

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

**Case No. IT-08-91-T**

**IN THE TRIAL CHAMBER**

**Before: Judge Burton Hall, Presiding  
Judge Guy Delvoie  
Judge Frederik Harhoff**

**Registrar: Mr. John Hocking**

**Date Filed: 12 July 2012**

**THE PROSECUTOR**

**v.**

**MIĆO STANIŠIĆ  
STOJAN ŽUPLJANIN**

**PUBLIC**

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**NOTICE OF FILING OF PUBLIC REDACTED VERSION OF Mr. MIĆO  
STANIŠIĆ'S FINAL WRITTEN SUBMISSIONS PURSUANT TO RULE 86**

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**The Office of the Prosecutor**

**Mr. Thomas Hannis      Ms. Joanna Korner QC**

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Mr. Dragan Krgović and Mr. Aleksandar Aleksić for Mr. Stojan Župljanin**

**NOTICE OF FILING OF PUBLIC REDACTED VERSION OF Mr. MIĆO STANIŠIĆ'S  
FINAL WRITTEN SUBMISSIONS PURSUANT TO RULE 86**

1. Pursuant to the Trial Chamber's 4 July 2012 "*Order on Filing of Public Redacted Versions of Final Trial Briefs*" Mr. Stanišić herewith files a public redacted version of his Final Brief, attached at Annex A. The Final Trial Brief was originally filed confidentially on 14 May 2012.

Respectfully Submitted:



Slobodan Zečević,  
Counsel for Mr. Mićo Stanišić



Slobodan Cvijetić  
Co-Counsel for Mr. Mićo Stanišić

# **ANNEX A**

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## Mr. Mićo Stanišić's Final Written Submissions Pursuant to Rule 86

**ICTR**

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*Prosecutor v. Ntagerura et al.*, Judgement, ICTR-99-46-T, 25 February 2004

*Prosecutor v. Ntagerura et al.*, Judgement, ICTR-99-46-A, 7 July 2006

*Prosecutor v. Kayishema and Ruzindana*, Judgement, ICTR-95-1-T, 1 July 2001

**OTHER DECISIONS**

*Prosecutor v. Momčilo Mandić*, Court of Bosnia and Herzegovina, X-KRŽ-05/58, Second Instance Verdict, 1 September 2009

## TABLE OF ABBREVIATIONS

<b>1KK:</b> First Krajina Corps ( <i>Krajiški korpus</i> )
<b>ABH:</b> Army of Bosnia and Herzegovina
<b>AR</b> - Autonomous regions
<b>ARK:</b> Autonomous Region of Krajina ( <i>Autonomna regija Krajina</i> )
<b>BH</b> - Bosnia and Herzegovina
<b>CSB:</b> Security Services Centre ( <i>Centar slu`bi bezbjednosti</i> )
<b>FRY:</b> Federal Republic of Yugoslavia
<b>HDZ:</b> Croatian Democratic Union ( <i>Hrvatska demokratska zajednica</i> )
<b>HDZ-BH</b> - Croatian Democratic Union of Bosnia and Herzegovina
<b>HZ-HB</b> - Croatian Community of Herceg-Bosna
<b>JNA:</b> Yugoslav People's Army ( <i>Jugoslovenska narodna armija</i> )
<b>KOS:</b> Army Counter Intelligence Service
<b>MOD:</b> Ministry of Defence
<b>MOJ:</b> Ministry of Justice
<b>MUP-SRBH</b> - Ministry of the Interior of the Socialist Republic of Bosnia and
<b>ONO&amp;DSZ</b> - All-People's Defence and Social Self-Protection
<b>ONO:</b> All People's Defence
<b>RDB:</b> State Security Department ( <i>Resor dr`avne bezbjednosti</i> )
<b>RS:</b> Serbian Republic of Bosnia and Herzegovina or Republika Srpska (after official name change in August 1992)
<b>RSK:</b> Republic of Serbian Krajina
<b>RSMUP</b> - Ministry of the Interior of Republika Srpska
<b>SAO:</b> Serbian Autonomous Region ( <i>Srpska Autonomna Oblast</i> )
<b>SDA:</b> Party of Democratic Action ( <i>Stranka demokratske akcije</i> )
<b>SDS:</b> Serbian Democratic Party ( <i>Srpska demokratska stranka</i> )
<b>SDB:</b> State Security Service
<b>SFRY:</b> Socialist Federative Republic of Yugoslavia ( <i>Socijalisti~ka Federativna Republika Jugoslavija</i> )
<b>SJB:</b> Public Security Station, Public Security Service ( <i>Stanica javne bezbjednosti, slu`ba javne bezbjednosti</i> )
<b>SNB:</b> National Security Service ( <i>Slu`ba nacionalne bezbjednosti</i> )
<b>SOS:</b> Serb Defence Forces ( <i>Srpske odbrambene snage</i> )
<b>SR-BH:</b> Socialist Republic of Bosnia and Herzegovina ( <i>Socijalisti~ka Republika Bosna i Hercegovina</i> )
<b>SSNO:</b> Federal Secretariat for National Defence
<b>SSUP</b> : Federal Secretariat of the Interior of the Federal Republic of Yugoslavia
<b>SUP:</b> Secretariat of the Interior ( <i>Sekretarijat unutrašnjih poslova</i> )
<b>SVK:</b> Army of the Serbian Krajina
<b>TG:</b> Tactical Group
<b>TO:</b> Territorial Defence ( <i>Teritorijalna odbrana</i> )
<b>VJ:</b> Yugoslav Army ( <i>Vojska Jugoslavije</i> )
<b>VRS:</b> Army of Republika Srpska ( <i>Vojska Republike Srpske</i> )

## INTRODUCTION

1. Pursuant to Rule 86, Mr. Mićo Stanišić files his final written submissions. These Submissions set out and discuss the legal and factual issues applicable to Mr. Stanišić in these proceedings. He reserves the right to adopt submissions filed by any of the other parties during oral argument.

2. The Prosecution has failed to prove beyond reasonable doubt the guilt of Mr. Stanišić, as alleged in the Indictment<sup>1</sup>, and he should be acquitted of all charges brought against him.

3. On 27 April 2012, the Trial Chamber refused a Defence request that the word limit for this Final Brief be extended by 20,000 words.<sup>2</sup> The Defence considered it fair, appropriate, and necessary to be granted these additional words to be able to make submissions in relation to all the allegations directly affecting Mr. Stanišić: *inter alia*, the evidence concerning the seat of the RSMUP, the five CSBs and the events at the SJB level in 20 municipalities, based on 27,268 pages of transcript, 4,439 exhibits, bar table submissions, and a law library. As a result of the word limit placed on the Defence, this Final Brief cannot address all the matters Mr. Stanišić contested at trial and which he submits the Prosecution failed to establish. Furthermore, that fact that Mr. Stanišić does not make submissions on each and every contested matter should in no way be read as an admission on his part as to the truth or accuracy of the factual allegations made by the Prosecution in the Indictment. To the contrary, as Mr. Stanišić has stated, save and except the matters the parties have explicitly agreed, he contests the truth and accuracy of the allegations made by the Prosecution in the Indictment and he holds the Prosecution to strict proof of every aspect of its case beyond all reasonable doubt.<sup>3</sup>

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<sup>1</sup> Second Amended Indictment. *Prosecutor v. Stanišić and Župljanin*, Prosecution's Submission on Second Amended Consolidated Indictment, IT-08-91-PT, 10 September 2009.

<sup>2</sup> *Prosecutor v. Stanišić and Župljanin*, IT-08-91-T, Decision Denying Stanišić Defence Motion for Extension of Word Limit for Final Trial Brief, 27 April 2012.

<sup>3</sup> *Prosecutor v. Stanišić and Župljanin*, IT-08-91-PT, Supplemental Pre-Trial Brief of Mr. Mićo Stanišić, 31 July 2009.

4. The criteria for admissibility of evidence must not be confused with the Trial Chamber's ultimate determination of the weight to assign any particular item of evidence. The Chamber should not have reached any conclusions against an accused until the completion of all of the evidence.

5. On 12 April 2012, the Defence jointly filed its final submissions on the proof of death database (CHS).<sup>4</sup> The Trial Chamber ruled that it will take the Defence's submissions on the proof of death database into account during its assessment of all the evidence in the case.<sup>5</sup> Stanišić hereby incorporates the joint Defence submissions on the proof of death database into his final written submissions.

6. Throughout these proceedings, the Defence has contested the admissibility, reliability, and probative value of the intercepts tendered by the Prosecution.<sup>6</sup> In particular, the Defence submits that the intercepts are unreliable and without any probative value. The evidence in this case is that the intercepts were obtained through illegal wiretaps conducted by the SNB of the MUP-SRBH, and that they were tampered with, manipulated, and edited, by amongst others, Munir Alibabić, a SDA appointee to the MUP-SRBH, who ran a propaganda campaign against Serb cadres in 1991 and 1992.<sup>7</sup> The intercepts are tainted and unreliable and the Chamber should accord them no weight.

7. A Chamber has discretion, if the circumstances merit it, to give no weight to evidence which it had initially deemed to be admissible, in light of the record as a whole.<sup>8</sup> As with any other evidence, intercept evidence and the CHS must be analyzed and granted its appropriate weight in the context of the entire trial, and will be subject to the

<sup>4</sup> *Prosecutor v. Stanišić and Župljanin*, IT-08-91-T, Joint Defence Final Submissions on the CHS, 12 April 2012.

<sup>5</sup> *Prosecutor v. Stanišić and Župljanin*, IT-08-91-T, Decision Denying Joint Defence Motion to Reconsider the Decision Granting Prosecution's Motion on Proof of Death Database, 18 April 2012, p.3.

<sup>6</sup> T.5665-5678.

<sup>7</sup> 1D117, p.2; MANDIĆ, T.9641-9650; 1D118, p.2, VLAŠKI, T.6384-6390, 6447-6454, ŠČEKIĆ, T. 6564-6567.

<sup>8</sup> *Prosecutor v. Milutinović et al*, IT-05-87-T, Judgement, Vol 1. paras.36; 56-61.

same interrogation as every other piece of evidence, such that evidence not proved to be authentic beyond a reasonable doubt would be granted no weight at the end of a trial.<sup>9</sup>

8. To assist the Trial Chamber in analysing the evidence, Annex A is a cross-reference of witness numbers to their names.

## **PART 1: PRELIMINARY MATTERS**

### **THE PRESUMPTION OF INNOCENCE AND PROOF OF GUILT BEYOND A REASONABLE DOUBT**

9. The provisions of Article 21(3) of the Statute presume the innocence of the accused until he is proven guilty.

10. Pursuant to Rule 87(A), the Prosecution is bound in law to prove the case alleged against the accused beyond reasonable doubt. This burden shall be borne by the Prosecution throughout the trial.<sup>10</sup> While proof beyond a reasonable doubt does not require absolute certainty or proof beyond a shadow of doubt, it is nonetheless a very high standard. Proof beyond a reasonable doubt is “proof that leaves the [factfinder] firmly convinced of the accused’s guilt. It applies to each and every element of each of the charged crimes and to each and every element of the forms of liability charged in the Indictment,<sup>11</sup> and to all facts which are “indispensable for entering a conviction”,<sup>12</sup> including facts from which presumptions or inferences are drawn.<sup>13</sup> If, at the conclusion of the proceedings, there is any doubt that the Prosecution has established the case against the accused, the accused is entitled to the benefit of the doubt and he must be acquitted.<sup>14</sup>

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<sup>9</sup> *Prosecutor v. Brdjanin*, IT-99-36-T, Decision on Defence Objection to Intercept Evidence, 3 October 2003, para.68; *Prosecutor v. Popovic et al*, IT-05-88-T, Decision on Admissibility of Intercepted Conversations, 7 December 2007, paras.76-77.

<sup>10</sup> *Boskoški* TJ,para.9;*Brdjanin* TJ,para.22

<sup>11</sup> *Limaj* TJ,para.10

<sup>12</sup> *Ntagerura* AJ,para.174

<sup>13</sup> *Halilović* AJ,paras.111-129

<sup>14</sup> *Kupreškić* TJ,para.339(a) ; *Čelebići* TJ,paras.601-603

11. Any ambiguity or doubt arising from the evidence must be resolved in favour of the accused in accordance with the principle of *in dubio pro reo*.<sup>15</sup> It is not sufficient that guilt is a reasonable conclusion available from that evidence. It must be the *only* reasonable conclusion available. If there is another conclusion which is also reasonably open from that evidence, and which is consistent with the innocence of the accused, he must be acquitted.<sup>16</sup> Similarly, when the Prosecution relies upon proof of the state of mind of an Accused by inference, the Trial Chamber must consider whether that inference was the *only* reasonable inference that could be made based on the evidence.<sup>17</sup>

12. In a joint trial, it is the duty of the Trial Chamber to consider the case against each accused separately and to consider each count in the indictment separately.<sup>18</sup>

#### **NO ADVERSE INFERENCE CAN BE DRAWN FROM THE SILENCE OF THE ACCUSED**

13. Mr. Stanišić did not testify in these proceedings.

14. In the *Čelebići* case, the Appeals Chamber held that pursuant to Article 21(4)(g) of the Statute and Rule 85(C) there is an absolute prohibition *against* consideration of the silence of the accused in the determination of guilt or innocence.<sup>19</sup> This absolute prohibition extends to an inference being drawn in the determination of sentence.<sup>20</sup>

#### **INTERVIEW WITH THE OFFICE OF THE PROSECUTOR**

15. Pursuant to Rule 42 and Rule 43, while on provisional release, Mr. Stanišić agreed to be interviewed by the Office of the Prosecutor ("OTP"). He was interviewed over a six day period between 16 and 21 July 2007. The OTP offered the interview for admission into evidence through its bar table submission and stated: "(t)he interview, conducted under caution with the accused Mićo STANIŠIĆ provides evidence of his

<sup>15</sup> *Limaj* AJ, para.21; *Naletilić* AJ, para.; *Akayesu* TJ, para.319; *Blagojević & Jokić* TJ, para.18, *Halilović* TJ, para.12

<sup>16</sup> *Čelebići* AJ, para.458

<sup>17</sup> *Popović* TJ, para.9; citing *Vasiljević* AJ, para.120.

<sup>18</sup> *Kordić* TJ, para.16.

<sup>19</sup> Para.781.

<sup>20</sup> *Čelebići* AJ, para.783. *Kupreškić* TJ, para.339(d).

position on many issues of relevance to this Trial".<sup>21</sup> The entire interview was admitted into evidence as exhibits P2300 to P2313.

16. The OTP has relied on the interview throughout these proceedings: the OTP Pre-Trial Brief, the OTP opening statement, as well as during trial proceedings.<sup>22</sup>

17. Mr. Stanišić did not object to the admission of his interview with the OTP and he relies on it for the truth of its contents.

## **PART 2: THE ALLEGATIONS AND CHARGES AGAINST MR. STANIŠIĆ ARE UNFOUNDED IN LAW AND IN FACT**

18. The Prosecutor alleges that by virtue of the allegations set out in paragraphs 1, 2, 4, 6-11, 13-17, 21-23 of the Indictment, Mr. Stanišić is guilty of the charges set out in counts 1-10. Mr. Stanišić asserts that the entire theory of the Prosecutor's case against him is misguided and demonstrates a misunderstanding of the authority and competence of the Minister of the RSMUP, as well as his duties, responsibilities, activities, and his state of mind in 1992.

19. Paragraph 7 of the Indictment alleges that a JCE came into existence no later than the establishment of the Assembly of the Serbian people in BiH on 24 October 1991 and continued throughout the period of the conflict in BiH until the signing of the Dayton Accords in 1995. Paragraph 11 of the Indictment alleges that Stanišić is criminally liable for crimes committed in the period 1 April 1992 to 31 December 1992.

<sup>21</sup> *Prosecutor v. Stanišić and Župljanin*, Prosecution Bar Table Motion with Confidential Annexes, A, B, C & D, IT-08-91-T, 2 December 2010, Annex A, page 12.

<sup>22</sup> The Pre-Trial Brief (PTB) filed by the OTP cites Mr. Stanišić's interview at footnotes 2-4 and 170, see, *Prosecutor v. Stanišić and Župljanin*, Prosecution's Pre-Trial Brief, IT-08-91-PT, 8 June 2009. In addition, the Prosecutor stated during her opening statement that when interviewed, Stanišić had said that he did not attend the RS Assembly held in Banja Luka on 12 May 1992, and that the OTP had no evidence to contradict it, T.247-251; the Prosecutor stated that Mr. Stanišić's interview with the OTP is available to the Defence as a source of evidence which demonstrates his attitude toward matters, T.21358-21359; the OTP objected to the Defence questioning Dragan ANDAN about Stanišić receiving his indictment from ANDAN in his capacity of Director of Police in the RS by stating that the interview given to the OTP by Stanišić is in evidence and it provides ample evidence of Stanišić's attitude, T.21357-21359; the OTP questioned MAČAR based on P2303, T.23485-23487.

20. To understand why Mićo Stanišić cannot incur any criminal liability as alleged in the indictment, it is important to understand his character and the circumstances he faced as Minister of the Interior from April to December 1992. In every respect, the evidence shows that Stanišić is a person who was incapable of committing the alleged crimes by virtue of his background, education, professional training and experience, his personal and professional integrity, his respect and insistence on the proper application of the law to police work, and his words, acts and conduct in the period relevant to the indictment. The person described through the evidence in these proceedings who was Minister of the Interior twenty years ago is the same person that the Trial Chamber has been observing during this Trial. Stanišić has always demonstrated his respect for the law and this Tribunal through his voluntary surrender, his cooperation with the OTP, his attentive and full participation in his trial, and his complete respect for the orders issued by the Trial Chamber, including, but not limited to, each and every decision granting him provisional release both during the pre-trial and trial phases in this case.

21. What was Stanišić's state of mind during the period from April to December 1992 when he RSMUP Minister of the Interior? What public declarations did he make during this period which demonstrate his attitude towards his role and function as Minister, his attitude towards crime, and decisions and actions he took during that period? On 30 March 1992, Stanišić attended a ceremony in Sokolac, and he made the following address to the policemen assembled there:

As of today the Serbian Republic of Bosnia and Herzegovina has its own police force, the legality of our existence is provided by the Constitution of the Serbian Republic of Bosnia and Herzegovina and the Law on Internal Affairs recently adopted by the Assembly at its session. Moreover, the legality of our existence is based on the result of negotiations of the three ethnic communities under the auspices of the European Community. As of today we will act as the police of the Serbian Republic of Bosnia and Herzegovina which will carry out its tasks and assignments professionally, and not politically, as the MUP /Ministry of the Interior/ of the old Bosnia and Herzegovina has done so far, in order to protect property, life, body and other securities of all citizens in the Serbian Republic of Bosnia and Herzegovina equally. Members of the police, we are not involved in politics. We must carry out our tasks professionally. For these reasons, long speeches do not belong to us, but as of today, good luck, get to work, in the



interest of all who live in the Serbian Republic of Bosnia and Herzegovina. Thank you.<sup>23</sup>

22. Some eight months later, Stanišić addressed RS Assembly. His words were mis-translated in documents provided to the OTP.<sup>24</sup> His speech was originally and incorrectly translated to say: “we had to also take criminals and crooks” instead of “they took on thieves and criminals.”

23. This is not a simple error without consequence to these proceedings. Paragraph 66 of the Prosecution Pre-Trial Brief refers to the mis-translated passage of P400.<sup>25</sup> In her opening statement, the Prosecutor referred again to this mis-translation and called it a “remarkable admission” on Stanišić’s part. She stated that a part of the case for the Prosecution is that knowingly and deliberately the police used, took into their ranks, people whom they knew were criminals and were likely to commit criminal offences and did nothing about it.<sup>26</sup>

24. During the testimony of two Prosecution witnesses – DJOKANOVIĆ<sup>27</sup> and MANDIĆ<sup>28</sup> – the mis-translation in P400 became apparent. The Prosecutor acknowledged that the OTP had operated on the basis of the mis-translation. She stated that it was something that “the Prosecution have been relying on since the beginning of the case, that it hasn't been spotted before, but there's not much I can do about that now”.<sup>29</sup>

25. This portrays Stanišić in a completely different light. Furthermore, it is entirely consistent with the words spoken by Stanišić on 24 March 1992, when he was introduced to the RS Assembly by PM Branko DJERIĆ, as a candidate for the position of Minister of the Interior. DJERIĆ stated: “I am not going to say that (he was) unwilling to accept the

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<sup>23</sup> 1D633(Video, 0:16:53);MAČAR T.22840-22845.

<sup>24</sup> P400,pp.16-17.

<sup>25</sup> P400,pp.16-17.

<sup>26</sup> Opening Statement,T.306-307.

<sup>27</sup> DJOKANOVIĆ, T.3595-3597.

<sup>28</sup> MANDIĆ, T.9564.

<sup>29</sup> MANDIĆ, T.9566.

candidacy, let me just say that (he has) not refused".<sup>30</sup> Stanišić accepted the position of Minister of the Interior with the knowledge that the Public Security, State Security, and the Personnel Department of the MUP-SRBH had been used and abused by the SDA and the HDZ in an attempt to achieve their political goals. He vowed, as Minister of the Interior, not to make the MUP a political instrument and that it would operate under the law to protect life and limb:

I have said again and again, always quite bluntly, that this was purely a political term and that MUP was being made a currency in a political game. This kind of terminology is inappropriate for a MUP, for an organ of state Administration like the Ministry of the Internal Affairs, whose purpose is to realize executive power by strictly professional methods. I hope, let me establish this here, that the professional aspect has been marginalised by the political one. I hope that in the future, the Serbian MUP will become a professional organisation, an organ of state Administration which will actually protect property, life, body and other values which must be protected.<sup>31</sup>

26. A review of the totality of the evidence in this case demonstrates that the Indictment and the positions taken by the Prosecutor in his case against Mr. Stanišić are ill-conceived and baseless in law and in fact.

