber held that Article 5 does not require a *substantive* connection between the crime and the armed conflict.⁶³⁸ It is sufficient that the acts coincide geographically and temporally with the armed conflict.

292. The attack may be widespread *or* systematic.⁶³⁹ The fact that an attack was widespread could itself be evidence of the systematic nature of the attack.⁶⁴⁰ The term "widespread" refers to acts committed on a "large scale" and "directed at a multiplicity of victims."⁶⁴¹ "Repeated or continuous commission of inhumane acts" could be evidence of a systematic attack.⁶⁴² "Systematic" can refer to the pattern of inhumane acts.⁶⁴³ Existence of a

⁶³³ *Tadić* Jurisdiction Decision, para. 137; *Kordić* Trial Judgement, paras. 162-64; *Blaškić* Trial Judgement, para. 161.

⁶³⁴ *Tadić* Jurisdiction Decision, para. 134.

⁶³⁵ *Čelebići* Appeals Judgement, paras. 150-52; 160-74.

⁶³⁶ See Article 3(1) common to the 1949 Geneva Conventions; *Tadić* Jurisdiction Decision, para. 69.

⁶³⁷ *Tadić* Jurisdiction Decision, para. 142; see also *id.*, para. 70; *Tadić* Trial Judgement, para. 628; *Prosecutor v. Goran Jelisić*, Case No. IT-95-10-T, Judgement, 14 December 1999 (hereinafter *Jelisić* Trial Judgement), para. 29.

⁶³⁸ *Tadić* Appeals Judgement, para. 251; see also *Blaškić* Trial Judgement, para. 71.

⁶³⁹ *Kordić* Trial Judgement, para. 178; see also *Kupreškić* Trial Judgement, para. 544; *Blaškić* Trial Judgement, para. 207.

⁶⁴⁰ *Tadić* Trial Judgement, para. 653.

⁶⁴¹ *Blaškić* Trial Judgement, para. 206; see also *Tadić* Trial Judgement, para. 648.

⁶⁴² *Tadić* Trial Judgement, para. 648, citing commentary to the I.L.C. Draft Code of Crimes Against the Peace and Security of Mankind, *Report of the International Law Commission on the Work of its Forty-eighth*

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plan or policy is not an element of crimes against humanity.⁶⁴⁴ “Civilian population” means that the population must be *predominantly* civilian in nature,⁶⁴⁵ even if non-civilians are present,⁶⁴⁶ and includes “individuals who at one time performed acts of resistance.”⁶⁴⁷

293. The “accused’s acts must be related to a widespread or systematic attack on a civilian population”⁶⁴⁸ and “the acts of the accused must comprise part of a pattern of widespread and systematic crimes.”⁶⁴⁹

294. The accused must be aware of the wider context in which his or her conduct occurred. The “accused must have *known* that his acts fit into such a pattern.”⁶⁵⁰

Elements of Specific Crimes

295. For all the specific crimes, criminal liability arises if the accused acted wilfully, that is, deliberately and not by accident. This *mens rea* includes not only the accused’s intention to cause the result, but also acting with reckless disregard of whether the result would occur.⁶⁵¹

Persecution⁶⁵²

296. The *actus reus* of persecution is “an act or omission which discriminates in fact and which: denies or infringes upon a fundamental right laid down in international law”. The *mens rea* requires that it be carried out deliberately with the intention to discriminate on one of the grounds listed in Article 5(h) of the Statute committee; namely on political, racial or religious grounds.⁶⁵³

session, 6 May - 26 July 1996, G.A.O.R., 51st Sess., Supp. No. 10, 30, U.N. Doc. A/51/10, p. 94-95. (I.L.C. Draft Code).

⁶⁴³ *Akayesu* Trial Judgement, para. 580.

⁶⁴⁴ See *Krnjelac* Trial Judgement, para. 58; *Kordić* Trial Judgement, para. 181-82; *Kupreškić* Trial Judgement, para. 551; *Blaškić* Trial Judgement, para. 70; *Tadić* Trial Judgement, para. 573; *Čelebići* Trial Judgement, para. 195.

⁶⁴⁵ *Kordić* Trial Judgement, para. 180; *Tadić* Trial Judgement, para. 638.

⁶⁴⁶ *Kordić* Trial Judgement, para. 180; see also *Kupreškić* Trial Judgement, paras. 547-49; *Blaškić* Trial Judgement, paras. 208-14; *Tadić* Trial Judgement, para. 643.

⁶⁴⁷ *Krnjelac* Trial Judgement, para. 56.

⁶⁴⁸ *Kordić* Trial Judgement, para. 178; *Tadić* Appeals Judgement, para. 271.

⁶⁴⁹ *Tadić* Appeals Judgement, para. 248.