#### **A. MIĆO STANIŠIĆ'S BACKGROUND – CHARACTER – PERSONAL CIRCUMSTANCES**

27. Mićo Stanišić was born on 30 June 1954 in Ponor, Pale Municipality in BiH.<sup>32</sup>

28. He attended primary school in Pale. In 1973, he graduated from MUP high school where he was considered an excellent student, a good athlete, and a good person.<sup>33</sup> He immediately started working as an inspector – property crime – in the crime department at the Secretariat of the Interior in Sarajevo.<sup>34</sup> That same year, he carried the staff which was presented to President Tito each year on National Youth Day, an honour which was bestowed upon Stanišić for being one of the best of his generation in the spirit

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<sup>30</sup> P198,p.5.

<sup>31</sup> P198, pp.7-8.

<sup>32</sup> P2300,p.8.

<sup>33</sup> (REDACTED); NJEGUŠ, T.11306.

<sup>34</sup> P2300,p.14.

of brotherhood and unity in the SFRY.<sup>35</sup> In 1982, he graduated from law school at Sarajevo University. He never practiced law and continued to work in the MUP. He had enrolled in a post-graduate law degree in Belgrade but his studies were interrupted by the war.<sup>36</sup>

29. Stanišić continued to work in the MUP until 1984. From 1984 until the spring of 1991, he worked in business in food production and sales.<sup>37</sup>

30. From 13 May 1991 until 10 February 1992, Stanišić was the Secretary of the SUP in Sarajevo. His appointment was signed by Deputy Minister ZEPINIĆ on behalf of Minister Delimustafić. As Secretary of the Sarajevo City SUP, he had two assistants: Jozo Leotar (Croat) for crime and Ragib Hodžić (Muslim) for police affairs. Stanišić's main responsibilities were public security affairs: police work and crime, including personal documents such as passports, drivers' licences and IDs.<sup>38</sup>

31. On 14 February 1992, Stanišić was appointed advisor for state security to the Minister of the Interior, Alija Delimustafić.<sup>39</sup> This appointment to the republic was approved by all three sides.<sup>40</sup>

32. Contrary to the allegation made by the OTP, Stanišić was not a member of the SDS party.<sup>41</sup> He was never nominated or elected to any position within the SDS.<sup>42</sup>

33. Some of the leaders of the new national parties had faced legal problems for their political views under the Communist regime and the MUP was seen as the enemy. Stanišić was a part of the investigation of Karadžić and Krajišnik for white collar crime in the 1980s. As a result, false allegations were made against Stanišić that he was sent by

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<sup>35</sup> PLANOJEVIĆ, T.16533-16534.

<sup>36</sup> P2300, pp.8-16, 27.

<sup>37</sup> P2300, pp.15-21, 23-27.

<sup>38</sup> P888, P2300, pp. 21-28; ZEPINIĆ, T.5737-5738.

<sup>39</sup> 1D139(also,P906); MANDIĆ T.9667.

<sup>40</sup> P2300, pp.28-30.

<sup>41</sup> OTP PTB, para.10.

<sup>42</sup> P2305, pp.21-25.

the SNB to infiltrate the SDS<sup>43</sup> and that he had being involved in wrong doings while he worked in business.<sup>44</sup>

34. P883 is another example of a mis-translation which is relevant to this issue. The English translation of the document erroneously had the word "members" instead of "cadres": "TO THE SESSION OF THE SERBIAN DEMOCRATIC PARTY DEPUTIES CLUB invite the following ~~members~~ **cadres** of the SDS /Serbian Democratic Party/ employed in the government, ministries and other organizations" (Emphasis Added).<sup>45</sup> This list included Stanišić under no. 29 as Secretary of the City Secretariat of the Interior.<sup>46</sup>

35. There is no evidence that Stanišić was a member of the SDS. To the contrary, OTP witnesses, who knew him, were unaware whether he had any political affiliations at all: ZEPINIĆ,<sup>47</sup> ŠKIPINA,<sup>48</sup> and NJEGUŠ.<sup>49</sup>

36. Contrary to the allegation made by the OTP, Stanišić was not a member of the Sarajevo SDS Crisis Staff.<sup>50</sup> This Crisis Staff was never constituted.<sup>51</sup> Stanišić never knew about the formation of this body and never attended any such meetings. At the time, he was Secretary of the Sarajevo SUP and it would have been contrary to his duties and obligations to be a member of such a body.<sup>52</sup>

37. Stanišić never knew about a body called the Crisis Staff of the Serbian Democratic Party for the City of Sarajevo (P522), dated 24 December 1991. He never saw P522. He never knew about the existence of this body and he never attended any of

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<sup>43</sup> P2300, pp.54-57.

<sup>44</sup> MANDIĆ, T.9430-9439.

<sup>45</sup> At T.5722, a mistranslation in P883 was corrected. The document in the original states the "cadres" are invited. The English version mistakenly states "member of the SDS" are invited.

<sup>46</sup> ZEPINIĆ, T.5707-5708, 5721-5722.

<sup>47</sup> ZEPINIĆ, T.5707-5708, 5721-5722.

<sup>48</sup> ŠKIPINA, T.8289-8295, 8452-8453.

<sup>49</sup> NJEGUŠ, T.11308.

<sup>50</sup> OTP PTB, para.10.

<sup>51</sup> P1467; KEZUNOVIĆ, T.12053-12054,12061-12066.

<sup>52</sup> P2305, p.27-30.

its meetings.<sup>53</sup> The document makes reference to P15, the document commonly known as Variant A and B. In 1991 and 1992, Stanišić never saw or received Variant A and B nor was he ever informed about these instructions.<sup>54</sup>

38. On 21 December 1991, at the 4<sup>th</sup> Session of the Assembly, a Council of Ministers was appointed.<sup>55</sup> Initially, eighteen members were appointed to the Council. Stanišić was added as its nineteenth member.<sup>56</sup> ZEPINIĆ, the Deputy Minister of the Interior of the MUP-SRBH, was appointed as Minister of the Interior of the Council of Ministers and Stanišić was appointed Minister without portfolio.<sup>57</sup> On 13 January 1992, the Council made Stanišić responsible for a Working Group to deal with issues regarding the organisation and scope of national security. DJERIĆ was not sure what tasks this group received. But, he supposed it was related to the Cutileiro plan because at that time the proposed plan was being studied by all sides.<sup>58</sup> Stanišić did not contribute to the Working Group or participate in any work of the Council of Ministers.<sup>59</sup>

39. The Council of Ministers ceased functioning on 24 March 1992.<sup>60</sup>

40. Stanišić, as Minister of the Interior, was an *ex officio* member of the Council for National Security, which was established at a meeting of the Assembly held on 27 March 1992.<sup>61</sup> The Council was an advisory body, without any decision making power on security matters. It had no executive role, nor did it direct or guide matters concerning national security.<sup>62</sup> It could formulate proposals, while final decisions could only be made by the Assembly.<sup>63</sup> Stanišić became Minister of the Interior on 23 March 1992 and the Council for National Security did not meet or function after mid-May 1992.<sup>64</sup>

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<sup>53</sup> P2306, pp.7-13.

<sup>54</sup> P2306, pp.1-7, 13-14.

<sup>55</sup> P10, p.35.

<sup>56</sup> P10, p.36-37.

<sup>57</sup> P180, p.2.

<sup>58</sup> DJERIĆ, T.2328-2330.

<sup>59</sup> P2301, p.17-20.

<sup>60</sup> P198, p.4.

<sup>61</sup> L327. See, also, P439, pp.10-19.

<sup>62</sup> BAJAGIĆ, T.20062-20064.

<sup>63</sup> P439, p.12.

<sup>64</sup> See, L327, paras.I-III; P2307, pp.32-36; P2308, pp.1-9.

Stanišić was shown P207, Minutes of the Council of National Security held on 24 April 1992, where one of the conclusions provides that he and Simović are instructed to travel to Bosnian Krajina. Stanišić did not attend this meeting because he was holed up and unable to leave Vrace at the time. He and Simović never travelled to the Bosnian Krajina.<sup>65</sup>

41. Stanišić was highly regarded by his fellow members of both the MUP-SRBH and the RSMUP as being a conscientious professional. He never expressed any nationalist or hard line views and he always advocated that police work be done legally and professionally:

- a. ZEPINIĆ never heard Stanišić say things along the lines that the nations cannot live together in BH.<sup>66</sup>
- b. In June 1991, Stanišić spoke at a ceremony on the occasion of the appointment of personnel in the police social centre. He appealed to everybody to act professionally in the police, and he stressed that the laws and regulations had to be at the base of all activities of the service.<sup>67</sup>
- c. NJEGUŠ, chef de cabinet to Stanišić as Minister of the Interior in April 1992, testified that as secretary of the Sarajevo SUP and Minister, Stanišić was a professional, conscientious, hard-working person who demanded a lot from those that he worked. He demanded discipline and order. He drew the maximum from everybody he worked with but he also knew how to delegate responsibilities and obligations to them. As Minister, Stanišić insisted on respect for laws and regulation in police work and the rule of law. NJEGUŠ was surprised to read the indictment for Stanišić which

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<sup>65</sup> P2308, pp.12-17.

<sup>66</sup> ZEPINIĆ, T.5707-5708.

<sup>67</sup> (REDACTED).

alleges that he ordered and instigated, encouraged, et cetera, the commitment of war crimes. He stood for the opposite.<sup>68</sup>

- d. PLANOJEVIĆ testified that he had known Stanišić since 1971. Nothing in Stanišić's actions or words demonstrated any dislike for people of different ethnic groups in the former Yugoslavia. This was also true in 1992.<sup>69</sup> Stanišić insisted that the police perform its tasks and duties under its jurisdiction in conformity with the law, namely providing for law and order rather than taking part in combat and wartime operations. As assistant Minister for crime prevention, PLANOJEVIĆ received *carte blanche* from Stanišić to establish the crime prevention service in accordance with the laws and regulations governing police work. Stanišić gave him the power to use members of the police unit based at the seat of the MUP, headed by Karišik to fight crime and make arrests.<sup>70</sup>
- e. KOVAČ testified that Stanišić wanted to create a professional, apolitical MUP: members with proper backgrounds and vetting, set up a functioning Ministry from top to bottom based on the rule of law,<sup>71</sup> abolish locally created special units and establish a special brigade unit at RSMUP headquarters, eliminate and arrest paramilitaries and others who had broken the law.<sup>72</sup>
- f. ORAŠANIN testified that Stanišić's graduating class at the police academy was multi-ethnic: Jozo Leotar, Ismet Dahić, Mićo Stanišić, Momo MANDIĆ, Tomislav PLANOJEVIĆ, Tomislav Vujičić, Vladimir TUTUŠ, Azim Hurtić, Ahmed Mijazović, and others. He considered Stanišić to be

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<sup>68</sup> NJEGUŠ, T.11293,11307, 11422, 11447.

<sup>69</sup> PLANOJEVIĆ, T.16534.

<sup>70</sup> PLANOJEVIĆ, T.16526.

<sup>71</sup> KOVAČ, T.27211-27216.

<sup>72</sup> KOVAČ, T.27211-27216.

a truly professional Minister of the interior which is one of the reasons why he joined the RSMUP.<sup>73</sup>

- g. ANDAN knew Stanišić to be a highly educated and respected professional. He was considered a very rigid man who could be difficult with his colleagues, particularly those who had come to the MUP from other structures who thought they could work any which way they wanted. Stanišić insisted on police work being done lawfully and in a principled manner.<sup>74</sup>
- h. MAČAR testified that Stanišić was held in high esteem as a disciplined, professional police officer. From the time MAČAR first met him, to his two terms in office as Minister, he never once said anything bad against non-Serbian citizens. MAČAR knew that he was on friendly terms with non-Serbs and had friends among them. He never heard Stanišić say anything bad about non-Serbs, in spite of the war and anything that occurred then. Stanišić was first and foremost an apolitical professional police officer. His attitude towards everybody and especially towards crimes committed during the war was always the same. He insisted that every crime should be solved and no distinctions should be made between crimes based on ethnicity.<sup>75</sup>
- i. Following the first RSMUP Collegium held on 11 July 1992, BJELOŠEVIĆ was encouraged by Stanišić's proposals, remarks, and the conclusions for the proper functioning of the MUP in accordance with the Law. Stanišić said that all the problems that were registered at the meeting, whether they were within the purview of the Minister and the ministry or not, would be dealt with by a cabinet meeting. He would discuss it with the Prime Minister and other ministers in charge of various fields involved and ask

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<sup>73</sup> ORAŠANIN, T.21997-21999, 21844-21845.

<sup>74</sup> ANDAN, T.21387-21388.

<sup>75</sup> MAČAR, T.23089-23090.



the appropriate authorities to have certain things discussed and agreed upon. BJELOŠEVIĆ understood Stanišić to be a man who was seriously committed to strengthening and developing the RSMUP on the basis of the Constitution and the law. He insisted on people acting in accordance with the law to a maximum degree and that all crimes must be uncovered and the perpetrators prosecuted irrespective of ethnicity.<sup>76</sup>

- j. DAVIDOVIĆ knew Stanišić to be a man who insisted that police work be conducted in accordance with the law and that policemen conduct themselves professionally, and that he did not hold any negative views about Muslims.<sup>77</sup>

42. As of today's date, Mr. Stanišić has been in detention at the UNDU for 1,122 days.

43. Mr. Stanišić cooperated with OTP. While on provisional release, he agreed to be interviewed between 16 and 21 July 2007. At the beginning of his interview, Stanišić stated that every word that he states can be used in court, provided that it has been correctly interpreted, according to the Rules that were read out to him.<sup>78</sup> In the course of the interview Mr. Stanišić gave *inter alia* his views, recollections and account of his acts, conduct and state of mind concerning the events in 1991 and 1992 which ultimately turned out to be entirely consistent with the evidence presented in this case.<sup>79</sup>

### **B. THE DISINTEGRATION OF THE MUP-SRBH**

44. Beginning in 1991, the MUP-SRBH started to disintegrate and became a disfunctional organization. The Trial Chamber has heard testimony of members of the MUP-SRBH called by both the Prosecution and Defence, who spoke about their personal circumstances and the frustrations they experienced as the MUP-SRBH fell apart. This

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<sup>76</sup> BJELOŠEVIĆ, T.19708-19709.

<sup>77</sup> DAVIDOVIĆ T.13578-13581.

<sup>78</sup> P2307, p.3.

<sup>79</sup> P2300-P2313.

evidence provides the context and reasons for the split in the MUP which resulted in the creation of two additional ministries in April 1992: RSMUP and a Croatian MUP. The disintegration of the MUP-SRBH occurred as a result of the social and political upheavals that were occurring across the territory of the SFRY: the secession of the Republic of Slovenia, the armed conflict occurring in the Republic of Croatia, and the political events taking place in BH, and, in particular, within the MUP-SRBH, following the multi-party elections in November 1990.

45. Following the election in November 1990, the three ethnically based parties – SDA, SDS, and HDZ – entered into an agreement on the distribution of posts in government, including the Ministry of the Interior, along party lines.<sup>80</sup> However, the SDA took steps to restructure and destabilize the MUP-SRBH and to create an armed force, in part, through the MUP-SRBH. Extra-institutional SDA influence contributed the most to these events through the appointment of senior SDA cadres within the MUP-SRBH, the removal, sidelining, and replacement of Serb cadres from all levels of the ministry, and the creation of an SDA armed force through the ranks of the reserve police and paramilitary formations. As a result, in the second half of 1991 and early 1992, the ranks of the MUP were being purged. People in leading positions were removed from the level of the ministry down to the SJB level in the municipalities. The Ministry started breaking up at the seams along ethnic lines.<sup>81</sup>

46. This section reviews the evidence in this case in relation to the process of disintegration of the MUP-SRBH which occurred throughout 1991 and in the beginning of 1992. Contrary to the allegations made in the Indictment, and in particular paragraphs 11.a and 11.b, Stanišić never participated in the formation of the Bosnian Serb bodies and forces that implemented the forcible takeover of the Municipalities and participated in the crimes listed in the Indictment, nor did he ever participate in the development of the Bosnian Serb policy at the leadership level in order to secure the takeovers of the Municipalities in the targeted territory and the forcible transfer of the non-Serb

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<sup>80</sup> 1D114; VLAŠKI T.6375-6377.

<sup>81</sup> MAČAR, T.22808-22809.

population. To the contrary, this evidence shows that at no time did Stanišić ever act criminally or manifest any criminal intent.

#### **RESTRUCTURING OF THE STATE SECURITY SERVICE (SDB)**

47. Beginning in early 1991, the SDA and the HDZ took steps to marginalize Serb employees from the SDB and to take control of this sector of the MUP-SRBH.<sup>82</sup> The personnel policy was run by Hilmo Selimović and Munir Alibabić of the SDA and Branko Kvesić of the HDZ.<sup>83</sup> After the multi-party elections, Selimović became Assistant Minister for General and Personnel Tasks. He purged the ranks of the police of employees by demoting or replacing Serbs, for the most part, and by hiring Muslims. He issued over 300 decisions on employment, replacement and demotion. Employees who had investigated senior officials in the SDA, prior to the war, including President Alija Izetbegović for his publication of the Islamic Declaration, fared particularly badly.<sup>84</sup>

48. A significant step taken in the restructuring of the SDB was the appointment of Munir Alibabić by the SDA, as chief of the Sarajevo SDB Sector. He wielded great influence over the media such as Slobodna Bosna, Oslobođenje, and television. Alibabić organised the illegal wire taps of Serb cadres, he would edit recorded phone conversations and use them against the officials of Serb ethnicity.<sup>85</sup> He was behind the media harangue in BH, where he demonised or planted false information in relation to the Serbs in BH. To no avail, SDS called for his replacement in the SDB. After the war, he co-operated with Chief Prosecutor at the ICTY, Carla del Ponte, but he was banned from his job by the OHR for giving false information to the Tribunal.<sup>86</sup>

49. The removal of VLAŠKI from the SDB in 1991 provides a striking example of the sidelining of Serb cadres in the MUP-SRBH. In March 1991, VLAŠKI, the chief of the 5<sup>th</sup> Administration for the Security of Persons and Facilities, was appointed Deputy Under-

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<sup>82</sup> 1D118.

<sup>83</sup> VLAŠKI, T.6381-6382; 1D118, p.2.

<sup>84</sup> ŠKIPINA, T.8147-8148, 8415-8422; ŠČEKIĆ, T.6562-6564; BOROVČANIN, T.6735; ANDAN, T.21372-21373.

<sup>85</sup> VLAŠKI, T.6316-6321, 6302-6304, 6372-6280, 6418-6421, 6447; P902; P768.

<sup>86</sup> 1D117; MANDIĆ, T.9641-9643, 9649-9650.

secretary for State Security by Minister Delimustafić. The inter-party agreement designated this position to a Serb. However, Kvesić prevented VLAŠKI from assuming his position because there was opposition to a Serb occupying this post. In fact, through a government initiative, the SDA/HDZ coalition abolished VLAŠKI's position from the official classification of jobs and his appointment by the Minister was declared null and void. This broke the chain in the hierarchy in State Security. From that point on, Muslims and Croats controlled the SDB and Serbs only remained in a few insignificant posts. VLAŠKI and others were left with no recourse and no way to reverse the process.<sup>87</sup>

#### **MANIPULATION OF BH CENSUS – APPOINTMENTS OF NON-RESIDENTS TO MUP-SRBH**

50. Another example which shows how MUP-SRBH was systematically weakened by measures taken by the SDA leadership occurred as a result of manipulation of the BH census and appointments to the people by leading SDA cadres within the ministry.

51. In 1990 and 1991, Muslims moved from Sandžak (Serbia and Montenegro) and Kosovo (Serbia) *en masse* to Sarajevo. These non-citizens of BH were included in the March 1991 census and used by the SDA to amplify the number of Muslim citizens in BH. The SDA pursued an ethnically based personnel policy in the RSMUP in line with these inflated census results. In addition, in violation of existing rules, dozens of these individuals who arrived from outside BH became reserve police officers in Sarajevo, without satisfying residency requirements and security checks. People with shady pasts were being hired by the police.<sup>88</sup>

52. In the second half of 1991, Hilmo Selimović was replaced by Mirsad Srebreniković as Assistant Minister for General and Personnel Tasks. Srebreniković, a Croatian citizen, who had completed religious schooling in Tehran, was a religious teacher in a mosque in Zagreb. After his appointment and others from the SDA, such as

<sup>87</sup> VLAŠKI, T.6316-6321, 6302-6304, 63672-6280, 6418-6421, 6447;P902; P768; P517; 1D116; 1D336.

<sup>88</sup> MAČAR, T.22810-22813, 23123-23125.

Jusuf Pušina and Avdo Hebib, the personnel policy became radicalised and it created huge problems in the functioning of the MUP-SRBH.<sup>89</sup>

53. Some 2,000 Serb MUP employees were dismissed to recruit and employ Muslim policemen on the pretext that it was necessary to achieve ethnic balance within the service. Under Srebreniković there was over recruitment, proper security checks were not done, people with criminal records from Sandžak (Serbia) and known local convicted criminals from Sarajevo, such as Ismet Bajramović "Čelo" were hired into the police ranks and given official police IDs.<sup>90</sup>

54. The repercussions of these hiring policies were felt down to the SJB level in Bratunac, Zvornik, Srebrenica. The Muslim police chief in Bratunac reported Muslim military conscripts who had received police training with the MUP of the Republic of Croatia, and individuals who could not speak Serbo-Croatian were being assigned to the SJB. Minister Delimustafić told MANDIĆ that he was helpless and that the policy of the top leadership of the SDA was to have a Muslim police and a Muslim army. If Delimustafić opposed hardliners in the SDA, such as Hasan Čengić, he risked losing his job.<sup>91</sup>

55. In Sarajevo 1991, Serb policemen were either removed from their positions because of their ethnicity and replaced by unqualified individuals or they found it impossible to perform their work because of the escalation in crime resulting from these personnel policies. ST-126 KEZUNOVIĆ had worked for fifteen years in communications in the MUP-SRBH when, in the summer of 1991, he was told summarily that his services were no longer needed.<sup>92</sup> In June 1991, PLANOJEVIĆ was demoted to post at SJB Marin Dvor. Beginning in mid-September 1991, he witnessed the entire staffing of reserve police stations with Muslim reservists, the distribution of smuggled weapons and weapons from the SDB warehouse at Rakovića to Muslims without authorisation,

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<sup>89</sup> ANDAN, T.21371.

<sup>90</sup> ANDAN, T.21371-21372.

<sup>91</sup> MANDIĆ, T.9454-9455, 9626-9634, 9646; 1D129.

<sup>92</sup> MANDIĆ, T.9454-9455, 9630-9634; KEZUNOVIĆ, T.11621-11626.

including individuals with criminal records. In October 1991, he learned that his name, along with six other Serb policemen, was on a hit list read out in the Stari Grad SJB where the chief was a Muslim.<sup>93</sup>

56. At SJB Novo Sarajevo, policemen found it more and more difficult to investigate general crime and crimes against property. Minister Delimustafić had ties with known criminals such as Juka Prazina and Ismet Bajramović “Čelo” and these criminal elements became very prominent. Delimustafić was known to have had a criminal past.<sup>94</sup> The police lacked fuel and other equipment, especially forensic equipment and all other items needed for investigation. Over time, there was a major escalation in violent crimes and robbery and ties to political parties interfered with crime investigation and prosecution.<sup>95</sup>

57. The Sarajevo SUP formed a group composed of local crime police inspectors from the territory of the town of Sarajevo to deal with the increase in serious crime.<sup>96</sup> The newly appointed police officers from Sandžak were unfamiliar with the security situation in the city and BH<sup>97</sup> and police operations were often frustrated because they leaked information. This problem was especially pronounced in Stari Grad and Centar. The new reservists were walking the streets armed at times with long-barrelled weapons.<sup>98</sup>

58. In late 1991 and early 1992, the MUP-SRBH effectively ceased to operate as a law abiding law enforcement agency. The huge number of Muslims who joined the police reduced the number of experienced, professional policemen and changed the ethnic balance of the police in Sarajevo.<sup>99</sup> The people who arrived from Sandžak took over the black market economy across the city of Sarajevo and pursued all forms of illicit trade: foreign currency, cigarettes, alcohol, food, etc.<sup>100</sup> Serb reserve officers and

<sup>93</sup> PLANOJEVIC, T.16373-16379, 16498-16509.

<sup>94</sup> PLANOJEVIC, T.16377-16379.

<sup>95</sup> ORASANIN, T.21845-21849; TUSEVLJAK, T.22196-22198, 22200.

<sup>96</sup> TUSEVLJAK, T.22497, 22196-22198.

<sup>97</sup> MACAR, T.22809-22814, 23122-23123; TUSEVLJAK, T.22499-22500.

<sup>98</sup> MACAR, T.22813-22814; 1D178.

<sup>99</sup> TUSEVLJAK, T.22499-22500

<sup>100</sup> MACAR, T.22810-22813, 23123-23125.

commanders were removed from the police ranks. After four years as SJB Stari Grad Chief, ANDAN was replaced because his superior, Muhamed Bešić thought that it was inappropriate for a Serb to be the police chief in a territory with a ninety-seven percent Muslim population.<sup>101</sup> A Muslim policeman was then re-instated despite having misdemeanour and criminal proceedings lodged against him.<sup>102</sup>

59. In early 1992, at the Stari Grad SJB, criminals were more often received by the police leadership than police staff, especially Serbs who needed to communicate with their superiors. Serb commanders were replaced by Muslims and the weapons were taken and redistributed to Muslim personnel. Police work was no longer carried out. Serb staff was excluded from daily, routine tasks. Check-points were manned by active policemen from the Stari Grad SJB, reserve policemen, and Green Berets. Muslim policemen armed as many Muslim reservists as possible in plain daylight.<sup>103</sup>

#### **SDA CONTROL OVER PERSONNEL POLICY**

60. At the same time as the SDA assumed control of personnel policy within the MUP-SRBH, the party took steps towards creating an armed force. On 26 May 1991, at a secret meeting, the SDA decided to create the SDA National Defence Council and the Green Berets and the Patriotic League. Criminals from Sarajevo were recruited and received official police IDs and acted under the auspices of the service. This meeting was attended by Izetbegović, and SDA representatives from BH, Sandžak, Kosovo, Croatia, Vienna as well as foreign emissaries. The SDA created a strategy for the independence of BH and to set up a seven member Council for National Security in preparation for an armed conflict. Since 1989, the SDA had been organising and arming paramilitary formations.<sup>104</sup> On 11 June 1992, the Council was formed with Sefer Halilović, an active JNA officer was in charge of military affairs in the SDA.<sup>105</sup>

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<sup>101</sup> ANDAN, T.21365-21367.

<sup>102</sup> ANDAN, T.21371-21372.

<sup>103</sup> MAČAR, T.22826, 22835-22836.

<sup>104</sup> VLAŠKI, T.6406-6408; RADULOVIĆ, T.10974-10976; 1D132; 1D662, paras.23-24; BOROVČANIN, T.6734-6735, MAČAR, T.22817-22818.

<sup>105</sup> 1D180; MANDIĆ, T.9626-9627, 9646; ŠKIPINA, T.8415-8417, 8147-8148; TIHIĆ, P1556.8, p.3654-3656.

61. In August 1991, TIHIĆ and Izet Izetbegović, brother of Alija, attended a meeting of the SDA Main Board on Mount Igman, near Sarajevo. Participants discussed the option of a military uprising with President Izetbegović, i.e. whether to join with the Croats and to take up arms.<sup>106</sup>

#### **POLICE TRAINING IN CROATIA AND MOBILIZATION**

62. Both Prosecution and Defence witnesses testified to the fact that over the summer, Muslim youth were sent secretly for training by the SDA in the MUP of the Republic of Croatia. As they came back from training, they joined the reserve police force which was mobilized in September 1991. The creation, training, and arming of these forces was conducted through the SDA with the connivance of senior SDA cadres in the MUP-SRBH who ensured, among other things, financing. This created a paramilitary armed force in violation of the Constitution and the laws of BH. Only the JNA and the TO were recognized as the legitimate armed forces of the Republic. This evidence shows not only that the SDA used the MUP to create an armed force that was under its command but it further weakened the fabric and functioning of the MUP-SRBH as a viable institution.

63. The SDA bypassed the legal and regular channels to send candidates from BH and Kosovo to Croatia. This was not done under the auspices of the MUP-SRBH or in cooperation between the MUP of the Republic of Croatia and the MUP-SRBH.<sup>107</sup> The SDA used the records in the possession of the Ministry of Defence to identify candidates with particular military expertise. Sefer Halilović prepared a military concept for the creation of an armed force, and on that basis these candidates were sent to the Republic of Croatia for training.<sup>108</sup>

64. The men who went for training in Croatia largely joined the reserve force of the MUP-SRBH.<sup>109</sup> Over the summer and autumn 1991, the SDA leadership, through the MUP reserve force, created, supplied, and armed a formidable armed force.<sup>110</sup>

<sup>106</sup> TIHIĆ, P1556.8, p. 3656.

<sup>107</sup> 1D129; ZEPINIĆ, T.5950-5952.

<sup>108</sup> P424; 1D122-1D127; 1D787; 1D692; 1D793-1D794, VLAŠKI, T.6390-6392, 6396-6398.

<sup>109</sup> 1D129.



65. On 26 September 1991, Delimustafić ordered the mobilisation of police reservists from the contingent of undeployed military conscripts registered with municipal secretariats for national defence on the basis of a conclusion of the SRBH Presidency. This mobilisation order was issued despite the knowledge of Delimustafić that reserve police officers were undermining the reputation of the MUP: failing to comply with assignments, rules of conduct, wearing improper uniforms and footwear, causing injuries as a result of careless handling of weapons issued to them. Reserve police stations did not follow proper instructions for police tasks and failed to check the working order of weapons, equipment, men's health, and to submit reports.<sup>111</sup>

66. Over time, Serb members of the MUP-SRBH learned that the SDA was sending Muslim candidates for police training with the MUP of the Republic of Croatia through the Islamic religious community and the mosque in Zagreb, where candidates were admitted, recruited and trained.<sup>112</sup>

67. Serb cadres within the MUP-SRBH reacted and took positive and decisive steps to inform the authorities of these irregularities and non-compliance with the law to stabilize the situation and to ensure that the MUP-SRBH functioned in accordance with the law. On 25 July 1991, CSB Chief Župljanin wrote to inform the Council for Protection of the Constitutional Order of the SRBH and to complain that individual members of the Muslim community were being sent in an organised manner for training in the MUP of the Republic of Croatia in an attempt to create a Muslim armed force within the Ministry of the Interior.<sup>113</sup>

68. On 26 September 1991, MANDIĆ sent a dispatch to the SRBH Presidency, the Prime Minister, Deputy Prime Minister, and Federal authorities at the SSUP, and the SSNO. He pointed out that the mobilisation order issued by Delimustafić is illegal and

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<sup>110</sup> VLAŠKI, T.6404-6405; 1D695; 1D622, para.97; 1D573; PLANOJEVIĆ, T.16373-16379, 16498-16509, TUŠEVLJAK, T.22213-22214.

<sup>111</sup> 1D121.

<sup>112</sup> TUTUŠ T.7763; ORAŠANIN, T.21849-21850; MAČAR, T.22818-22820; MANDIĆ, T.9627-9728, 9794-9795.

<sup>113</sup> P895; MANDIĆ, T.9628-9629; 1D128.

that it could lead to an escalation in violence and crime already being committed by reservists of mainly Muslim and Croat ethnicity who cannot be controlled by the authorities. This dispatch also pointed out that the conclusion of the Presidency left open ended the number of reservists which could be mobilised. According to the Law, only the Government could determine the total number of the police force in BH as well as the organisation and the total number of reserve policemen and the criteria for manning the force. The number set by the Government in 1988 had remained unchanged: there was a total of 33,000 active and reserve police officers (6,000 active and 27,000 reserve).<sup>114</sup>

69. In a further attempt to preserve the integrity of the MUP and to prevent its deterioration, MANDIĆ sent another letter to the authorities in BH and the SFRY on 9 January 1992 to alert them *inter alia* that Avdo Hebib had engaged wartime police reserve forces at Sarajevo CSB on his own initiative without the consent of the Minister of the Interior or the SRBH Presidency. Along with members of the SDA, Hebib armed Muslims with weapons belonging to the MUP, including 450 long barrel weapons, he spread one-sided stories to the EC mission that the Serbs are the main destabilising factors in BH, and he engaged wartime reserve police forces without the approval of the Minister or the SRBH Presidency.<sup>115</sup>

#### **SITUATION OUTSIDE SARAJEVO**

70. The structural breakdown of MUP-SRBH was further exacerbated by events which occurred outside Sarajevo. This evidence shows moreover that Serb members of the MUP-SRBH worked to preserve the Ministry and to ensure that it operated as a law abiding law enforcement agency in the face of overt action by Muslim and Croat officials in the MUP-SRBH and the inability and impotence of republic institutions resulted in the deterioration and dismemberment of the Ministry.

#### **KRAJINA**

<sup>114</sup> 1D130; MANDIĆ, T.9637-9638; GAJIĆ, T.12850-12852.

<sup>115</sup> 1D255; MANDIĆ, T.9639-9641.

71. The situation in the Banja Luka region in 1991 caused a breakdown in the functioning of the MUP-SRBH. The armed conflict taking place in the Republic of Croatia seriously heightened tensions and caused the security situation to deteriorate: Gradiška and Bosanski Brod were shelled from Croatia, at the end of 1991 and the beginning of 1992, 10,000 to 15,000 Serb refugees at a time arrived from Croatia, armed.<sup>116</sup>

72. The police faced the problem of paramilitaries and renegade groups from all sides, a problem which would only intensify when fighting started in BH in 1992. In 1991, a group known as the Wolves of Vučjak, led by Veljko Milanković, represented a serious danger: they threatened and ill-treated citizens of all ethnicities at gun point and in other ways, they disarmed policemen at checkpoints, and they were involved in financial crimes, the re-sale of arms obtained in Croatia and Kosovo, and the sale of stolen fuel. CSB Chief Župljanin and ZEPINIĆ undertook an operation which led to their arrest and incarceration.<sup>117</sup>

73. This situation was reported to the Presidency of SRBH and the MUP-SRBH over the summer of 1991 as a result of the escalation of the armed conflict in Croatia since the end of June 1991,<sup>118</sup> which caused daily threats to the general security of citizens and property.<sup>119</sup>

74. During this period, requests from the CSB Banja Luka for assistance from the MUP-SRBH were ignored. The centre suffered from a shortage of personnel, equipment, and uniforms. On 27 August 1991, CSB Chief Župljanin wrote to the President of the Council for the Protection of the Constitutional Order, the President of the Assembly, the President of the Executive Council of the Assembly, and the MUP-SRBH. The document states that his area faced complex security issues and that his requests for recruitment to fill positions vacated through retirement in late December 1990 had

<sup>116</sup> TUTUŠ, T.7762-7763, 7887-7888; ZEPINIĆ, T.5885-5887; 2D40.

<sup>117</sup> ZEPINIĆ, T.5859-5860, 5867, 5874-5879, 5883-5995, 5970-5973; MANDIĆ, T.9749-9754; 2D41; 2D73. See also P411.47; P523; P2061.

<sup>118</sup> 2D39; ZEPINIĆ, T.5860-5867.

<sup>119</sup> 1D54; TUTUŠ T.7888-7890; 2D65; 2D66; 2D40.

received no response from the Ministry. Between April and mid-August 1991, candidates were identified and the recruitment procedure was completed. However, on 19 August 1991, the Ministry informed the CSB Banja Luka that a decision to have police officers begin duty on 2 September 1991 had been postponed until further notice. Župljanin wrote to complain about the “inertia” of the MUP-SRBH and to request that the relevant authorities take the necessary measures to fill the vacant posts for police officers so that the MUP remained strong and integral and had the resources to do its work.<sup>120</sup>

75. This request by Župljanin echoes the Report prepared by the Presidency of SRBH following the visit by a delegation of state officials including ZEPINIĆ and Avdo Hebib in mid-July 1991. The SJBs in Banja Luka, Bosanska Dubica, Bosanska Gradiška, and Bosanski Novi had neither the personnel nor the resources to carry out their duties. The Report recommended the recruitment of personnel urgently and the replacement of outdated weapons and technical equipment.<sup>121</sup>

76. In contrast, during the same period, the chiefs of the Mejdan and Budžak police stations travelled to MUP-SRBH headquarters in Sarajevo to receive equipment and material, without the authorisation of their superiors and without informing them. In fact, they misled TUTUŠ by telling them that the Banja Luka CSB Chief had authorized their travel, when that was not true. At MUP headquarters, the chief at Mejdan, a Muslim, saw Avdo Hebib from the SDA. The chief at Budžak, a Croat, met with Branko Kvesić from the HDZ, the head of State Security who had no connection with the public security sector or any SJB chiefs. They returned from Sarajevo with new cars and equipment (shoes, shirts, uniforms), and material to renovate their police stations. This material was provided both from the ministry and private donors, which was forbidden under police regulations. TUTUŠ wrote a letter to Minister Delimustafić, Deputy Minister ZEPINIĆ, and Assistant of the Minister for Crime, Hebib to express his dissatisfaction and to point out that his SJB lacked materiel and equipment. He received no explanation or answer from

<sup>120</sup> 2D38; TUTUŠ, T.7757-7761, 7891-7893.

<sup>121</sup> 2D39.

the ministry. For TUTUŠ, it was a clear sign of the connection between the MUP, the SDA, and HDZ. SJBs headed by Serbs were not treated in the same way as SJBs headed by Muslims and Croats and it was causing the MUP-SRBH to become weak and disfunctional.<sup>122</sup>

77. It was not however the first time TUTUŠ realized that the policies being envisaged and implemented by the SDA and HDZ leadership in the MUP-SRBH were leading to the disintegration of the ministry. Prior to his appointment as chief of SJB Banja Luka in 1991, he learned that the problem of personnel policy at the MUP-SRBH was extremely serious. Muslim staff was being hired outside of staffing specification. After business hours as many as 200 or 300 Green Berets and members of the Patriotic League were being hired into the MUP.<sup>123</sup>

78. Similarly, in September 1991, Župljanin sent a dispatch to Chief of SJB Prijedor, copied to Minister Delimustafić, protesting about employment of four employees of Muslim ethnicity who were not covered by staffing specifications, without proper security checks or consultations with him. He insists that personnel issues must be addressed to the Chief of CSB and that he must be informed about all proposed candidates for employment.<sup>124</sup>

### HERZEGOVINA

79. In Herzegovina, the police overtly functioned along purely ethnic lines under the control of the HDZ. The Herceg-Bosna Croatian entity was formed in the course of 1991. The decisions of the MUP-SRBH were not implemented or followed, the police was subjected to Croat paramilitary authority, and ethnic Croat officials working within the MUP-SRBH acted illegally and arbitrarily according to instructions given to them by the HDZ.<sup>125</sup>

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<sup>122</sup> TUTUŠ T.7757-7761.

<sup>123</sup> TUTUŠ, T.7754-7757.

<sup>124</sup> 1D112.

<sup>125</sup> 1D662, para 53-80.

80. In the second half of September 1991, ANDAN was instructed by Hebib to go to Ljubuški in Eastern Herzegovina. The Croat commander of the SJB was being replaced by an ethnic Muslim. ANDAN was supposed to be present during the hand-over of duty and to assist the new commander with his work. The population in Ljubuški was 80% Croat and 20% Muslim. When he arrived, ANDAN was told that they would never accept a "Turk" as SJB Chief and that he should return to Sarajevo and report this to his superiors in the Ministry. When ANDAN was leaving Ljubuški, he saw 200-300 men at the football stadium doing exercises, wearing the uniform of the Croatian National Guard paramilitaries. ANDAN wrote up an Official Note about everything that he saw at the Ljubuški and sent it to his superior, Hebib. There was no reaction.<sup>126</sup>

81. By late 1991, it was well known in western Herzegovina that military units had been set up called the Croatian armed forces. On 1 October 1991, fighting had begun in Dubrovnik in the neighbouring Republic of Croatia.<sup>127</sup> In that period, MAČAR along with team of inspectors of Muslim and Croat ethnicity, went to Herzegovina to arrest five perpetrators in four municipalities Mostar, Listica, Grude, and Ljubuški. Check-points had been set up along roads leading into these municipalities, manned by armed members of the Croatian armed forces, who carried long-barrel automatic weapons. The four suspected perpetrators were arrested and brought to the Sarajevo SUP. In consultation with the chief of the crime sector, Ivo Rezo, an ethnic Croat, they determined that there was sufficient indicia to file criminal complaints and issue three-day remain orders. The next day at 6.00 a.m., Rezo called MAČAR and told him that there was a lot of criticism coming from the HDZ as a result of this operation. Under pressure from the HDZ, Rezo was soon thereafter removed from office.<sup>128</sup>

### **DOBOJ**

82. BJELOŠEVIĆ, the Chief of CSB Doboj testified that from the autumn of 1991, in the area of responsibility of the Doboj CSB, the MUP-SRBH had progressively become dysfunctional as a result of events occurring on the ground and the irregular and illegal

<sup>126</sup> ANDAN, T.21369-21371.

<sup>127</sup> KRULJ, T.1968-1969.

<sup>128</sup> MAČAR, T.22825-22829.

measures and decisions taken by certain members of the Muslim leadership of the MUP-SRBH.

83. In May 1991, waves of Serb refugees fled from the war zone in Western Slavonia (Croatia) and began to arrive in the Doboj Municipality. Over the summer months, members of the JNA, the Croatian National Guard, and other formations returned to the Doboj area from the front lines in Croatia. There were acts of sabotage, armed, self-organised village formations emerged and an atmosphere of fear and inter-ethnic mistrust grew.<sup>129</sup>

84. On 15 September 1991, the first serious conflict erupted in the Doboj area, when an attack was launched across the Sava River from the barracks in Slavonski Brod (Croatia) against Bosanski Brod (BH).<sup>130</sup> There was high calibre mortar fire, targeting the villages in the territory of Bosanski Brod municipality.<sup>131</sup>

85. On 30 September 1991, BJELOŠEVIĆ informed the Government and the Minister of the Interior on the impact of the conflict in Bosanski Brod: civilians were not allowed to cross the bridge from BH into Croatia, workers at the industrial complex had lost their jobs, citizens protested in Bosanski Brod to demand the re-opening of the bridge, people from Slavonski Brod were allowed to cross over to Bosanski Brod, and checkpoints had been established on the Croatian side.<sup>132</sup>

86. As a result of these events, distrust and fear within the population and between members of the MUP-SRBH increased and the system of management and hierarchy within the police started to collapse. On 14 September 1991, a group of armed members of the Guard from the Socialist Republic of Croatia, returning from the front in Croatia,

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<sup>129</sup> BJELOŠEVIĆ, T.19439-19444.

<sup>130</sup> BJELOŠEVIĆ, T.19447.

<sup>131</sup> 1D253; BJELOŠEVIĆ, T.19441-19442,19446.