⁶⁵⁰ *Tadić* Appeals Judgement, para. 248. See also *Krnjelac* Trial Judgement, para. 59 (knowingly taking the risk of participating in the attack is sufficient).

⁶⁵¹ ICRC Commentary (Additional Protocols), para. 3474.

⁶⁵² Indictment Count 1.

⁶⁵³ *Prosecutor v Krnjelac* Case No IT-97-25-A, Judgement, 17 September 2003, para. 185.

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297. Persecutory acts may include all crimes enumerated elsewhere in the Statute.⁶⁵⁴ Non-physical acts with economic or legislative consequences may also constitute persecution. “The persecutory act or omission may encompass physical and mental harm as well as infringements upon individual freedom.”⁶⁵⁵ Persecutory acts must be of the same level of gravity as other acts under crimes against humanity.⁶⁵⁶ A single act may constitute persecution.⁶⁵⁷

298. The act must “be discriminatory in fact.”⁶⁵⁸ The persecutory conduct must be based on race, religion or politics.⁶⁵⁹ A discriminatory mental state against a group negatively defined such as “non-Serb” or “non-Muslim” can satisfy the “discriminatory grounds” requirement under Article 5.⁶⁶⁰

299. There is no requirement that the discriminatory intent be linked to any policy.⁶⁶¹ However, the Appeals Chamber has stated that “discriminatory intent may be inferred from [such] a context as long as, in view of the facts of the case, circumstances surrounding the commission of the alleged acts substantiate the existence of such intent.”⁶⁶² In addition, “shared criminal intent does not require the co-perpetrator’s personal satisfaction or enthusiasm or his personal initiative in contributing to the joint enterprise.”⁶⁶³

300. Persecution has been charged to encompass all crimes covered by other counts in the Indictment, in addition to persecutory acts which are either not charged or which may not in themselves be crimes under the Statute. Persecution in the Indictment, thus, encompasses these criminal acts: (a) murder, (b) imprisonment/confinement, (c) inhumane conditions, (d) torture (in detention), (e) imposition of restrictive and discriminatory measures, (f) beatings and robbery, (g) torture and beatings during and after arrest, (h) deportation/ forced transfer,

⁶⁵⁴ See *Kupreškić* Trial Judgement, para. 594; *Krstić* Trial Judgement, para. 537; *Blaškić* Trial Judgement, paras. 220, 227, 234; *Kordić* Trial Judgement, paras. 203-05.

⁶⁵⁵ *Krnjelac* Appeals Chamber Judgement, para. 185.

⁶⁵⁶ *Kupreškić* Trial Judgement, para. 621; *Kordić* Trial Judgement, paras. 195-96; *Krnjelac* Trial Judgement, para. 434. See *Tadić* Trial Judgement, paras. 704-10; *Kupreškić* Trial Judgement, paras. 610-13; *Krstić* Trial Judgement, para. 537; *Blaškić* Trial Judgement, paras. 220, 227, 234; *Kordić* Trial Judgement, paras. 205-07.

⁶⁵⁷ *Kupreškić* Trial Judgement, para. 624; *Krnjelac* Trial Judgement, para. 433 Reiterated in the *Vasiljević* Appeals Judgement at para. 113.

⁶⁵⁸ *Krnjelac* Trial Judgement, paras. 432-32.

⁶⁵⁹ *Tadić* Trial Judgement, para. 195 (mistake as to the victim’s ethnicity would still meet the required persecution elements); *Krnjelac* Trial Judgement, para. 431.

⁶⁶⁰ See *Tadić* Trial Judgement, para. 717; see also Judgement of *Josef Altstotter and others*, Law Reports of trials of War criminals, vol. 6, p. 81, footnote 1.

⁶⁶¹ *Krnjelac* Trial Judgement, para. 435; *Kupreškić* Trial Judgement, para. 625. The Trial Chamber in *Kordić* mentioned a “discriminatory policy,” para. 220, but the Prosecution has appealed this holding.

⁶⁶² *Prosecutor v. Milorad Krnjelac*, Judgement, Case No. IT-97-25-A, 17 September 2003 (hereinafter *Krnjelac* Appeals Judgement) at para.184.

⁶⁶³ *Krnjelac* Appeals Judgement at para.100.

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and (i) destruction of property and cultural sites.⁶⁶⁴ Although restrictive measures under (e) are not themselves criminal acts, the Prosecution submits that measures such as restriction of movement, dismissal from jobs and arbitrary searches are persecutory acts.

Murder⁶⁶⁵

301. For murder under common Article 3(1)(a) and Article 5(a), the Prosecution must establish: (i) that the accused's conduct caused the death of one or more persons, and (ii) that the accused thereby intended to kill, or to inflict serious injury in reckless disregard for human life.