<sup>132</sup> 1D437; BJELOŠEVIĆ, T.19447-19448.

were arrested and released by the Bosanski Šamac SJB chief without being charged. This caused fear and mistrust, even among the members of the SJB.<sup>133</sup>

87. Furthermore, on 24 October 1991, BJELOŠEVIĆ sent a dispatch to the MUP-SRBH Minister, Delimustafić concerning irregularities in the appointment of personnel. The person appointed SJB Derventa chief did not have the requisite educational background, SJB personnel was being replaced without his knowledge, there were direct communications between the Ministry and SJBs and there were delays in appointments for other post, without explanation, etc. Prior to sending this dispatch to Delimustafić, BJELOŠEVIĆ had complained to Deputy Minister ZEPINIĆ, by telephone on a number of occasions without receiving a satisfactory response. He proposed that the situation should be reviewed at the level of the Ministry and that these matters should be discussed collegially at the CSB to have the MUP act in accordance with the law and other regulations.<sup>134</sup>

88. The leadership at the MUP-SRBH failed to respond properly to this situation. To the contrary, in December 1991, the Ministry exacerbated the situation by sending inspectors in violation of the parity principle and the multi-ethnic composition of the MUP and other rules and regulations of the police service. Omer Stambolić arrived at CSB Doboj and informed BJELOŠEVIĆ that he was now "Acting Chief of public security at the CSB" and that Ragib Hodžić would coordinate special duties at Bosanski Šamac SJB and Avdo Panjeta would do the same at Bosanski Brod SJB. Stambolić had been suspended from service for a disciplinary violation and BJELOŠEVIĆ had no decision from the ministry concerning Stambolić's duties. These men were all Muslim and they brought in Muslims from outside the area to accompany them. BJELOŠEVIĆ complained to the ministry about what amounted to a parallel system of work within the MUP-SRBH which circumvented the CSB level and which provoked anger in Bosanski Brod and Bosanski Šamac, which Bjelošević calmed by withdrawing policemen to avoid mass-scale unrest.<sup>135</sup>

<sup>133</sup> 1D436; BJELOŠEVIĆ, T.19444-19445,19454-19458,19460-19462.

<sup>134</sup> 1D439; BJELOŠEVIĆ, T.19454-19462,20840-20841.

<sup>135</sup> 1D443-1D446; 1D452; BJELOŠEVIĆ, T.19472-19483.



**OTHER FACTORS IMPACTING ON THE DISINTEGRATION OF THE MUP-SRBH**

89. The disintegration of the MUP-SRBH cannot be divorced from other events happening in BH and throughout the former Yugoslavia. As the SFRY started to dissolve, its constituent Republics increasingly ignored and disrespected the federal authorities, organs, laws, and institutions.<sup>136</sup> As early as 1991, the SDA called upon its members and ethnic Muslims not to serve their military term and to ignore any call-up to the JNA.<sup>137</sup> The JNA was attacked at the Tuzla airport and army units and military facilities were attacked by paramilitary units composed of criminals near Grude in the Neretva Valley.<sup>138</sup>

90. A similar process started to develop at the level of Republics with the formation of autonomous regions and regional communities. The Constitution provided for the creation of local administrations for economic development through regional communities.<sup>139</sup> That was a basis for the establishment of Community of Municipalities of Bosnian Krajina, later to become ARK.<sup>140</sup> Similarly, Herceg-Bosna, as a regional community of municipalities, was formed in the course of 1991 only to declare itself Republic in 1993.<sup>141</sup> This process ultimately led to the fragmentation of municipalities into even smaller communities according to ethnic composition.<sup>142</sup>

91. In the autumn of 1991, there was a joint initiative of the SDA and HDZ parties to form the municipalities of Bronzani, Mejdan, Krupa, Vrbas, Stričići and Ivanjska in the territory of Banja Luka. The SDA in several municipalities in Banja Luka, with a majority non-Serb population, wanted to form a government and exercise power over the territory. According to this initiative, the municipality of Banja Luka would have been

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<sup>136</sup> 1D662, paras 1-13.

<sup>137</sup> TRBOJEVIĆ, T.4158.

<sup>138</sup> DJERIĆ, T.2381; ZEPINIĆ, T.5921-5922.

<sup>139</sup> 1D242; 1D245; 1D313; L15 art.274-281.

<sup>140</sup> 2D74; P60.4; P67; P71; P947; P1353.26; P1612; P1880; P2077.

<sup>141</sup> 1D141; 1D142; 1D145; 1D702; 1D704-1D706.

<sup>142</sup> 1D1-1D5; 1D154; 1D155; 1D240; 1D420; 1D462 (1D154-1D155 maps marked by (REDACTED)) P411.49; P1556.11; P1615; P1834.

broken down administratively into a number of municipalities with a Muslim or Croat majority.<sup>143</sup>

92. Very soon after the multi-party elections in BH in November 1990, it became apparent that each one of the coalition parties had a different agenda.<sup>144</sup> The SDA wanted a sovereign BH outside of SFRY, the HDZ supported that objective, with the desire to join parts of BH inhabited by Croats with the Republic of Croatia, and the SDS wanted to preserve the SFRY and BH as a part of the SFRY.<sup>145</sup> DJERIĆ testified that the secession of Slovenia and Croatia caused a crisis across the SFRY and caused an existential fear that was felt among people living in BH. It resulted in the collapse of the entire system: the economy, transportation, culture, tourism, etc.<sup>146</sup> As the war raged in Croatia in 1991, the JNA pulling out of Slovenia and Croatia, as well as the huge number of refugees complicated the situation.<sup>147</sup> The deterioration of the security situation in BH led to an enormous increase of arms smuggling and the arming of the population.<sup>148</sup>

93. On 14-15 October 1991, the SRBH Assembly – SDA/HDZ – coalition held an unconstitutional vote in favour of the sovereignty and independence of BH in the absence of the Serb members of the Assembly. The Serb MPs left the Assembly because they did not want to give legitimacy to this decision.<sup>149</sup> Within the caucus of the Serb representatives, they realized that they had no means to prevent this unlawful vote from taking place. Their position was to preserve BH within the remaining territory of the SFRY, following the secession of Slovenia and Croatia.<sup>150</sup> The SDA and HDZ blocked the establishment of a Council, a supervisory organ for issues re equality of peoples and ethnic communities of BiH, that would be in charge of such disputes according to the Constitution.<sup>151</sup>

<sup>143</sup> ST-198, T.5202; TUTUŠ, T.7761-7762; 1D1; 1D3-1D5.

<sup>144</sup> P6; P9; P397.11.

<sup>145</sup> 1D693; 1D788; 1D662 part I pp.7-39; P1931, p.21; P1932; P1936; P2077, p.1; P2078, p.17.

<sup>146</sup> DJERIĆ, T.2378-2380.

<sup>147</sup> P895, P515

<sup>148</sup> 1D7; 1D8; 1D9; 1D110; 1D248; 1D290; P411.12; P1078.

<sup>149</sup> DJERIĆ, T.2383-2384.

<sup>150</sup> TRBOJEVIĆ, T.4158-4163.L15, Art.413-417; L16, Constitutional amendments LXII.

<sup>151</sup> L16 amendment LXX para 10.

94. As a result, the RS Assembly was established and its first session was held on 24 October 1991. DJOKANOVIĆ testified that it was created to defend the Serbian people and future negotiations on the place of BH within the federation. He saw the possibility for the Assembly to unite with the continuing BH Assembly rather than establishing an independent authority in BH. The vision and hope was to keep BH united with the remaining republic of the former Yugoslavia after the secession of Slovenia and Croatia. They did not want to see the further dissolution of the State with an independent BH outside Yugoslavia.<sup>152</sup>

95. The response by the Serb representatives to the unilateral declaration of independence was explained by DJOKANOVIĆ, a member of both the SRBH Assembly and the newly formed RS Assembly. DJOKANOVIĆ was working on a plebiscite in reaction to the Declaration of Independence in the hope that there would be a vote to preserve Yugoslavia with BH within it.<sup>153</sup> Speaking in the RS Assembly on 24 October 1991, DJOKANOVIĆ stated that a plebiscite was a democratic response to attempt to save the BH Republic, their shared state of Yugoslavia, and the sovereignty of the Serbian people in BH. By way of plebiscite, citizens would be asked whether they wanted to preserve both BH and the common state of Yugoslavia.<sup>154</sup>

96. Voting in the plebiscite was held on 9-10 November 1991. Both Prosecution and Defence witnesses stated their reasons for voting. VLAŠKI was opposed to the policy pursued by the SDA/HDZ coalition to break-up the existing state of BH. He voted in the plebiscite to express his preference for continuing to live in a federal Yugoslavia that envisages equality for the constituent entities and the peoples living within this community.<sup>155</sup> BJELOŠEVIĆ considered that his vote in the plebiscite was his right and reflected his personal desire to keep Yugoslavia united as a single country.<sup>156</sup>

<sup>152</sup> DJOKANOVIĆ, P397.1, p.10523-10528.

<sup>153</sup> DJOKANOVIĆ, P397.1, p.10504-10516.

<sup>154</sup> DJOKANOVIĆ, P397.1, p.10520; P1931, p.28.

<sup>155</sup> VLAŠKI, T.6420-6421, 6473-6474.

<sup>156</sup> BJELOŠEVIĆ, T.20849-20850.

97. In late December 1991, the Serb representatives were again outvoted by the SDA/HDZ coalition which adopted a decision to send a request to the EC to recognize the sovereignty, autonomy, and independence of BH. The Serb representatives considered this act as another flagrant violation of the SRBH Constitution and SRBH Statute of the Government.<sup>157</sup>

#### **NO PLAN TO SPLIT MUP**

98. The evidence shows that between August and the end of 1992 senior Serb cadres within the MUP-SRBH – Assistant Minister MANDIĆ, Banja Luka CSB Chief, Župljanin, Doboј CSB Chief BJELOŠEVIĆ – had written to the leadership within their ministry as well as the President of the SRBH Council for the Protection of the Constitutional Order, the Speaker of the SRBH Assembly, the President of the Executive Council of the SRBH Assembly, the Presidency of the SRBH, the Government of the SRBH, the SSUP, the SSNO, the JNA, the Chief of KOS, the SRBH Prime Minister, the RSBH Deputy Prime Minister, and the President of the SDS. They expressed their concerns about the MUP-SRBH regarding non-responses to serious security matters, understaffing, non-compliance with the law and the rules and regulations by senior members of the MUP-SRBH in relation to inspections, the hierarchy and chain of command in the police, and the irregular and illegal use of reserve police forces by senior members of the MUP-SRBH of Muslim ethnicity. It also requests the assistance and intervention of authorities from the senior officials of MUP-SRBH, and the Republic level of BH, and federal level of the SFRY to correct the irregularities and violations of the law and to maintain security and the integrity of the MUP-SRBH.<sup>158</sup>

99. In addition to writing to the state leadership regarding irregularities and the unlawfulness of the work of the MUP,<sup>159</sup> on 9 September 1991, the leading Serb personnel in the MUP-SRBH issued a public appeal to expose what has happening within

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<sup>157</sup> P10, pp.9-10.

<sup>158</sup> 2D38; 1D443; 1D130; 1D255.

<sup>159</sup> MANDIĆ, T.9654-9655.

the MUP.<sup>160</sup> This press release identifies, *inter alia*, non-compliance with the Inter-party agreement, including the abolishment of the post designed for VLAŠKI, as Deputy Under-secretary for State Security. Unlawful conduct became the standard practice: illegal and irregular appointments of new personnel in the police ranks and the exclusion of Serbs from the service. Key individuals within the MUP-SRBH who had usurped power and were making policy and personnel decisions within the Ministry to the detriment of Serb employees. The document highlights the major problem created by the SDA leadership by pushing the MUP into a conflict with the JNA. This was done in part by the takeover of military records for the creating of an armed force to confront the army.<sup>161</sup>

100. Furthermore, ZEPINIĆ testified that in his many conversations with leaders of the SDS, SDA, and HDZ concerning matters in the MUP-SRBH he did not take seriously their rhetoric about forming a parallel police, a parallel government, or a parallel state. The leaders of the SDA, SDS, and HDZ believed that no one could be appointed in the MUP without their approval.<sup>162</sup> But, he saw this as the nationalist leaders boasting that they had power and that could do many things. He explained that the ethnic parties formed a coalition and power was structured and shared among them in the Presidency, the Assembly and Government. He believed that Karadžić and Izetbegović never pushed the split of the coalition to the point of breaking it up because that would have meant that they were losing power and elections would have to be called. They were only able to agree on remaining in power and raising the remuneration of MPs.<sup>163</sup>

101. The first time ZEPINIĆ heard about any proposals to create police forces along ethnic lines was at the beginning of January 1992, when he received information about the outcome of the negotiations in Lisbon with Ambassador Cutileiro. He learned that Izetbegović and Karadžić proposed to divide the Ministry of the Interior on a national basis by forming a committee to deal with separate interior ministries in BH. The two political leaders, in the presence of international representatives, suggested, as a solution,

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<sup>160</sup> 1D116.

<sup>161</sup> VLAŠKI, T.6417-6418, 6446-6447;MANDIĆ, T.9635-9636.

<sup>162</sup> ZEPINIĆ, T.5740-5741.

<sup>163</sup> ZEPINIĆ, T.5750-5753.

the creation of mono-ethnic Ministries of the Interior and a council consisting of nine members, including three members from each ethnic community in BH, to coordinate those national Ministries of the Interior.<sup>164</sup>

102. OKUN, was special advisor and deputy to the personal envoy of the UN Secretary General from 1991-1997, working primarily on Croatia and BH, and he served as deputy co-chair of the International Conference of the former Yugoslavia from September 1991 to May 1993. He was present and took notes of meetings between domestic political leaders and international representatives, including meetings with Ambassador Cutileiro.<sup>165</sup> OKUN testified that the Cutileiro Plan was intended as a proposal that would be implemented by agreement. Three versions of the Cutileiro Plan ("Statement of Principles for the New Constitutional Arrangements for Bosnia and Herzegovina") are in evidence: 1D133 (22 February 1992), P2200 (27 February 1992), and 1D134 (18 March 1992).<sup>166</sup> The three parties agreed to 1D134 and it was signed by Izetbegović.<sup>167</sup> But, the Bosnian government withdrew its signature at the very end of March 1992.<sup>168</sup>

103. In regards to the MUP, 1D134 under D. The Constituent Units, paragraph 3 provided that "all institutions (the civil service, the judiciary, etc.) established by a constituent unit would reflect proportionally the national composition of the constituent unit". This included "the police" for the early versions of this provision in Cutileiro Plan (P2200 and 1D133) stated that "the civil service, the police, the local judiciary, and any national guard established by a constituent unit would reflect proportionality the national composition of the constituent unit".<sup>169</sup>

104. DJERIĆ and TRBOJEVIĆ testified that according to those constitutional principles, all three ethnic communities agreed that BH would exist as an independent and sovereign state. The plan provided for the division of BH into three national entities with a central

<sup>164</sup> ZEPINIĆ, T.5952-5954, 5714-5716.

<sup>165</sup> P2197, 9 March 1992, ERN R0163768, R0163772, 18 April 1992, ERN R0163828-R0163832, 21 April 1992, ERN R0163834-R0163836.

<sup>166</sup> OKUN, P2194, p.4321.

<sup>167</sup> OKUN, P2194, p.4327.

<sup>168</sup> OKUN, P2193, p.4196.

<sup>169</sup> MANDIĆ, T.9658-9662.

government or federal government seated in Sarajevo. For the Serbs, the Cutileiro plan was seen as a compromise between their desire to remain in a joint Yugoslavia and the recognition of BH as a sovereign federated State divided into three entities according to the national principle.<sup>170</sup> It further shows that Serbs were seeking a peaceful solution, as they compromised on the key topic of BH remaining in the SFRY by accepting BH sovereignty and independence.

105. In January and February 1992, the Cutileiro process was well underway.<sup>171</sup> DJERIĆ and TRBOJEVIĆ also testified that in the spirit of the Cutileiro Plan, each side began a process to implement those constitutional principles.<sup>172</sup> 1D135 is the minutes of the meeting held at the Bosna Hotel in Banja Luka on 11 February 1992 taken by Igor Velašević, a low-level MUP employee.<sup>173</sup> When interviewed by the Prosecution, Stanišić stated that by the time the meeting in Banja Luka was held, the Serb leadership had redefined its position and no longer advocated for BH to remain within Yugoslavia. He understood that within an independent BH there would be a division of power among three entities and that each entity would have a MUP, along with a joint MUP at the republic level. He supported the Cutileiro process because he believed it would ensure peace in BH.<sup>174</sup>

106. Evidence in this case about the meeting is provided by five of twenty attendees: Stanišić, MANDIĆ, VLAŠKI, TUTUŠ, and BJELOŠEVIĆ. The evidence led by both the Prosecution and the Defence shows that the meeting was called because the Cutileiro process for the new constitutional arrangements for BH was under way. The meeting also reflects the disarray which existed in the MUP-SRBH, the frustration the Serb members of the service were experiencing as a result of the overt actions of senior SDA and HDZ cadres in the Ministry to destabilize the Ministry and to create a separate armed force, and the lack of support for Serb employees in the MUP-SRBH from certain senior SDS appointees, such as Deputy Minister ZEPINIĆ.

<sup>170</sup> DJERIĆ, T.2388-2390; TRBOJEVIĆ, T.4155-4157.

<sup>171</sup> ZEPINIĆ, T.5952-5954, 5714-5716; MANDIĆ T.9662-9663.

<sup>172</sup> DJERIĆ, T.2388-2390; TRBOJEVIĆ T.4155-4157.

<sup>173</sup> VLAŠKI, T.6337-6346, 6485-6486.

<sup>174</sup> P2301, pp.7, 23-29; P2301, pp.26-29.

107. MANDIĆ organised the meeting and invited attendees, including Minister Delimustafić. On 6 February 1992, he had been authorised by the SDS to participate in solving personnel and organisational matters in the MUP-SRBH on behalf of the SDS (1D117).<sup>175</sup> MANDIĆ wanted Delimustafić to attend to speak face to face with Serb employees about the problems which had accumulated in the Ministry. For nearly a year, Delimustafić did not hold a single Collegium with his CSB chiefs. There was no communication with him about the serious matters affecting the functioning of the MUP-SRBH.<sup>176</sup> Delimustafić told MANDIĆ that he would not come for fear of being replaced immediately by the SDA, as Minister.<sup>177</sup>

108. The meeting was held openly in the Hotel Bosna in front of hotel staff and guests. One of the purposes of the meeting was to inform the public and to obtain media support to correct the irregularities that had been taking place within the MUP-SRBH. Indeed, conclusion 19 stated: "ensure maximum media coverage of our work and decisions made about the Serbian MUP".<sup>178</sup> MANDIĆ provided Delimustafić with a copy of the minutes of the meeting, which included nineteen conclusions. At the meeting, Stanišić stated: "a list of minimal outstanding demands should be assembled at this meeting and submitted to Minister Alija Delimustafić, with a reasonable deadline for their resolution". His words reflect the view that he always sought compromise and the desire to have the MUP function as a professional organisation in conformity with the law.<sup>179</sup>

109. It was the first occasion many of the attendees had to speak about the situation in the MUP-SRBH.<sup>180</sup> As they had done in their 9 September 1992 press release,<sup>181</sup> attendees at the meeting voiced a litany of frustrations and problems: Čedo Kljajić echoed the complaints made by MANDIĆ and BJELOŠEVIĆ that he had not been informed

<sup>175</sup> MANDIĆ, T.9641-9643, 9649-9650.

<sup>176</sup> BJELOŠEVIĆ, T.19480.

<sup>177</sup> MANDIĆ, T.9662-9665.

<sup>178</sup> 1D135, p.3.

<sup>179</sup> VLAŠKI, T.6423, 6480-6485; MANDIĆ, T.9662-9665, 9703-9704, 9798-9799, 9801; BJELOŠEVIĆ T.21234-21235. 1D135, pp.1, 3, 4-5.

<sup>180</sup> 1D135, p.3(Dražković); Vlaški, T.6337-6334, 6485-6486.

<sup>181</sup> 1D116.



that inspectors were being sent into the field, the lack of material, staffing, and other support from the MUP-SRBH, the removal of equipment and weapons from police stations in Serb areas, a breakdown in confidence in the police among the citizenry, the police feeling abandoned by their superiors in the MUP-SRBH, the hiring of incompetent, inexperienced individuals into the police, including people with criminal backgrounds, the disproportionate and excessive number of Muslims appointed to the reserve police force, SDA and HDZ cadres acting outside the law, the collaboration of Hebib and Pušina and the SDA in arming and organising police stations, leading to threats to blow up bridges in BH, the takeover of the SNB by non-Serbs and the CSB Sarajevo SNB only working for the SDA and the HDZ.<sup>182</sup>

110. At the meeting, Stanišić is recorded as speaking about the following matters: the position of the Council of Ministers in relation to the MUP-SRBH, the division of the MUP-SRBH by the Muslims, at Stari Grad in particular, the organisation of the Serbian MUP and the strengthening and equal distribution of supplies from the MUP-SRBH, a list of minimal outstanding demands should be assembled and submitted to Delimustafić, with a reasonable deadline for their resolution, information from the MUP Labour Union to the effect that there is unity and harmony was incorrect.<sup>183</sup>

111. When asked by the Prosecution about his intervention, Stanišić stated that his words were not entirely recorded in the minutes. He spoke about the reorganisation of the MUP along ethnic lines in accordance with the negotiations being held under the auspices of Ambassador Cutileiro. He stated that the President of the Municipality of Stari Grad called for the removal of Serb personnel from the Stari Grad SJB. The President of the Crisis Staff in Sokolac municipality or the Executive Board insisted that Serb personnel be re-instated or they would insist on the dismissal of Muslim personnel. There was a high level of mutual distrust. Stanišić personally condemned the actions taken in the Stari Grad and Sokolac police stations. He was convinced that a solution

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<sup>182</sup> 1D135; VLAŠKI T.6425-6428, 6436-6439.

<sup>183</sup> 1D135, p.1.

needed to be found to avoid such conflict. He was saying nothing about creating divisions. He was giving examples of the tragic situation and was condemning it.<sup>184</sup>

112. Contrary to the theory advanced by the Prosecution, neither the words spoken by Stanišić, nor the purpose of the meeting, was to split the MUP-SRBH. BJELOŠEVIĆ understood the words spoken by Stanišić to mean that various options were being discussed and negotiated at the domestic and international level about either the division of BH or keeping BH within Yugoslavia and that, because of the actions of Muslims, the MUP-SRBH was being split and that a list of minimal demands should be assembled at the meeting and submitted to Minister Delimustafić.<sup>185</sup> For VLAŠKI, what Stanišić was saying was common knowledge to him and others. The purpose of the meeting was to convey to the Delimustafić their demands to change the existing situation in the MUP in order to preserve it.<sup>186</sup> TUTUŠ did not believe the purpose of the meeting to be the drawing of plans for the division of the MUP.<sup>187</sup>

113. Four conclusions reached at the meeting indicate that one of the objectives was to create a Serbian Collegium within the existing MUP-SRBH:

1. A Serbian Collegium is hereby established in the RS BH MUP, consisting of Serbian personnel at executive positions in all the lines of work within the SR BH MUP.
2. Deputy Minister Momcilo MANDIĆ will manage the Serbian Collegium in the SR BH MUP and ensure the implementation of decisions.
3. The Serbian Collegium of the SR BH MUP is hereby instructed to carry out all the preparations necessary for the functioning of the Serbian MUP, after the promulgation of the Serbian Republic of BH Constitution.
5. Not a single decision regarding staffing policies in the SR BH MUP will be implemented without the approval of Deputy Minister Momcilo MANDIĆ.

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<sup>184</sup> P2306, p. 31-34.

<sup>185</sup> BJELOŠEVIĆ, T.20865, 20878-20879, 21333.

<sup>186</sup> VLAŠKI, T.6486-6490.

<sup>187</sup> TUTUŠ, T.7586-7587.

The creation of the Serb Collegium was a response to the disintegration and the breakdown of the MUP-SRBH. Each one of these four conclusions refers to the Serbian Collegium existing and functioning within the MUP-SRBH. As a part of a unified MUP entity, the Serbian Collegium could work to protect the legitimacy and the legality of the ministry.<sup>188</sup>

114. The reference in conclusion 3 to the functioning of a Serbian MUP, after the promulgation of the Serbian Republic of BH Constitution, was announced by Nenad Radović who informed the meeting that the Assembly of the Serbian Republic of BH had made a decision on the establishment of the Serbian MUP.<sup>189</sup> On 28 February 1992, the Constitution of the Serbian Republic of BH (P181) and the RS Law on Internal Affairs (P530) were promulgated at the 9<sup>th</sup> Assembly Session (P1997). The above-noted Statement of Principles for the New Constitutional Arrangements for BH (1D133, 22 February 1992 and P2200, 27 February 1992) in Parts D and F provided for the establishment of an assembly, a government, and a police force for each of the three constituent units, and a constitutional law to modify the Constitution in order to give effect to these principles, which should be prepared and submitted to the Assembly as soon as possible.

115. Conclusions 2 and 5 provide that Assistant Minister MANDIĆ would manage the Serbian Collegium and implement staffing decisions. These conclusions were meant to address the existing circumstances with the MUP-SRBH, where the structures representing the SDA and the HDZ in that MUP made appointments however they wanted.<sup>190</sup>

116. In line with that, two days following the meeting, MANDIĆ sent out an open dispatch to the CSBs in Banja Luka, Doboј, and Goradže, the SJBs in Nevesinje, Sokolac, and Bijeljina, and the Sarajevo SUP through the usual channels at the MUP-SRBH communications centre, with a copy sent to the archives. The dispatch requested

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<sup>188</sup> VLAŠKI, T.6347-6348.

<sup>189</sup> 1D135, p. 1.

<sup>190</sup> VLAŠKI, T.6348-6350.

that, in accordance with the conclusions reached on 11 February at Banja Luka, a meeting with senior executives of MUP-SRBH should be held and reported. The purpose was to inform them of the conclusions and the problems discussed. The dispatch was not sent to CSBs where Muslims advocated unlawful expansion of the MUP: Bihać, Zenica, and Tuzla.<sup>191</sup>

117. For months, there had been deep dissatisfaction among the Serb employees of the MUP-SRBH with Deputy Minister, ZEPINIĆ. He was not invited to the meeting and BJELOŠEVIĆ was not surprised that he did not attend.<sup>192</sup> ZEPINIĆ failed on a number of occasions to resolve issues concerning proposals for appointments and equipment when BJELOŠEVIĆ complained to him personally. Every time ZEPINIĆ promised to solve a problem, he would complain that Assistant Minister Srebreniković pulled all the strings and that nothing could be done. Twice, ZEPINIĆ told BJELOŠEVIĆ to contact another department chief, Hajro Hodžić. He told BJELOŠEVIĆ that without the approval of Srebreniković he could not do a thing. The obstruction and lack of efficiency made BJELOŠEVIĆ conclude in the end that ZEPINIĆ had neither the power nor the personality to deal with these problems.<sup>193</sup>

118. Indeed, the day before the meeting in Banja Luka, BJELOŠEVIĆ attended a meeting near Doboj concerning a television repeater system along with Delimustafić, ZEPINIĆ, Pušina, members of the Tuzla Corps, the President of the Doboj Municipal Assembly, and other members of the MUP. At this meeting, BJELOŠEVIĆ was unable to discuss his concerns about what was happening in the MUP-SRBH with Delimustafić, ZEPINIĆ, or Pušina. BJELOŠEVIĆ tried to speak to Delimustafić when the meeting ended, however Delimustafić walked away from BJELOŠEVIĆ when he approached him. The entire group left with Delimustafić.<sup>194</sup>

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<sup>191</sup> P527; MANDIĆ, T.9801-9803.

<sup>192</sup> 1D135, p.2; ZEPINIĆ, T.5804-5805; MANDIĆ, T.9798-9801; BJELOŠEVIĆ, T.20864-20865.

<sup>193</sup> BJELOŠEVIĆ, T.20869-20870, 21235-21236.

<sup>194</sup> P2323, pp.3-6; BJELOŠEVIĆ, T.20858-20862; PETROVIĆ, T.9834-9837.

119. On 11 February 1992, Stanišić held the position of Secretary of the Sarajevo SUP. Three days after this meeting, Minister Delimustafić appointed Stanišić as his Advisor for the duties and tasks of the SNB in the Office of the Minister of the Interior.<sup>195</sup>

#### **THE DIVISION OF THE MUP - SRBH**

120. The split of the MUP-SRBH and the creation of the RSMUP and the Croatian MUP in BH occurred in early April 1992, as a result of a meeting of the Collegium of the MUP-SRBH convened by Deputy Minister ZEPINIĆ in his office on 1 April 1992 (1D78), with the agreement of the SDA, HDZ, and SDS, in accordance with the principle of the Cutileiro Plan.<sup>196</sup>

121. In addition to ZEPINIĆ, the meeting was attended by the most senior cadres of the MUP-SRBH representing the three constituent nations: Branko Kvesić, Undersecretary for the SNB, Jusuf Pušina, Assistant Minister for the Police, Bruno Stojić, Assistant Minister for Financial Matters, Momcilo MANDIĆ, Assistant Minister for Crime Prevention, Akif Šabić, Assistant Minister for Communications, Bogdan Košarac, Assistant Minister for Analysis and Electronic Data Processing, Avdo Hebib, Minister's Adviser for Internal Affairs, and Mićo Stanišić, Minister's Advisor for State Security and Minister of the Interior of the Republic of the Serbian Nation of Bosnia and Herzegovina. The entire MUP-SRBH collegium was present, with the exception of the Minister of the Interior, Delimustafić, who attended a government meeting.<sup>197</sup>

122. The Collegium discussed the reorganisation of the organs for internal affairs and their respective security services, which had already been launched, further to the "Sarajevo Agreement" on possible future organisation of Bosnia and Herzegovina, and which had been confirmed the day before at the Brussels Talks.<sup>198</sup> Everyone was aware

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<sup>195</sup> 1D139.

<sup>196</sup> ZEPINIĆ, T.5824; P2301, p.33-35; 1D78.

<sup>197</sup> MANDIĆ, T.9680.

<sup>198</sup> 1D78, p.1; 1D662, p.6: The Cutileiro Plan: Brussels supplement to the statement on the constitutional order of BH (Brussels, 30-31 March 1992).

that the RS Law on Internal Affairs, which had been promulgated on 28 February 1992, had entered into force and that Stanišić had become RSMUP Minister of the Interior.<sup>199</sup>

123. Stanišić was asked about the Collegium during his interview with the OTP<sup>200</sup> and the record of this meeting (1D78) was shown to MANDIĆ at trial. They both confirmed that ZEPINIĆ convened the meeting. Stanišić stated that he was present at the meeting and that the MUP-SRBH was to be re-organised to avoid any further deterioration of the already complex situation and to control all significant aspects of public peace and order, in particular personal safety and property. It was agreed that the MUP would be transformed both at headquarters and on the ground, peacefully and without incident. No one nation within the public and state security sectors should be allowed to take over facilities and equipment. There should be no one-sided firing of employees on national or political grounds. Employees would be given an opportunity to decide on their future employment status voluntarily.<sup>201</sup> Further discussions would be held on uniforms and insignia, the financing of the newly formed Ministry of the Interior of the Federal Republic of BH, personnel issues, processing data, communication system, etc. at the entity level through the MUP-SRBH.<sup>202</sup>

124. 1D78 concludes as follows: "executive officers shall make the contents of this dispatch know to all MUP employees, both in the headquarters and in the field, by way of the workers assemblies".<sup>203</sup> P2320 is a dispatch sent on 1 April 1992, following the above-noted Collegium meeting, with 1D78 attached as an enclosure. At this point in the day, Minister Delimustafić had completed his meeting with the government and he had rejoined his colleague at the Collegium. P2320 is signed by the following individuals who attended the meeting described in 1D78: ZEPINIĆ, Kvesić, MANDIĆ, Košarac, Stojić, Pušina, Šabić, and Hebib. In addition, P2320 is signed by Delimustafić, Husein Balić, Director of Centre, Mirsad Srebrenkovic, Assistant Minister, and Krešimir Markić, Assistant Minister. It refers to the dispatch 02-2482 sent on 31 March 1992 by Assistant

<sup>199</sup> 1D78, p. 1; MANDIĆ, T.9687.

<sup>200</sup> P2301, pp. 33-38; P2307, pp. 5-15

<sup>201</sup> P530, Art.127.

<sup>202</sup> P2301, p.30-31, 35-38; P2307, p.11-13, 1D78, p.2; MANDIĆ, T. 9686-9689; 1D662, para.127.

<sup>203</sup> P2307, pp.5-9; MANDIĆ, T.9687.

Minister MANDIĆ.<sup>204</sup> P2320 was sent to all CSBs, the SUP Sarajevo, and all SJBs with instructions to inform the Ministry by 12 o'clock of 2 April 1992 in writing of the execution of these findings. Minister Delimustafić signed an additional document enclosed in P2320 addressed to all CSB chiefs, SJB chiefs, and SUP Sarajevo secretary advising them that they are directly responsible for the realization of the measures and activities and the security situation in their respective areas.

125. 1D137 is a dispatch from the Banja Luka CSB dated 3 April 1992. It was sent to both the Serbian Republic of BH Ministry of the Interior, and the Ministry of the MUP-SRBH (Minister, Delimustafić and Deputy Minister, ZEPINIĆ), several CSBs, and all subordinate SJBs. This dispatch is a response to P2320. In the introductory paragraphs, it paraphrases P2320 and 1D78 and states that the reorganisation of Internal Affairs organs and their security services was being approached calmly and without excess, in line with the Sarajevo Agreement and the Brussels Talks. A professional collegium was held at CSB Banja Luka where these matters were discussed in accordance with P2320, including the additional instructions issued by Delimustafić: maintaining public law and order, no mono-ethnic transformation of the CSB, no mono-ethnic takeover of equipment, workers may volunteer their preferences for the work in which they will be engaged in future, and their status in the framework of the Internal Affairs organs, uniforms and insignia, etc.

126. ZEPINIĆ has no credibility when he testified that 1D78 is "worse than garbage" because it is signed "Professional Collegium of the MUP of the SRBiH".<sup>205</sup> As noted above, ZEPINIĆ, along with Minister Delimustafić and other member of the MUP-SRBH Collegium, signed P2320 which sent 1D78, as an enclosure, to all relevant institutions in the MUP with instructions to respond. MANDIĆ testified that 1D78 was signed with a block signature "Professional Collegium of the MUP of the SRBiH" to show the joint and agreed position of the Collegium of the MUP-SRBH.<sup>206</sup>

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<sup>204</sup> P353.

<sup>205</sup> ZEPINIĆ, T.5824.

<sup>206</sup> MANDIĆ, T.9688-9689.

127. The evidence in relation to 1D78 and P2320 is the following. Both these documents were the result of the meeting of the MUP-SRBH Collegium and they were sent to the CSBs, the Sarajevo SUP, and the SJBs to ensure peaceful and orderly changes to the organisation of the MUP.<sup>207</sup> Stanišić was present at the Collegium meeting described in 1D78 however he did not sign P2320. It would appear that Stanišić did not sign P2320 because he had already left Sarajevo for Trebinje, where he spoke at a meeting that same day. Prosecution witness KRULJ was present at this hour long meeting held at SJB Trebinje with about twenty active duty policemen. Stanišić informed the attendees that the new RS Law on Internal Affairs was practically identical to the existing law of the MUP-SRBH and that a new CSB was being created in Trebinje.<sup>208</sup>

128. There were two senior Croatian members of the MUP-SRBH present at the Collegium meeting on 1 April 1992: Branko Kvesić and Bruno Stojić. As a result of the Cutileiro Plan, Croat employees of the MUP-SRBH formed a separate Croatian MUP. Branko Kvesić was appointed Minister of the Croatian MUP in Mostar.<sup>209</sup> The circumstances surrounding the departure of the Croats from the MUP-SRBH were described by MAČAR and ANDAN. In late March, MAČAR was informed by his superior, Jozo Leotar, a Croat that the Croats had decided to establish a Croatian MUP in Herzegovina, with a headquarters in Mostar to provide security, where Croats were in the majority, as a result of the breakdown of the MUP-SRBH and the attempts by the Muslims to dominate the police. Croatian personnel had left the MUP-SRBH and they were providing the new Croatian MUP with equipment and material.<sup>210</sup> ANDAN testified that the Croatian senior officials were the first to leave the MUP-SRBH. They took a lot of equipment with them from the analysis department before they bid farewell to both Serbs and Muslims in the ministry.<sup>211</sup> When the Croats left, ANDAN, Kljajić, MANDIĆ, ZEPINIĆ and other executives and personnel of Serb ethnicity were still working in the headquarters of the MUP-SRBH. ANDAN embraced his Croatian colleagues as they left

<sup>207</sup> P2301, pp.33-38; P2307, pp.5-15

<sup>208</sup> KRULJ, T.1969-1973, 2210-2214.

<sup>209</sup> 1D703.

<sup>210</sup> MAČAR, T.22838-22840.

<sup>211</sup> ANDAN, T.21395



and MANDIĆ saw them out as the representative of the Serbian personnel.<sup>212</sup> Although ANDAN is unsure of the date the Croats left the MUP, it appears that it occurred prior to 7 April 1992, the last day MANDIĆ came to the MUP-SRBH headquarters, and found that his office had been ransacked.<sup>213</sup>

129. As noted above, P2320, the dispatch sent by the Professional Collegium of the MUP-SRBH Minister of the Interior on 1 April 1992, makes reference to the dispatch sent from the Ministry by MANDIĆ on 31 March 1992 (P353). When asked about the MANDIĆ dispatch by the Prosecutor, Stanišić stated that he never saw it or received it. He only became aware of this document through disclosure of material by the Prosecution in connection with these proceedings. He presumed that other participants at the Collegium meeting held on 1 April 1992 had seen it, but he had no knowledge of it. Stanišić was not privy to this correspondence. He did not instruct MANDIĆ to send this dispatch, nor was he aware that anyone authorised him to send it.<sup>214</sup>

130. MANDIĆ gave different accounts to the circumstances surrounding the dispatch he sent on 31 March 1992. In the *Krajišnik* trial, he testified that he was instructed by Stanišić to send it out.<sup>215</sup> Before MANDIĆ testified in these proceedings, he met with both the Defence and the Prosecution. In light of the statement Stanišić made to the Prosecutor during interview, the Defence questioned MANDIĆ about his account of events during proofing, and in particular his claim that he sent the dispatch on instructions given to him by Stanišić. In these proceedings, MANDIĆ testified that after being questioned by the Defence, he reviewed events and he recalled that he had been informed by the Minister of Information, Velibor Ostojić, that the RS Law on Internal Affairs had entered into force. On his own initiative, believing it was his duty, MANDIĆ drafted the dispatch, with the assistance of his staff at the MUP-SRBH, and he sent it out. He was not instructed by Stanišić to prepare or send the document.<sup>216</sup>

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<sup>212</sup> ANDAN, T.21809.

<sup>213</sup> MANDIĆ, T.9700-9701.

<sup>214</sup> P2307, pp.15-18.

<sup>215</sup> MANDIĆ, P1318.2, pp.8676-8677.

<sup>216</sup> MANDIĆ, T.9405-9408, 9576-9580.

131. The Trial Chamber has heard considerable evidence about a dispatch sent out the same day as the MANDIĆ dispatch (P353) by MUP-SRBH Minister Delimustafić (1D136) which on its face calls on employees of the MUP to ignore the MANDIĆ dispatch. Stanišić never received this Delimustafić dispatch and he was not aware of its contents.<sup>217</sup> The dispatch sent by Delimustafić on 31 March 1992 must be analysed in the light of P2320 (with 1D78 enclosed). Delimustafić often acted under pressure exerted on him by the SDA from Hasan Čengić and Avdo Hebib. He frequently told MANDIĆ that he had to implement positions taken by the SDA, for example when he appointed Srebreniković as Assistant Minister.<sup>218</sup> However, P2330 was sent to all MUP-SRBH CSBs, the SUP Sarajevo, and all SJBs on 1 April 1992, signed by the most senior Muslim, Croat, and Serb cadres of the Collegium, including Delimustafić, Pušina, Šabić, Hebib, Srebreniković from the SDA.

132. In this context, the suggestion made by the Prosecution that all problems which existed from mid-1991 in the MUP-SRBH, all irregularities, all illegal acts that may have been committed were merely a pretext for the Serb leadership to tear up BH and carry out a joint criminal enterprise and to ethnically cleanse BH of non-Serbs is baseless and without merit.<sup>219</sup> These problems and irregularities existed without a doubt. However, and quite to the contrary, the meeting of the Collegium held on 1 April 1992 shows that the intention was to divide the existing MUP peacefully, along ethnic lines, and in a civilised manner in keeping with on-going political talks taking place in Sarajevo and Brussels among BH political leaders and mediators from the international community. Indeed, the Cutileiro process continued at least into May 1992.<sup>220</sup>

133. The problems in the MUP became so complex that it ceased to function as a unified organisation. Events which occurred in the weeks prior to the 1 April 1992 Collegium demonstrate that the MUP-SRBH had completely ceased to function as a viable entity as tensions throughout BH grew.

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<sup>217</sup> P2307, pp.15-18.

<sup>218</sup> MANDIĆ, T.9683-9686.

<sup>219</sup> MANDIĆ, T.9681; TUTUŠ, T.7596-7597.

<sup>220</sup> P2197, 18 April 1992, ERN R0163828, 21 April 1992, ERN R0163834-826, 6 May 1992, 6 May 1992, ERN R0163846.

134. The creation of separate MUP entities with a central organ was intended to lead to a lessening of problems in the area of law enforcement at a very sensitive time, when the three communities agreed that the MUP would function better as separate ethnically based organisations. Stanišić was a direct participant in this process aimed at avoiding the violent separation of the MUP and harm to citizens of all ethnic groups. Throughout this entire period, both before and after becoming RSMUP Minister of the Interior, none of his acts or words manifested any criminal intent or criminal conduct. To the contrary, he always worked honestly and diligently to uphold the law through professional and responsible law enforcement. These are values that animated his thoughts and conduct and he never committed any crime.

135. At the Collegium held on 1 April 1992, Stanišić and Jusuf Pušina were given the task of finding a seat for the Serbian MUP in Sarajevo.<sup>221</sup> On 3 April 1992, they had a meeting in Grbavica and reached agreement on many details regarding the relationship between the MUP-SRBH and the RSMUP. Final decisions on certain proposals had to be made by President Izetbegović who had planned to meet Pušina later that night. Stanišić and Pušina agreed to meet again on 5 April 1992. This meeting never took place. On 4 April 1992, a policeman named Pero Petrović was killed at SJB Novo Sarajevo by Green Berets. On 5 April 1992, Pušina informed Stanišić that he could not attend the meeting because the killing was being investigated. There were no further meetings or discussions on the division of the MUP. Events were overtaken by the violence, chaos and confusion which ensued with the beginning of the armed conflict in BH.<sup>222</sup>

136. On 3 April 1992, President Izetbegović ordered the mobilisation of TO units of all municipalities across BH, including the City of Sarajevo.<sup>223</sup> That day, a wave of violence was unleashed by SDA paramilitaries against police stations across Sarajevo which caught the Serb members of the MUP-SRBH off guard and unprepared. At the Sarajevo SUP, MAČAR was informed by his superior, Jozo Leotar, that Muslims in the leading

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<sup>221</sup> P2301, pp.49-53.

<sup>222</sup> P2301, p.38-43.