302. Omissions as well as concrete acts can satisfy the *actus reus*.⁶⁶⁶ Causation requires only that "the conduct of the accused was a substantial cause of the death of the victim."⁶⁶⁷ In cases involving multiple accused or high level perpetrators, if each accused carried out complementary and distinct parts of a common criminal plan, the *actus reus* of murder may be attributed to each individual accused.⁶⁶⁸ The victim's death may be proved either directly or circumstantially.⁶⁶⁹

303. The *mens rea* for wilful killing or murder is that the accused either intended to kill or, alternatively, inflicted serious bodily harm in reckless disregard for human life. An accused intended to kill if he or she consciously desired the death of the victim or was aware (*i.e.*, had knowledge) that his or her acts or omission would likely result in the death of the victim.⁶⁷⁰

Deportation / Forcible Transfer⁶⁷¹

304. Deportation under Article 5(d) and forcible transfer charged as an inhumane act under Article 5(i)⁶⁷² require: (i) transferring one or more persons from an area in which they were lawfully present without grounds permitted under international law; and (ii) by force or other coercive acts.

⁶⁶⁴ It is not the Prosecution case that all of these persecutory acts were committed by the accused in this case. It is the Prosecution case that some of these acts were committed by other members of the JCE.

⁶⁶⁵ Indictment Counts 2 and 3.

⁶⁶⁶ *Čelebići* Trial Judgement, para. 424.

⁶⁶⁷ *Kupreškić* Trial Judgement, para. 560; *Čelebići* Trial Judgement, para. 424.

⁶⁶⁸ *Tadić* Appeals Judgement, paras. 190-229.

⁶⁶⁹ ICTY jurisprudence has taken into consideration the impossibility of providing death certificates or even bodies to prove death. See *Kmojelac* Trial Judgement, para 326-27; see also *Tadić* Trial Judgement, paras. 240.

⁶⁷⁰ See *Kmojelac* Trial Judgement, para. 324; *Blaškić* Trial Judgement, para. 217; *Čelebići* Trial Judgement, para. 439; *Akayesu* Trial Judgement, para. 589.

⁶⁷¹ Indictment Counts 4 and 5.

⁶⁷² *Kupreškić* Trial Judgement, para. 566; see also *Krstić* Trial Judgement, para. 523.

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305. An occupying power may carry out the lawful movement of a population “if the security of the population or imperative military reasons so demand.”⁶⁷³ A population may be evacuated from an area “in danger as a result of military operations,” or where “intense bombing” may occur,⁶⁷⁴ and the presence of protected persons would hamper military operations, but “real necessity must exist; the measures taken must not be merely an arbitrary infliction or intended simply to serve in some way the interests of the Occupying Power.”⁶⁷⁵ Moreover, evacuees must be transferred back to their homes as soon as hostilities in the area have ceased.⁶⁷⁶ Even under these circumstances, transfer should only be within national boundaries unless it is impossible, and people must be transferred humanely, with “satisfactory conditions of hygiene, health, safety and nutrition.”⁶⁷⁷

306. “Force” is not limited to direct physical violence. It may be accomplished by the “threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression, or abuse of power against such person or persons or another person, or by taking advantage of a coercive environment.”⁶⁷⁸ On the other hand, flight because of fear of being caught in hostilities between armed forces is not deportation. Departures motivated by fear of discrimination without force or coercion are not necessarily in violation of international law.⁶⁷⁹

Miscellaneous

307. Pursuant to Rule 65ter(E)(i), the Prosecution informs the Trial Chamber that the parties have not agreed to any admissions and as a result cannot at present provide a statement of matters that are not in dispute. The Prosecution also cannot presently provide a statement of contested matters of fact and law.

⁶⁷³ Article 49(2) of Geneva Convention IV.

⁶⁷⁴ ICRC Commentary (GC IV) p 280.

⁶⁷⁵ ICRC Commentary (GC IV, Article 49(5)) p 283.

⁶⁷⁶ *Krnjelac* Trial Judgement, para. 475 n. 1436 (citing Article 49, Geneva Convention IV).

⁶⁷⁷ *Kunarac* Trial Judgement, para. 529 n. 1289 (citing Article 17 of Additional Protocol II).

⁶⁷⁸ *Krnjelac* Trial Judgement, para. 475 (quoting *Krstić* Trial Judgement, para. 529). The Trial Chamber in *Krnjelac* also analogised this lack of “real choice” to the lack of real consent in rape cases. *Krnjelac* Trial Judgement, para. 475 n. 1435 (citing *Kunarac* Trial Judgement, para. 453); *see also* Furundžija Trial Judgement, para. 174 (threat of force in rape context).

⁶⁷⁹ *Krstić* Trial Judgement, para. 528; ICRC Commentary (GC IV) p 279 (on voluntary transfers).