<sup>223</sup> 1D174, para. 1; MANDIĆ T.9704-9705.

position in the MUP had held a meeting that afternoon and decided that fourteen ethnic Serb policemen would be arrested, including MAČAR, KOVAČ, Kukobat, and PLANOJEVIĆ. MAČAR left the Sarajevo SUP and never returned.<sup>224</sup>

137. BOROVCANIN testified that in early April 1992, armed members of the Patriotic League burst into the Sarajevo CSB during the night shift. He and his colleagues were told to remain in their offices downstairs, while members of the Patriotic League went upstairs to the communications centre. When they left, BOROVCANIN was told by his colleague Bakir Alispahić that the Patriotic League members were a part of the reserve force of the state security. BOROVCANIN understood the message and that he was no longer secure at the centre.<sup>225</sup> PEJIĆ testified that on the night of 3-4 April 1992, he found himself alone on the premises of the CSB during the night shift. His colleagues were no longer working and he spent the night in the communications cubicle. In the morning, the security detail was no longer present. PEJIĆ continued coming to work at CSB Sarajevo communications centre until 6 April 1992.<sup>226</sup>

138. On 4 April 1992, President Izetbegović issued another mobilisation order to engage the entire reserve force of the SRBH police and civilian protection units.<sup>227</sup> The same day, the Assembly of the Serbian people in BH and its National Security Council responded by issuing a communiqué, signed by Karadžić. It criticized the steps to mobilize and engage the armed forces and it made an appeal to all ethnic groups to refrain from violence. The communiqué stated that the rump Presidency of BH, operating without any representatives of the Serb people, had issued highly irresponsible and illegal instructions regarding the raising of the TO, people's self-organisation, the civilian protection, and reserve police. Paragraph 4 stated: "By inviting the people to self-organise the rump Presidency has acknowledged the collapse of the constitutional and legal order as well as that of legal authorities and has thus instigated chaos, violence and civil war." This communiqué invites the citizens to disregard the ill-advised

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<sup>224</sup> MAČAR, T.22848-22949.

<sup>225</sup> BOROVCANIN, T.6624-6626, 6734-6735.

<sup>226</sup> PEJIĆ, T.12113-12114, 12166.

<sup>227</sup> 1D174, paras.1, 3-4; MANDIĆ, T.9704-9705.

invitation of the rump BH Presidency and to maintain order, peace, and safety of civilians of all nationalities.<sup>228</sup>

139. The same day, violent attacks by Muslim paramilitaries and civilians armed by the SDA against government institutions and police stations in Sarajevo continued. The President of the SDA Executive Committee, Hasan Čengić, had ordered armed individuals to take over the Centar municipal building at 22.00 hours. At the Marin Dvor SJB, some thirty armed Green Berets forced their way into the police station and ransacked the premises in the presence of the police. Juka Prazina, a Muslim paramilitary leader, had broken into the police community centre and set up a headquarters which was then used by his special unit.<sup>229</sup>

140. In addition, on 4 April 1992, the Green Berets stormed the Novo Sarajevo SJB. They killed Serb policeman Pero Petrović and beat Serb policeman Lazar Bojanić who had to be hospitalized. A gun barrel was put into his mouth but the gun did not fire when the trigger was pulled. Two Prosecution witnesses – BOROVČANIN and PLANOJEVIĆ – and two Defence witnesses – ORAŠANIN and TUŠEVLJAK – testified about these events. In the centre of Sarajevo there were nearly four hundred Green Berets led by known local criminals such as Mušan Topalović “Caco”, Juka Prazina, and Ismet Bajramović “Čelo”. The attack and takeover the Novo Sarajevo SJB was a part of the synchronized action which was taking place against municipal and police institutions in Sarajevo. Ismet Dahić, the Muslim chief of the Stari Grad SJB accompanied the Green Berets.<sup>230</sup>

141. (REDACTED).<sup>231</sup>

142. As noted above, 5 April 1992 was the day that Stanišić believed that he was going to meet Jusuf Pušina to find a location for the Serbian MUP to base its headquarters in

<sup>228</sup> P440; MANDIĆ, T.9705-9707.

<sup>229</sup> PLANOJEVIĆ, T.16382-16384, 16390-16392.

<sup>230</sup> BOROVČANIN, T.6735-6736; PLANOJEVIĆ, T.16390-16392, 16512-16517; ORAŠANIN, T.21850-21853, 21976-21994; TUŠEVLJAK, T.22505-22505.

<sup>231</sup> ORAŠANIN, T.21984-21986; TUŠEVLJAK, T.22515-22516.

Sarajevo.<sup>232</sup> It turned out to be the day that Pušina cancelled that meeting because of the killing of a Serb policeman at the Novo Sarajevo SJB by the Green Berets, that the BH Minister of Defence, Jerko Doko ordered the call-up of reservists and TO forces pursuant to a conclusion of the BH government,<sup>233</sup> and the Serb police personnel were ambushed by snipers when they entered the MUP School at Vrace.

143. Furthermore, on 4 April 1992, Minister Delimustafić ordered the division of the RSMUP Special Police Unit in keeping with the agreement on the division of the MUP at the Collegium held on 1 April 1992. A representative from each ethnic community ZEPINIĆ (SDS), Pušina (SDA), and Stojić (HDZ) met with the Special Unit and agreed that the thirty-five Serb members of the Special Unit would go to the TEF facility at Vrace and the remainder of the unit would go to the police hall in Bjelave. The order by Delimustafić was issued to affect a peaceful partition of the Special Unit pending the political resolution of the division of the MUP.<sup>234</sup> However, when the Serb members of the Special Unit arrived at Vrace on 5 April 1992, they were ambushed. Three were wounded and two were shot dead.<sup>235</sup>

144. On 4 April 1992, following the meeting that ZEPINIĆ held with Pušina and Stojić on the division of the Special Police Unit, the Speaker of the SRBH Assembly, Momcilo Krajišnik convened a meeting in his office and invited ZEPINIĆ to attend. During this meeting, ZEPINIĆ offered his resignation from the MUP-SRBH in writing.<sup>236</sup> The meeting was very unpleasant and ugly words were exchanged. However, conflicting versions of events about the meeting were given by two witnesses who were present: ZEPINIĆ and MANDIĆ.

145. ZEPINIĆ provided this version of events:<sup>237</sup>

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<sup>232</sup> P2301, pp.49-53.

<sup>233</sup> 1D175; MANDIĆ, T.9707-9709.

<sup>234</sup> MANDIĆ, T.9689-9692, 9737.

<sup>235</sup> P2301, pp.39-53; P2302, pp.1-3; MANDIĆ, T.9698-9700; PLANOJEVIĆ, T.16392-16368, 16517-16518.

<sup>236</sup> P912.

<sup>237</sup> ZEPINIĆ, T.5827-5833.

- a. The meeting in Krajišnik's office took place immediately after he completed his meeting with Pušina and Stojić concerning the division of the Special Police Unit.
- b. It was attended by nine people: Krajišnik, Karadžić, Koljević, Plavšić, DJERIĆ, Simović, Stanišić, and MANDIĆ, and Milenko Karišik, the commander of the Special Police Unit. In addition, two members of the Special Police Unit – Repija and Marić – armed in full combat gear with hand grenades, pistols, and knives were present as well as armed persons wearing paramilitary uniforms.
- c. Karadžić and Koljević were extremely aggressive towards ZEPINIĆ because of his opposition to the concept of ethnically based parties. Karadžić said that it was easier to replace Tito than ZEPINIĆ. Stanišić reacted very angrily to ZEPINIĆ by saying that he was undermining the concept on which the parties had agreed about splitting the MUP and the splitting of the Special Unit. Stanišić produced a pistol and threatened to kill him. ZEPINIĆ replied that they should go down to the basement and not do it in the office of the Speaker of the Assembly.
- d. At one point, ZEPINIĆ, Stanišić, Karadžić, Koljević, Krajišnik, MANDIĆ, Karišik, Repija, and Marić went into an office across the hallway from Krajišnik's office. Repija then ordered everyone to leave the office except for ZEPINIĆ, Marić, Karišik, and himself. ZEPINIĆ explained to them that he had resigned. Repija then ordered Krajišnik, Karadžić, and the others back into the room, tore up his police ID, declared that ZEPINIĆ was the only man he would obey, and left the room.
- e. Krajišnik offered ZEPINIĆ a post in the Serbian MUP, but he declined the offer.

- f. ZEPINIĆ left the building and found his driver sitting in his car crying. He told ZEPINIĆ that MANDIĆ had ordered him to kill ZEPINIĆ, otherwise his family would be killed.

146. MANDIĆ provided this version of events:<sup>238</sup>

- a. The meeting during which ZEPINIĆ offered his resignation was held in Krajišnik's office, after the meeting on the division of the Special Police Unit.
- b. It was attended by five people: Krajišnik, ZEPINIĆ, Simović, MANDIĆ, and Stanišić. Karadžić, Koljević, Plavšić, DJERIĆ, Karišik, Repija, Marić, and armed persons in paramilitary uniforms were not present. No one was armed and no members of the Special Police Unit entered the office in full combat gear with hand-grenades, guns, and knives. There were no armed paramilitaries standing outside the door to Krajišnik's office.
- c. The meeting was chaired by Krajišnik and Simović, Deputy PM of the SRBH government responsible for internal affairs.<sup>239</sup> ZEPINIĆ reported on his participation in the meeting he had just attended with Jusuf Pušina and Bruno Stojić on the division of the Special Police Unit on the order of Minister Delimustafić. ZEPINIĆ was then confronted about his involvement in receiving bribes, property, and a vehicle. A heated verbal conflict between ZEPINIĆ and Stanišić over these matter ensued. ZEPINIĆ and Stanišić did not discuss or argue about the division of the Special Police Unit. There were no guns, rifles, or serious threats issued against ZEPINIĆ.

<sup>238</sup> MANDIĆ, T.9696-9699,9738-9745.

<sup>239</sup> P873.



- d. ZEPINIĆ refused an offer to remain working in the Serbian MUP. He then resigned and left. MANDIĆ did not order ZEPINIĆ's driver to liquidate him.

147. When questioned by the OTP, DJERIĆ testified that he never spoke to ZEPINIĆ about his resignation and that ZEPINIĆ was not removed after speaking to him. DJERIĆ said that ZEPINIĆ was recalled by the SDS but he did not know why.<sup>240</sup> DJERIĆ was not at the meeting held in Krajišnik's office.

148. It is important to note that this meeting took place in the office of the Speaker of the SRBH Assembly. This building was secured with metal detectors at the entrance.<sup>241</sup> It was not possible to enter the premises of the SRBH Assembly with automatic weapons, hand-grenades, knives, or pistols.<sup>242</sup> It is not credible that anyone entered the SRBH Assembly armed, let alone a group of men dressed in full combat gear carrying hand grenades, pistols, and knives, as ZEPINIĆ contended. Nor is it credible that anyone could be ordering Karadžić and Krajišnik in and out of the room in the Assembly building. It was not possible for Stanišić to have been present in the Speaker's office with a gun. No one was allowed through security at the SRBH Assembly with a weapon. ZEPINIĆ has embellished these events by including many members of the political hierarchy at this meeting who were not present – Karadžić, Koljević, Plavšić, and DJERIĆ – as well as members of the Special Police Unit who were not present – Karišik, Repija, and Marić. ZEPINIĆ did not give the real reasons for his confrontation with Stanišić at the meeting and he did not tell the truth when he stated that Stanišić produced a pistol and threatened to kill him.

149. Contrary to what ZEPINIĆ contended, the reason for the heated exchange with Stanišić was not about ZEPINIĆ undermining the concept of the division of the MUP and the splitting of the Special Police Unit along ethnic lines. That had already been agreed and ZEPINIĆ had participated in it, before he came to the meeting in Krajišnik's office. He attended the Collegium meeting on 1 April 1992 (1D78) and he signed the dispatch

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<sup>240</sup> DJERIĆ, T.2310.

<sup>241</sup> ŠČEKIĆ, T.6574-6575

<sup>242</sup> MANDIĆ, T.9738-9740.

sent the same day to the CSBs and SJBs to inform them about these developments (P2320). Delimustafić had ordered the division of the Special Police Unit. ZEPINIĆ agreed, as the Serb representative, along with Muslim (Pušina) and Croat (Stojić) colleagues on the division and relocation of the Unit. The real reason for his dispute with Stanišić was his involvement in unlawful activities and taking bribes as Deputy Minister of the MUP-SRBH. During the meeting on 4 April 1992, he was confronted with these wrong doings. It had been discovered that ZEPINIĆ had been involved in unlawful activities for receiving a Mazda 626, a 100 square meter apartment, and cash as a bribe. Reservations about the appropriateness of the appointment of ZEPINIĆ as the Minister of the Interior of the Council of Ministers were voiced in the Serbian Assembly as early as 21 December 1991.<sup>243</sup>

150. This is not the only time that ZEPINIĆ was untruthful during his testimony. As was pointed out earlier in these Submissions, he claimed that the record of the 1 April 1992 Advisory Board meeting (1D78) was “garbage” whereas P2320 shows that he endorsed it, when it was sent out along with a dispatch that he and the other members of the MUP-SRBH Collegium of all ethnicities had signed. He also claimed that Deputy PM TRBOJEVIĆ did not speak the truth when he informed the RS Assembly on 23-24 November 1992 that ZEPINIĆ had become a military security officer after leaving the MUP.<sup>244</sup> The fact of the matter is that he and ANDAN were both in the VRS together in the autumn of 1992. ZEPINIĆ had the rank of captain and he worked in the command of the Sarajevo Romanija Corps in the security department under the command of security officer Marko Lugonja when ANDAN visited him at the Grbavica barracks.<sup>245</sup>

151. ZEPINIĆ was not forthright about these events which were easily verifiable based on the evidence in this case. ZEPINIĆ was not telling the truth when he testified about the meeting held in the office of the Speaker of the SRBH Assembly and, in particular, he was not truthful when he stated that Stanišić produced a pistol and threatened to kill him. On these matters, ZEPINIĆ should not be believed.

<sup>243</sup> MANDIĆ, T.9580-9583; P10, p.36.

<sup>244</sup> ZEPINIĆ, T.5840-5842.

<sup>245</sup> ANDAN, T.21564-21566.

152. The mobilisation orders issued by President Izetbegović on 3 and 4 April, and the Minister of Defence, Doko on 5 April 1992 triggered the outbreak of violence throughout BH. Thousands of people of all ethnicities stormed the Parliament building demanding the resignation of the government. PM Jure Pelivan resigned and the protesters formed the Committee for National Survival.<sup>246</sup> These days were marked by chaos, confusion, and disarray among Serb members of the police.

153. On 6 April 1992, Boro Radić, a member of the Serbian Radical Party, and his armed unit of approximately twenty to forty men, made up of local criminals, stormed the Vogošća SJB. The commander of the station, Boro Maksimović, a Serb, was shot, wounded, and taken to hospital. Radić was drunk and he and his men came to take over the police station and take all its weapons. Inside the SJB, Radić mistook police commander, Boro Maksimović for the deputy commander, Mato Milanović, and he shot him. After the shooting, Radić's wife, Zehra, an ethnic Muslim,<sup>247</sup> was in the street firing an automatic weapon.<sup>248</sup>

154. (REDACTED).<sup>249</sup> (REDACTED).<sup>250</sup>

155. The ethnic Serb employees of the MUP-SRBH had not been seeking, planning or expecting a violent break-up of the MUP. Following the ambush on the Serb policemen at Vrace, MANDIĆ returned to work at the premises of MUP-SRBH headquarters on 7 April 1992 to find that his office had been devastated by Munir Alibabić. He returned to headquarters because there had been an agreement that those who worked in the joint MUP should keep their positions until new structures were established. It was agreed that there would be a period for the transformation of the single MUP-SRBH into police

<sup>246</sup> P1989 video min.08:00-10:30, 16:30-18:15, 26:20-29:20, 1:07:55-1:08:54, 1:27:50-1:28:04.

<sup>247</sup> (REDACTED).

<sup>248</sup> (REDACTED).

<sup>249</sup> (REDACTED).

<sup>250</sup> (REDACTED).

forces for each ethnic entity. However, on 8 April 1992, he was dismissed from the MUP-SRBH pursuant to a decision of the SRBH government.<sup>251</sup>

156. In April 1992, after the MUP was divided, ANDAN and other Serb colleagues continued coming to work at the MUP-SRBH until he was no longer allowed to enter the MUP building pursuant to an order issued by the chief of the Administration for providing security, Teofik Musić to ban Serbs from entering the building.<sup>252</sup>

157. TUŠEVLJAK left all his personal belongings in his office. Green Berets and the Patriotic League attacked police stations in Sarajevo, including SJB Novo Sarajevo where a policeman was killed and another injured. The next day, roadblocks erected by these paramilitaries prevented TUŠEVLJAK from getting to work. On 7 or 8 April 1992, he went to RSMUP headquarters at Vrace, where he encountered armed clashes and chaos. He reported to the reserve police station in his neighbourhood and returned to Vrace via the Sarajevo airport between 10-12 April 1992 to report for duty with the RSMUP.<sup>253</sup>

158. The local Muslim population and Muslim paramilitary units near BOROVČANIN'S home were armed by local criminals. There was gun fire at the window of his flat. He took his family to safety outside Sarajevo, leaving behind personal documents and valuables. He thought he would return home in a week or so.<sup>254</sup>

159. ŠČEKIĆ expected to continue working in a restructured MUP. However, he was unable to enter the MUP-SRBH headquarters because Muslim and Croat colleagues, carrying long-barrelled weapons, had encircled the building. During that time, false stories appeared in the media alleged that he was killing people in Sarajevo by sniping. He was arrested temporarily by members of the Green Berets. He managed to join his family in Hadžići. When the town was shelled on 15 May 1992, he hitch-hiked and took

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<sup>251</sup> MANDIĆ, T.9700-9702,1D256.

<sup>252</sup> ANDAN, T.21392-21396, 21613-21616; PLANOJEVIĆ, T.16594-16595.

<sup>253</sup> TUŠEVLJAK, T.22216-22221.

<sup>254</sup> BOROVČANIN, T.6627-6628, 6733-6737.

a public bus to get to Pale. The bus came under sniper fire from the Muslim side. It took him eight hours to cover the 40 kilometres to Pale.<sup>255</sup>

160. ŠKIPINA, the retired head of the SDB in the MUP-SRBH, was constantly attacked by the Bosniak side because he had investigated Alija Izetbegović and Hilmo Selimović for their past criminal activities. He and his family received death threats. His son was beaten in the street. On 20 March 1992, ŠKIPINA met Stanišić and his wife at the Holiday Inn at Sarajevo. Stanišić told ŠKIPINA that the politicians had come to their senses, war was out of the question, and the Muslim, Serbian and Croatian sides had agreed on the separation of property within the MUP. ŠKIPINA agreed to join the new Serbian MUP because he thought it would provide him protection and because Stanišić told him that he needed experienced professionals like him to work in state security.<sup>256</sup>

161. ANDAN had his apartment in Sarajevo searched by a group of criminals who hit him with a rifle butt and pushed the rifle barrel into his mouth,<sup>257</sup> PLANOJEVIĆ learned he was on a hit list,<sup>258</sup> and MAČAR had his apartment broken into and ransacked by the police who stole personal items from him.<sup>259</sup>

### **C. THE ESTABLISHMENT, CREATION, AND TRANSFORMATION OF THE MINISTRY OF THE INTERIOR**

#### **IMMINENT THREAT OF WAR**

162. Beginning in early April 1992, Stanišić found himself at the head of a fledgling Ministry, without the material means to function adequately, at the same time that an armed conflict erupted in the territory of BH. In the month of April, a state of Imminent Threat of War was declared throughout BH which triggered a series of legal consequences in the area of national defence which directly affected every institution and entity in the RS and their role, obligations, and duties, including the RSMUP.

<sup>255</sup> ŠČEKIĆ, T.6534-6537, 6566-6571.

<sup>256</sup> ŠKIPINA, T.8449, 8288-8292.

<sup>257</sup> ANDAN, T.21397-21399.

<sup>258</sup> PLANOJEVIĆ, T.16507-16508.

<sup>259</sup> MAČAR, T.22853-22857,

163. On 8 April 1992, Izetbegović, President of the SRBH Presidency proclaimed an imminent threat of war in BH (1D698). In the previous period, the SRBH authorities took steps to engage its armed forces:

- a. On 12 March 1992, Delimustafić ordered *inter alia* an integrated analysis on the engagement of the reserve police force to wartime organisation according to the ethnic composition of the areas covered by police stations.<sup>260</sup>
- b. On 3 April 1992, President Izetbegović ordered a mobilisation of TO units of all municipalities across BH, which led to violent take-overs of police facilities and other institutions across the City of Sarajevo.<sup>261</sup>
- c. On 4 April 1992, President Izetbegović issued another mobilisation order to engage the entire reserve force of the SRBH police and civilian protection units.<sup>262</sup> The same day, the Assembly of the Serbian people in BH and its National Security Council responded by issuing a communiqué inviting citizens to disregard the mobilisation order and to maintain order, peace, and safety of civilians of all nationalities.<sup>263</sup>
- d. On 5 April 1992, the SRBH Minister of Defence, Jerko Doko ordered the mobilisation of the TO and reservists under the authority of the MUP-SRBH, based on the conclusions of the SRBH Government (1D175).<sup>264</sup>

In addition, on 8 April 1992, the MUP-SRBH issued a dispatch to all CSBs, SJBs, and the Sarajevo SUP for the resubordination of TO units to the MUP in compliance with these conclusions by the SRBH Government (1D257).

164. 1D257 was contrary to both the SRBH Law on Internal Affairs (P510) and Article 107 of the SFRY Law on All People's Defence (L1).<sup>265</sup> This provision provided that the

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<sup>260</sup> P776.

<sup>261</sup> 1D174, para.1; MANDIĆ, T.9704-9705; MAČAR, T.22848-22949; BOROVCANIN, T.6624-6626, 6734-6735; PEJIC, T.12113-12114, 12166.

<sup>262</sup> 1D174, paras.1, 3-4; MANDIĆ, T.9704-9705.

<sup>263</sup> P440; MANDIĆ, T.9705-9707.

<sup>264</sup> MANDIĆ, T.9707-9709.

<sup>265</sup> BAJAGIĆ, T.20197-20198.

SRBH Presidency may order the use of the TO units to carry out tasks of public peace and order and to carry out other tasks of social self-protection pursuant to a decision of the Presidency of the SFRY under Article 105. 1D257 refers to a decision of the SRBH government, not an order issued by the Presidency of the SFRY and it does not define which formations are to be subordinated to the police.<sup>266</sup>

165. At the end of April 1992, Colonel Hasan Efendić, BH TO commander ordered the TO and the MUP *inter alia* to block all roads in BH, blockade military facilities, and to quickly plan and begin combat activities in the entire territory of BH and coordinate them with staffs of the local, country, and republican TO. ST-119 Vuković, from the Ministry of Defence, received this document and realized at that time that this amounted to a declaration of war and he lost all hope that there would be a peaceful resolution to the conflict which had just started.<sup>267</sup> The same day, Minister Delimustafić sent this order to the chiefs of the CSBs, SJBs, and Sarajevo SUP of the Ministry of the Interior of BH.<sup>268</sup>

166. On 15 April 1992, pursuant to Article 81 of the RS Constitution, the President (i.e. Presidency) decided to declare an imminent threat of war. General mobilisation of the TO was ordered and all military conscripts were duty-bound to make themselves available to the municipal TO staffs in the territory of the RS. In accordance with this decision, the TO was established as the armed force of the RS under the command and control of municipal, district, and regional TO staffs and the Republican TO staff. A decision on other components of the armed forces would be adopted pursuant to an agreement on the political organisation of BH and the status of the JNA.<sup>269</sup>

167. On 16 April 1992, the RS Minister of Defence, Bogdan Subotić ordered the formation of the TO of RS, as the armed force of the RS, under the command of TO staffs and the ultimate command of the TO staff of Republic. On the basis of the decision

<sup>266</sup> BJELOŠEVIĆ, T.20929-20931; BAJAGIĆ, T.20418-20421; 1D460, BJELOŠEVIĆ, T.19551-19554.

<sup>267</sup> 1D151 and 1D397; Vuković, T.17664-17680.

<sup>268</sup> TUTUŠ, T.7785-7787; MAČAR, T.22885-22886.

<sup>269</sup> P181, Art.8; 1D531; P183; 1D170; DJERIĆ, T.2316-2317; BAJAGIĆ, T.20064-20065; P467; 1D662 footnote 326.

of the RS Presidency, he further ordered the general public mobilization. It obliged all military conscripts to make themselves available to municipal TO Staffs in the territory. The order further gave instructions on the deployment of units and their relation with the JNA.<sup>270</sup>

## NATIONAL DEFENCE

### LAW ON NATIONAL DEFENCE

168. Following the declaration of the State of Imminent Threat of War by the RS Presidency, and pursuant to the RS Constitution and Federal law, the Law on National Defence determines *inter alia* the rights and obligations of citizens, enterprises, organisations, and other legal entities of the RS in the domain of national defence. National defence is prepared, designed and executed with the purpose of defending the sovereignty, independence and territorial integrity of the Republic and in keeping with a unified system of defence and protection of the constitutionally determined social order of the country.<sup>271</sup>

169. All legal entities, including the RSMUP, derive their rights, obligations, and duties pertaining to national defence in keeping with the Constitution and the law, including the Law on National Defence.<sup>272</sup>

170. In particular, the Law on National Defence defines the specific rights, obligations, and duties of the Assembly, the President, the Government, and the Ministry of Defence, as the central institutions responsible for national defence.

171. The Assembly organises the national defence system, discusses preparations for national defence and takes action to organise, develop and strengthen national defence. It defines the development of national defence and sources of financing, the manner of protection of material necessary for national defence, appoints to and relieve from duty

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<sup>270</sup> 1D170.

<sup>271</sup> L33, Art.1-2.

<sup>272</sup> L33, Art.3.



the commander of republican TO, in keeping with the proposal submitted by the President, and it presents its plan of defence and executes other rights and obligations in the field of defence relevant to the competence of the Assembly.<sup>273</sup>

172. The President (or Presidency) ensures unity and indivisibility of the national defence system in the Republic, supervises TO both in peace and wartime, which includes authority over organisational and personnel issues within TO. He submits the Plan of Defence of the Republic and other acts which regulate action for organisation and preparation for defence. He issues orders relevant to measures of readiness and other necessary measures, for utilisation of the police in case of a state of war, imminent threat of war and other emergencies, and he executes other rights and obligations in national defence that fall within his domain.<sup>274</sup>

173. The President is the Supreme Commander whose orders are the highest priority and must be executed.<sup>275</sup> He can, and indeed he did, transfer some of his powers to the Chief of Staff of VRS.<sup>276</sup> The President could issue orders to RSMUP on deployment of police units, their subordination to the military, and the execution of certain tasks.<sup>277</sup>

174. The Government *inter alia* proposes and implements all aspects of the republican Defence Plan, organises, supplies and equips the TO and Civilian Protection. In the case of an imminent threat of war, the Government provides conditions for the execution of the commanded measures of readiness and other measures in the territory of the Republic, it takes measures to transform the organisation of ministries and other republic organs from peace to wartime conditions, their move out to wartime locations, and it orders evacuation of certain categories of the population from cities under threat in keeping with the republican Defence Plan and district defence plans.<sup>278</sup>

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<sup>273</sup> L33, Art.5.

<sup>274</sup> L33, Art.6; KOVAČEVIC, T.23771-23772.

<sup>275</sup> 1D534, P587, P1825, P570, 1D171, KOVAČEVIC, T. 23773-23774.

<sup>276</sup> 1D534; KOVAČEVIC, T.23772-23774.

<sup>277</sup> 1D99; P578; P1284.13; P1885.

<sup>278</sup> L33, Art.7-8.

175. As part of the government,<sup>279</sup> the role, duties, and jurisdiction of the Ministry of Defence ("MOD") are regulated by the Law on Ministries.<sup>280</sup> In addition, other laws refer to the MOD and further define its powers and duties as well as those of its lower level regional and municipal secretariats.<sup>281</sup>

176. The Ministry of Defence executes *inter alia* duties pertaining to military service and mobilisation, draft plans for developing, replenishment, supplying and training TO and Civilian Protection, and it ensures application of laws and other general documents of national defence. It issues mandatory guidelines to the district national defence secretariats to execute actions related to the organisation, development, preparation and functioning of TO and Civilian Protection. The Deputy Minister of National Defence is *ex officio* Chief of the Republican Territorial Defence staff.

177. The Ministry of Defence is exclusively in charge of organizing the mobilization and re-enforcement of the armed forces in the Republic.<sup>282</sup>

178. All other Ministries and republican organs, including the RSMUP, are only required to monitor preparations for defence and to submit their defence plans and execute other duties pertaining to national defence as determined by the law and other regulations.<sup>283</sup> In addition to their regular peacetime duties, each ministry is required to prepare for working under conditions of imminent threat of war and during a state of war, and executes other duties pertaining to national defence in keeping with the law and Defence Plan of the Republic issued by the President.<sup>284</sup>

### THE ARMED FORCES

179. As provided in Article 1 of the Law on Defence, matters of national defence were based *inter alia* on the Federal law of the SFRY and a unified system of defence and

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<sup>279</sup> P734 Art.6.

<sup>280</sup> L34, L67 Art.7.

<sup>281</sup> L32, Art.19, 22-23.

<sup>282</sup> L34, L67 Art.7, L1 Art.9-10.

<sup>283</sup> L33, Art.11.

<sup>284</sup> L33 Art.6, 26.

protection of the constitutionally determined social order of the country.<sup>285</sup> In 1992, the SFRY Law on All People's Defence (L1) and the Strategy of ONO and DSZ (L4) were in force in both BH and the RS.<sup>286</sup> Article 91 of this law defined the armed forces as the JNA, the TO, and any citizen who, with weapons, or in any other fashion, participates in the resistance against the enemy. The Ministry of the Interior or the police does not feature as a part of the armed forces.<sup>287</sup>

180. The SFRY defence concept was based on the unity of command of all units of the armed forces.<sup>288</sup> The JNA is a professional army with specialized units, while the TO units would wage war, as infantry troops, under the command of the JNA or independently. Civilian Protection, as part of the TO, was aimed at helping citizens during the war.<sup>289</sup> To ensure unity of command from the strategic level down to the lower levels, the TO commander in each Republic was proposed at the level of the Republic and appointed by the SFRY Presidency.<sup>290</sup> The Commander of Republic TO issues orders to TO commanders concerning the deployment of units, mobilization,<sup>291</sup> and the promotion of officers in the TO.<sup>292</sup> According to military regulations, the JNA zone commander exercised command and control over all troops in his zone of responsibility.<sup>293</sup> Indeed, the MOD mobilization order of 16 April 1992 emphasises the need for TO units to be under JNA command.<sup>294</sup>

181. The Law on National Defence provides that TO staffs are formed on both the republic and regional levels. In case of Imminent Threat of War or War, these Staffs are activated and act as independent organs taking over all tasks of the Ministry or

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<sup>285</sup> L22 Art.1

<sup>286</sup> L1, Art.207; TRBOJEVIĆ, T.4175-4176; ZEPINIĆ, T.5933; ŠČEKIĆ, T.6567-6568; NJEGUŠ, T.11422-11426; GAJIĆ, T.12799-12800, 12849-12850; 1D662, paras.233-245; BAJAGIĆ, T.20182-20184, KOVAČEVIĆ, T.23667-23668. This changed in 1994, L317; 2D159, para.57; KOVAČEVIĆ, T.23679-23680.

<sup>287</sup> ZEPINIĆ, T.5931; KOVAČEVIĆ, T.23644-23645, 23953-23954.

<sup>288</sup> L51, Art.173; LISICA, T.26956-26960.

<sup>289</sup> L4, pp 10-13.

<sup>290</sup> P1295.22

<sup>291</sup> L33, Art.41.

<sup>292</sup> L33, Art.50.

<sup>293</sup> 1D406; KOVAČEVIĆ, T.23684-23685.

<sup>294</sup> 1D170, para.4.

secretariats.<sup>295</sup> In TO Staffs and TO units, security organs are formed which perform tasks in accordance with rules of engagement of security organs in armed forces.<sup>296</sup> During a State of Imminent Threat of War or a State of War, TO units can be reinforced with volunteers.<sup>297</sup>

182. However, there was one exception. In peace time, in cases of major public unrest, TO units could carry out the task of maintaining public law and order, pursuant to an order of the SFRY Presidency, through the Presidency of the Republic. Only in this case, TO units could be re-subordinated to the Ministry of the Interior.<sup>298</sup> This provision of Law was used by the SRBH Presidency on 4 April 1992 and by the Minister of Defence, Jerko Doko on 5 April 1992 as the basis for their decisions.<sup>299</sup>

183. The JNA was therefore the cornerstone of the defence system of SFRY. The TO was a second component of the armed forces. Their role was to protect freedom, independence, sovereignty, territorial integrity and the constitutional order of SFRY. The whole defence concept was designed to fight an armed aggression against SFRY, where armed forces, principally the JNA, as its most effective and mobile component, together with the TO, would wage a war of all people's defence against the enemy. To this end, according to the Strategy of ONO and DSZ, every institution, company, and socio-political and other social organisation and citizens' association or socio-political entity was provided with weaponry in case of such an aggression. One of the main principles in the creation of the JNA was brotherhood and unity among all ethnicities of the SFRY and the JNA was guarantor of this constitutional principle.<sup>300</sup> Neither the JNA nor the concept of All People's Defence ever anticipated or was prepared for an inter-ethnic conflict/war within the SFRY.<sup>301</sup>

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<sup>295</sup> L33, Art.51

<sup>296</sup> L33, Art.52

<sup>297</sup> L33, Art.43

<sup>298</sup> L1, p.67, Art.105; L28, p.48, Art.107; KOVAČEVIĆ, T.23784-23785.

<sup>299</sup> 1D174, 1D175.

<sup>300</sup> L1; L4, pp 10-11, see also basic principles pp.5-8.

<sup>301</sup> LISICA, T.26864; KOVAČEVIĆ, T.23994, 23644.

184. The VRS was formed on 12 May 1992 at the RS Assembly session,<sup>302</sup> approximately a month after the formation of the ABiH and the start of the armed conflict in BH.<sup>303</sup>

185. There was no plan to establish an army in the RS.<sup>304</sup> The RS Constitution initially only made a single reference to JNA and TO.<sup>305</sup> It is clear that the expectation was that BH would remain a part of the Yugoslav federation and that the JNA would remain the federal army. The RS Constitution had to be amended *ad hoc* at the 12 May 1992 Assembly session. The role of the army was not even defined by the RS Constitution due to the haste with which it was established. It was defined in the Law on the Army on 1 June 1992.<sup>306</sup> Furthermore, it took another month from the 12 May 1992 Assembly session to establish fully the VRS.<sup>307</sup> Organized life and combat actions of the VRS started on 16 June 1992.<sup>308</sup>

186. The decision to form the VRS stipulated that "all existing TO units and staffs will be renamed as commands and units of the army."<sup>309</sup> The Law on National Defence was also amended at the same session and all references to the TO were replaced with the VRS.<sup>310</sup> Units of the TO were put under the command of the brigades in their zone of responsibility.<sup>311</sup> Therefore, the VRS was made up exclusively of units and staffs of the TO, which had been mobilized on 16 April 1992, including volunteers who had joined the TO, pursuant to Article 43 of the Law on Defence, as well as JNA officers who were from BH and joined the VRS.<sup>312</sup>

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<sup>302</sup> P754, 2D159 paras.51-52.

<sup>303</sup> KOVAČEVIĆ, T.24168

<sup>304</sup> 2D159 para.50; P2393; KOVAČEVIĆ, T.24173, 24190, 24111.

<sup>305</sup> P181, Art.109

<sup>306</sup> L51, Art.1.

<sup>307</sup> 1D534;1D535 Mladić order on formation of VRS of 16 June 1992 gives as deadline 15 July 1992; 2D159 para 53,175; KOVAČEVIĆ, T.23676-23677;

<sup>308</sup> P1781, p.11.

<sup>309</sup> L42 art.2; KOVAČEVIĆ, T.23670-23671.

<sup>310</sup> P74, pgs.59-61.

<sup>311</sup> P2000;1D406

<sup>312</sup> KOVAČEVIĆ, T.23671-23672.

187. The composition of the VRS was a major problem for the VRS. Only 3% of the officer corps of the VRS was made up of professional officers.<sup>313</sup> This had a direct impact on the discipline of the VRS troops.<sup>314</sup> General LISICA testified that all his energy and that of professional officers and NCOs was directed more at preventing crimes than executing combat assignments.<sup>315</sup> They did not have an "army". There were armed people on two sides fighting against each other. It was a conflict between two peoples, a mob, and not a clash between two armies.<sup>316</sup>

188. General LISICA believes that the lack of professionalism in the VRS is one of the reasons why the war lasted for four years.<sup>317</sup> General KOVAČEVIĆ testified that poor discipline and organization, along with manning levels and a shortage of professional officers in the VRS is possibly one of the reasons that led to violations of international humanitarian law.<sup>318</sup>

#### CRISIS STAFFS – WAR PRESIDENCIES – WAR COMMISSIONERS

189. In the SFRY, the law provided for the formation of Crisis Staffs in times when legally established organs were unable to meet and function properly.<sup>319</sup> These organs were composed of the most important officials in the Municipality. The chiefs of the police *ex officio* were members of such organs.<sup>320</sup> A Crisis Staff takes over as the highest and sole authority in relation to all aspects of life in the municipality.<sup>321</sup> In times of Imminent Threat of War, a Crisis Staff assumes the competencies and duties of the Committees for National Defence provided for in the Law on All People's Defence.<sup>322</sup>

<sup>313</sup> KOVAČEVIĆ, T.23991, LISICA, T.27000.

<sup>314</sup> KOVAČEVIĆ, T.23993-23994.

<sup>315</sup> LISICA, T.26885.

<sup>316</sup> LISICA, T.26865, 26871.

<sup>317</sup> LISICA, T.26873.

<sup>318</sup> KOVAČEVIĆ, T.24014-24015.

<sup>319</sup> Adj.Fact U; 1D10.

<sup>320</sup> P1806.

<sup>321</sup> 1D622, paras.249-251.

<sup>322</sup> L1; 1D662, paras.258-262.

190. In 1991 and 1992, as the power and authority of the organs and institutions in the SFRY at the federal, republic, and municipal levels deteriorated, municipalities throughout BH formed Crisis Staffs.<sup>323</sup> TRBOJEVIĆ explained:

The need for such organs, such as the Crisis Staffs, emerged because of the deep crisis that came about as far as the functioning of the central government and the regional or municipal authorities. The events in the BH Assembly in October 1991 showed that the obstruction by BH in relation to the federal state, the SFRY was being reflected broadly within BH, so that the lower municipal organs were obstructing in the same way the central organs of BH. The republics of the SFRY were leaving the joint organs of the federal State. In BH, there were autonomous regions proclaimed, municipalities had suspended their payments of taxes, and participation in the budget contact, and so on and so forth. The state system was falling apart from the top down.<sup>324</sup>

191. In fact, on 21 September 1991, the SRBH Presidency was one of the first institutions in BH to establish a Crisis Staff, headed by Ejup Ganić.<sup>325</sup> The creation of Regional Crisis staff of Herzegbosna formed by HDZ ensued.<sup>326</sup> The establishment of these bodies reflects the breakdown in the political structures in BH and the inability of the Republican organs to cope with the situation.

192. In addition, as agreed by the Prosecution,<sup>327</sup> in some municipalities, each one of the three ethnically based political parties formed a Crisis Staff.<sup>328</sup>

193. In light of the existing legal framework for the creation of Crisis Staffs, and following the creation of the Crisis Staff at the level of the SRBH Presidency in September 1991, it is not surprising that Crisis Staffs were established in late 1991 and 1992 all over BH. To this end any reference to the SDS document known as Variant A&B<sup>329</sup> is superfluous to explain the phenomenon or existence of Crisis Staffs.

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<sup>323</sup> P72.

<sup>324</sup> TRBOJEVIĆ, T.4177-4178.

<sup>325</sup> 1D108; MANDIĆ, T.9636.

<sup>326</sup> 1D2.

<sup>327</sup> T.4527-4528.

<sup>328</sup> TRBOJEVIĆ, T.4176; 1D6; 1D23; 1D109; 1D110; 1D111; 1D448; 1D628; 2D129; P436; P437; P442; Adj.F U.

<sup>329</sup> P15.

194. Furthermore, in the RS, autonomous regions or SAOs had prerogatives in legislative and executive field which gave them the powers of an autonomous state entity.<sup>330</sup> According to the RS Constitution, SAOs were required to harmonize their Statutes with the RS Constitution within 6 months.<sup>331</sup>

195. In April 1992, when hostilities started, the SRBH system collapsed. As a result, central organs such as the Assembly, Presidency, and Government existed both in BH and RS. However, at the municipal level, in most instances, no other organ except the local Crisis Staff was operational. In the RS, they acted independently of the central government and its ministries, including the RSMUP.<sup>332</sup>

196. Between April and September, the central authorities were cut off from the local organs of power, they were not receiving information from them and had no ability to control or influence these bodies. They struggled against strong resistance and defiance from the local authorities when attempts were made to gain political and legal control over the entire territory of the RS.<sup>333</sup>

- a. On 26 April 1992, the government issued Instructions to regulate the work, powers and obligations of Crisis Staffs. They were told *inter alia* not to impinge on the competencies of official central state organs by assuming power to command or appoint officials or officers.<sup>334</sup>
- b. Due to some imprecision in the text, these Instructions were withdrawn on 30 April 1992.<sup>335</sup> This second document was not received in all localities because of disruption in communications between the central authorities and the regions.<sup>336</sup>

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<sup>330</sup> 1D622, para.227.

<sup>331</sup> 1D662, paras.222-223.

<sup>332</sup> DJERIĆ, T.2433.

<sup>333</sup> DJERIĆ, T.2436; DJOKANOVIĆ, T.3574-3575; TRBOJEVIĆ, T.4114-4117, 4174-4175; 1D540, p.4; BAJAGIĆ, T.20180-20181.

<sup>334</sup> P70; DJERIĆ, T.2413-2414, 2427-2429.

<sup>335</sup> P186.

<sup>336</sup> P179.10.



- c. By May 1992 the situation further deteriorated. The government and its ministries were completely isolated from territory west of Brčko as the Posavina Corridor was cut off until July 1992. The government focussed its attention to gaining control over the eastern part of the RS.<sup>337</sup>
- d. On 23 May 1992, the government proposed that all Crisis Staffs be disbanded.<sup>338</sup>
- e. On 31 May, the RS President issued an order to form War Presidencies within 15 days whereby Crisis Staffs would cease to exist.<sup>339</sup> Pursuant to this order, police chiefs were not required to participate in these organs.<sup>340</sup> However, War Presidencies were not formed everywhere. Some Crisis Staffs refused to implement the President's order.<sup>341</sup> In some cases, even where War Presidencies were formed they continued to work with the same membership as the Crisis Staff but under a different name.<sup>342</sup>
- f. As this measure failed, on 10 June 1992, the RS President issued another order to create War Commissions which incorporated a person appointed by the President as the Republic War Commissioner.<sup>343</sup> The War Commissioners were required to go to each municipality to form these bodies.<sup>344</sup> In some cases, the same War Commissioner was a member of a number of different municipal War Commissions.<sup>345</sup> However, some local authorities refused to implement this order and the Crisis Staff remained the focal point of power in the territory. There were instances where a Crisis Staff, a War Presidency, and a War Commission existed and operated at the same time.<sup>346</sup> After touring the regions, the Republican War Commissioner became aware of the actual political and security

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<sup>337</sup> DJOKANOVIĆ, T.3607-3608.

<sup>338</sup> P217; MANDIĆ, T.9588.

<sup>339</sup> P1830; MANDIĆ, T.9588-9589; DJOKANOVIĆ T.3574-3575.

<sup>340</sup> P1830; DJOKANOVIĆ, P397.2 pp.10588-10589; P397.9; P397.7.

<sup>341</sup> DJOKANOVIĆ; T.3609-3610.

<sup>342</sup> DJOKANOVIĆ; T.3574.

<sup>343</sup> L65.

<sup>344</sup> DJOKANOVIĆ, T.3581; P397.8.

<sup>345</sup> P397.8; P397.9.

<sup>346</sup> TRBOJEVIĆ, T.4181-4182.

situation in the municipalities, as well as the commission of crimes, and he informed the Presidency.<sup>347</sup>

- g. In September 1992, the RS Constitution was amended and the SAOs ceased to exist.<sup>348</sup> The process of disbanding Crisis Staffs continued throughout 1992 and, only towards December, Crisis Staffs were finally disbanded altogether.

**PRESIDENT'S GUIDELINES AND GOVERNMENT OPERATIVE  
PROGRAMME FOR WARTIME CONDITIONS**

197. As noted above, pursuant to Articles 6 and 26 of the Law on Defence, after the Declaration of Imminent Threat of War,<sup>349</sup> all ministries, including the RSMUP were required to fulfil their regular peacetime duties, to prepare for working under conditions of imminent threat of war and during a state of war, and to execute other duties pertaining to national defence in keeping with the law and the Defence Plan of the Republic issued by the President.<sup>350</sup>

198. The Supreme Commander, President Karadžić, issued Guidelines (P1977) pursuant to the Law on Defence, the suggestion of the RS Government, the Declaration of Imminent Threat of War on 15 April 1992 and the Order for General Mobilisation on 20 May 1992 (1D171). This document provided comprehensive instructions on the "tasks and modes of action and functioning of the defence forces, state organs, and all economic and social subjects" in the RS.

199. Under the Guidelines, each Government Ministry was required to constitute its own war organisations and structures and to transfer to the mode of work in wartime conditions.<sup>351</sup>

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<sup>347</sup> DJOKANOVIĆ, P397.2, pp.10612-10613.

<sup>348</sup> L86; MANDIĆ, T.9589

<sup>349</sup> 1D531, P183, 1D170.

<sup>350</sup> L33, Art.6, 26.

<sup>351</sup> P1977, para.4.

200. In relation to defence matters, the Ministry of Defence, in collaboration with the Main Staff of the VRS, was responsible for supplying the army with material, financial, and other means, wartime production, recruitment and manning, communications, data protection, surveillance, and the manner and performance of military judicial organs.<sup>352</sup> In addition, the Operative Programme established by the Government enumerated the tasks for which the Ministry of Defence was responsible by law.<sup>353</sup> On 13 June 1992, the Minister of Defence issued Instructions on the Treatment of Captured Persons, based on the order of the RS President on the implementation of international humanitarian law.<sup>354</sup> This Order directs army unit commanders to establish detention centres<sup>355</sup> and Corps Commanders to establish POW Camps.<sup>356</sup> The Commission for exchanges of arrested persons under the auspices of the Ministry of Justice was to act as the Centre for information on arrested persons.<sup>357</sup>

201. The Ministry of Justice was responsible for status issues of POWs and detained persons and the work of the State Commission for Establishing Crimes and Genocide over Civilian Population and Victims of War and State Commission for Exchange of Prisoners of War and Detained Persons.<sup>358</sup> Under the Government's Operative Programme, the Ministry of Justice was responsible for reaching an agreement on the exchange of POWs, detainees, the wounded and the dead. It specifically stated that this agreement, together with other documents that have already been adopted, shall serve as a basis for the work of the State Commission for the Exchange of POWs and Detainees.<sup>359</sup> This Commission cooperated with the similar commission established in BH under the auspices of BH MOD and they negotiated exchanges.<sup>360</sup>

202. The Guidelines provided the following in regards to the Ministry of the Interior:

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<sup>352</sup> P1977, paras.3, 6-8; MAČAR, T.23531.

<sup>353</sup> 1D96 paras.12-17.

<sup>354</sup> P189.

<sup>355</sup> P189 para.4.

<sup>356</sup> P189 para.18.

<sup>357</sup> P189 para.19.

<sup>358</sup> P1979, paras.11-14.

<sup>359</sup> 1D96, para.26.

<sup>360</sup> P1318.24.

9. Ministry of Internal Affairs should adjust its war-time structure to the needs and tasks in war-time conditions, in the following way: keeping of public law and order, control and security in traffic in the areas not affected by war activities; protection and physical security to the facilities of particular interest for defence and protection, control of border crossings; protection of persons; intelligence and counter-intelligence; issuing of ID cards and other documents requested by the citizens; detection and bringing in of perpetrators of minor offences and criminal acts, and other tasks as set out by the Law.

Minister of Internal Affairs will pass a special act on internal structure of the ministry of Internal Affairs in wartime conditions, and instructions and orders as per how to perform tasks and duties from the jurisdiction of the Ministry.

Both active and reserve police, as well as the members of units for special tasks, which are not a part of wartime structure of the ministry of Internal Affairs, will be given to the disposal to Army units or other wartime tasks.

10. Ministry of Internal Affairs shall, in cooperation with legislative state organs, military judiciary and military police organs intensify activities on detecting and arresting perpetrators of misdemeanours and criminal acts, and particularly on prevention of thefts, war profiteering, and other criminal acts.

Ministry of Internal Affairs and its organisational parts shall collect and process the data and material on the crimes committed and of genocide over civilian population.<sup>361</sup>

In 1992, the RSMUP acted in accordance with the Law on Internal Affairs and these Guidelines. MAČAR testified that in addition to carrying out its regular duties, members of the police were subordinated to the army for combat operations pursuant to paragraph 9. The RSMUP further documented war crimes committed against the civilian population without distinguishing between victims on the basis of ethnicity pursuant to paragraph 10.<sup>362</sup>

203. The Government's Operative Programme (1D96) was prepared in July 1992 to implement the Guidelines issued by President Karadžić. The RSMUP was tasked with the following:

- a. Designation of border crossings and the organisation of customs control (para 3.);
- b. Adoption of Rule of internal organization of RSMUP in war time (para 18);

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<sup>361</sup> 1D96.

<sup>362</sup> MAČAR, T.23531-23534.

- c. Decision on demobilization of reserve police force and putting them at disposal of the army (para 19);
- d. Matters relating to driving licenses, vehicle registration, and documentation for motor vehicles (paras 20, 21);
- e. Decision on ex-territorial principle of organization of active-duty police force due to the extreme influence of local authorities and family connections on local MUP officials (para 22);
- f. Operative programme of activities to secure prerequisites for efficient functioning of the MUP. It refers *inter alia* to the need to establish an organized approach to work on the collection and processing of data and the documentation of crimes and genocide committed against civilian population (para 23); and
- g. Establishment of an inter-departmental state commission to investigate extreme cases of theft and other abuses (para 66).

204. The RSMUP had no authority, jurisdiction, or role to play in relation to POWs, detained persons, the State Commission for Establishing Crimes, and Genocide over Civilian Population and Victims of War and the State Commission for Exchange of Prisoners of War and Detained Persons. These matters were clearly and exclusively within the remit of state authorities and institutions other than the Ministry of the Interior as stated in the President's Guidelines, the Government Operative Programme, orders and instructions issued by these institutions and the competent ministries and other competent bodies.<sup>363</sup>

#### **STANIŠIĆ 15 MAY ORDER AND THE ROLE OF THE MUP DURING AN IMMINENT THREAT OF WAR**

205. Furthermore, in this context, on 15 May 1992, pursuant to the Declaration of the Imminent Threat of War, Stanišić issued an order for the organisation of all authorized officials of the MUP to be organised into war units for the purposes of defending the territory of the Serbian Republic of BH (1D46). This order was issued in accordance

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<sup>363</sup> TRBOJEVIĆ, T.4095; MANDIĆ, T.9481-9482, P2310, p.9, MAČAR, T.23534-23537.

with the Law on All People's Defence of the SFRY (L1) and the Strategy of ONO and DSZ (L4), namely the legal obligation for every socio-political and other social organisation and citizens' association to make defence plans for a state of imminent state of war or a state of war with a wartime structure.<sup>364</sup>

206. The purpose of this Order must be understood in relation to the Law on All People's Defence. As noted above, Article 91 defined the armed forces as the JNA, the TO, and any citizen who with weapons, or in any other fashion, participates in the resistance against the enemy but does not include the Ministry of the Interior or the police.<sup>365</sup> However, Article 104 envisaged the possibility to engage police forces in combat activities under the direct command of the military:

In war, in time of an imminent threat of war and in other emergencies, the police may be used for carrying out combat activities for the armed forces in accordance with the law.

During its engagement for combat activities in the armed forces, the police shall be under the command of the authorized office in charge of the combat activity.

The reserve forces of the police shall be reinforced by military conscripts.<sup>366</sup>

1D46, paragraph 7(3) mirrors this provision and provides that "while participating in combat operations, the unit of the Ministry of the Interior shall be subordinated to the command of the armed forces; however the Ministry units shall be under the direct command of certain Ministry officials". A military commander, at brigade level and higher, had the authority to order the engagement to all forces within the area of his responsibility. MUP members participating in combat activities were subordinated to the military, under the direct command of the senior military commander in the territory, where combat operations were carried out.<sup>367</sup> According to military doctrine, the guiding

<sup>364</sup> L1, Art.207; TRBOJEVIĆ T.4175-4176; ZEPINIĆ T.5933; ŠČEKIĆ T.6567-6568; NJEGUŠ, T.11422-11426; GAJIĆ T.12799-12800, 12849-12850; 1D662, paras.233-245; BAJAGIĆ, T.20182-20184.

<sup>365</sup> ZEPINIĆ, T.5931.

<sup>366</sup> LISICA, T.26970-26971.

<sup>367</sup> KRULJ, T.2077-2080; ZEPINIĆ, T.5931; NJEGUŠ, T.11342-11345; BJELOŠEVIĆ, T.19651-19653, T.21167-21169, 21174-21175; 1D662, Annex 12.

principle of military organisation is unity and singleness of command, the obligation to carry out decisions, commands, and orders of a superior officer.<sup>368</sup>

### RESUBORDINATION

207. When a State of Imminent Threat of War was declared, all able bodied men from 18 to 65, including all members of RSMUP, from the Minister down to the lowest ranking employee, were duty-bound to respond to a military call-up and become a military conscript. In addition, a person's work obligation became their war-time assignment.<sup>369</sup>

208. Whenever the VRS needed manpower for combat, it was entitled, in accordance with the law,<sup>370</sup> to call up active-duty or reserve members of the RSMUP and to resubordinate them to their command.<sup>371</sup> Resubordination describes the superior-subordinate relationship within any given unit as opposed to recruitment, attachment, coordination, coordinated action, and co-operation which describe the activities of the unit.<sup>372</sup> In the case of all these activities, MUP forces are resubordinated to the command of the army.<sup>373</sup> In the military there is but only one summit.<sup>374</sup>

209. The reference in 1D46, paragraph 7(3), the MUP units "under the direct command of certain Ministry officials" meant that a MUP superior officer took his police officers to the army command to which they were being resubordinated in an orderly fashion. When the police reported to the commanding military officer, all MUP members, including the superior officer, were resubordinated to the army and became army conscripts.<sup>375</sup> They were divested of their status of authorised officials of the MUP for the entire time that they were subordinated to the competent military command. They could not fulfil their

<sup>368</sup> L51, Arts.173, 2, 3, 4, 9, LISICA, T.26956-26966; 1D662, para.255, fn.279.

<sup>369</sup> LISICA, T.26968-26970; L58, Art.2.

<sup>370</sup> L1 Art.104; KOVAČEVIĆ, T. 23647-23648, 24203; LISICA, T.26969-26970.

<sup>371</sup> 1D390; 1D405; 1D406; 1D409-1D411; 1D264; 1D266; 1D267; 1D390; 1D543; 1D468; 1D472; 1D641; 1D723; 1D729; 1D765; 1D800; 2D119; 2D120; P411.13; P1787; P1802; P1813; P1887; KOVAČEVIĆ, T.23681, 23684-23685, 23714-23715, 23759, 23806, 23811-23812, 24124-24125, 23719-23720.

<sup>372</sup> KOVAČEVIĆ, T.23719-23720.

<sup>373</sup> KOVAČEVIĆ, T.24316; LISICA T.26933-26934, 26999.

<sup>374</sup> KOVAČEVIĆ, T.23739-23740, 23812-23813, 24102, 24128-24129, 24210-24211; LISICA T.26977-26980.

<sup>375</sup> 1D411.

usual law enforcement duties: crime prevention and investigation, arrest, etc. They were treated as members of the armed forces and they were subject to all military laws and regulations. The duration of their subordination to the army was determined by the superior commanding military officer. When their subordination in the military ended, they were transported from that military zone of responsibility back to their respective organisational units of the MUP. At that point, they regain the status of authorised officials with the corresponding duties and obligations incumbent upon police officers under the laws and regulations governing police work.<sup>376</sup>

210. For example, in June 1992, during Operation Corridor, BJELOŠEVIĆ was appointed commander of an *ad hoc* unit, which included four companies of the police. Each company was headed by a commander who was a police officer. BJELOŠEVIĆ was the commander of all those formations. However, he was subordinated to the command of the TG 3 and they all operated in accordance with plans and orders issued by TG 3.<sup>377</sup>

211. As noted above, one of the consequences of the resubordination of MUP authorised officials to the military is that during resubordination they are subject to military rules and regulations on discipline and punishment. 1D46, paragraph 8(1) calls for the strict observance of the Law on Internal Affairs and other relevant regulations when the police fulfil their regular police duties and tasks, whereas in military operations, military regulations and rules shall be enforced. 1D46, paragraph 8(2) provides that any violation of regulations and failure to carry out tasks will result in severe punishment and appropriate disciplinary and criminal measures.<sup>378</sup> Therefore, from the moment that the police were subordinated to the army, and became a component of the military structures, they were subject to all rules and possible disciplinary measures applied by the military. International law governing armed conflicts recognizes that members of the police may be incorporated into the armed force through subordination to the army, and that

<sup>376</sup> P2305, pp.14-16; ZEPINIĆ, T.5931-5933; NJEGUŠ, T.11345; GAJIĆ, T.12855-12861, 12922-12927, 129231; 1D662, para.255; BAJAGIĆ, T.20187-20195, 20256-20257; KOVAČEVIĆ, T.23716-23717, 23721, 24200; LISICA, T.26970-26971, 26974-26976, 27023-27024.

<sup>377</sup> BJELOŠEVIĆ, T.19653.

<sup>378</sup> KRULJ, T.2080-2081; BJELOŠEVIĆ, T.19652-19654, 21212, 21185-21187.



subordinate members of the police lose their status as civilian policemen and gain the status of military personnel and thereby become legitimate targets.<sup>379</sup>

212. A police officer is not subject to the police chain of command and disciplinary regime when he is subordinated to the army. Indeed the military and the police operated under separate and distinct disciplinary regimes. As public servants, police conduct was regulated by the Law on State Administration, the Law on Internal Affairs and other regulations specific to police works. In the army, the commander metes out punishment and measures against his subordinates pursuant to the laws and regulations applicable to military personnel.<sup>380</sup>

213. For the military commander to exercise effective control over all his subordinates – including resubordinated MUP members – he must have the ability to issue orders as well as the corresponding authority to punish his subordinates. It is incorrect to say that the disciplinary responsibility of members of MUP, while resubordinated to the army, is treated differently than other military conscripts.<sup>381</sup> This is contrary to the hierarchical and disciplinary structure of the military and the principle of unity of command and control. There cannot be two different structures of command and control between the military and any other institution. The authority of the military superior to command his subordinates necessarily includes his power to discipline and mete out punishment. All subordinates are under the jurisdiction of the military commander and military legal system.<sup>382</sup> The military commander who instigated either criminal or disciplinary proceedings against resubordinated members of MUP would however be expected to inform the police organ wherefrom the units originated (1D411).<sup>383</sup>

214. In accordance with the legal requirement to organize the MUP in a war time situation, Stanišić issued appointments for the establishment of a Staff to command and

<sup>379</sup> 1D662, Annex 12, para.6; LISICA T.26974.

<sup>380</sup> BJELOŠEVIĆ, T. 21187-21190, 21224-21225.

<sup>381</sup> KOVAČEVIĆ, T. 24200-24201, 24210, 24268-24269; LISICA, T.27024.

<sup>382</sup> KOVAČEVIĆ, T. 23718, 24206, 24209, 24310-24311.

<sup>383</sup> KOVAČEVIĆ, T. 23740- T.23741; 1D411.

control the forces of the Ministry in accordance with 1D46, paragraph 9.<sup>384</sup> However, no Staff was ever formed or operated. NJEGUŠ, the Minister's Head of Office, received an appointment to the Staff, as its Secretary, but he testified that it was never established or functioned. No meetings were convened and he knew of no meetings of the Staff ever taking place.<sup>385</sup> PLANOJEVIĆ, the Assistant for Crime Prevention, never saw 1D46, but he was told of its existence by the Under-secretary for Public Security, Kljajić. PLANOJEVIĆ testified that he never commanded anyone in combat, nor would he have known how to do it.<sup>386</sup> PEJIĆ and MARKOVIĆ had no knowledge of 1D46.<sup>387</sup> MAČAR, the Assistant for Crime Prevention (replacing PLANOJEVIĆ) never saw 1D46, he never attended any Staff meetings, and he never heard that any meetings were held or that anyone ever attended such a meeting.

215. SEKULIĆ was mobilized as a reserve policeman at the Bosanski Šamac SJB in May 1992 and, in early August 1992, he became deputy commander at the police station. He never saw 1D46 and there were no war units organized at the Bosanski Šamac SJB.<sup>388</sup> KRULJ, Chief of SJB Nevesinje never received any sort of correspondence from MUP staff in 1992. He never received any information that his superior CSB in Trebinje or any other SJB in his territory ever received any sort of correspondence sent by a MUP staff or MUP staff commander.<sup>389</sup>

216. BJELOŠEVIĆ received the Orders issued by Stanišić on 15 and 17 May 1992 (1D46, P564) which were sent to all CSBs to report on the items set out in his order issued on 15 May 1992 (1D46).<sup>390</sup> BJELOŠEVIĆ explained that the MUP had already been reorganised and functioned under a war time regime weeks before the Stanišić order on 15 May 1992 pursuant to instructions issued by the MUP-SRBH. On 8 April 1992, the MUP-SRBH Minister of the Interior, Delimustafić issued a dispatch for the resubordination of TO units to the MUP (1D257). This dispatch followed an order for

<sup>384</sup> P455; P170; P457; P456; P1407; P458; P741.

<sup>385</sup> P1477; NJEGUŠ T.11294-11301, 11369-11370.

<sup>386</sup> PLANOJEVIĆ, T.16413-16414,

<sup>387</sup> PEJIĆ, T.12215-12216; MARKOVIĆ T.12779.

<sup>388</sup> 1D605, pp.33-35.

<sup>389</sup> KRULJ, T.2081-2082.

<sup>390</sup> BJELOŠEVIĆ, T.19650-19652, 21072-21077.

the mobilisation of the TO and reservists under the authority of the MUP-SRBH by the SRBH Minister of Defence on 5 April 1992 (1D175) and the Proclamation of the Imminent Threat of War by the SRBH Presidency on 8 April 1992 (1D698). By the end of April 1992, reserve police forces had reached very high levels.<sup>391</sup> BJELOŠEVIĆ responded on 10 April 1992 to the dispatch sent by Minister Delimustafić of the MUP-SRBH.<sup>392</sup>

217. As noted above, pursuant to the Law on National Defence, during a State of Imminent Threat of War, a military commander is authorised to engage forces in his zone of responsibility.<sup>393</sup> The subordination of the police to the army for combat operations could include offensive and defensive operations.<sup>394</sup> Throughout these proceedings, there have been many examples of the military exercising its authority over the police:

- a. On 8 June 1992, in Gornji Rankovići during combat operations, the army ordered the subordination of all forces, including the police, within the combat zone of activities.<sup>395</sup>
- b. On 1 July 1992, the 1KK Commander issued an order on the assignment of zones of military responsibility. The order provides *inter alia* that “in the conduct of combat operations, all police forces shall be placed under the command of the zone commander who shall decide how they are used.”<sup>396</sup>
- c. On 7 September 1992, Col. LICISA issued an Order to Attack, which at item 5.2 ordered the engagement of the Doboj Police Battalion into battle.<sup>397</sup>

<sup>391</sup> BJELOŠEVIĆ, T. 20929-20931, 21077-21078; MANDIĆ, T. 9707-9709; BAJAGIĆ T. 20197-20198, 20418-20421; 1D460; BJELOŠEVIĆ, T. 19551-19554.

<sup>392</sup> 1D460; BJELOŠEVIĆ, T. 19551-19554.

<sup>393</sup> 1D390; 1D405; 1D406; 1D409-1D411; 1D264; 1D266; 1D267; 1D390; 1D543; 1D468; 1D472; 1D641; 1D723; 1D729; 1D765; 1D800; 2D119; 2D120; P411.13; P1787; P1802; P1813; P1887;

KOVAČEVIĆ, T. 23681, 23684-23685, 23714-23715, 23759, 23806, 23811-23812, 24124-24125.

<sup>394</sup> BAJAGIĆ, T. 20255-20256.

<sup>395</sup> (REDACTED); P839, p.4.

<sup>396</sup> 1D406, p.2; BJELOŠEVIĆ, T. 19654-19655, 21207-21208.

<sup>397</sup> 1D468, para.5.2; BJELOŠEVIĆ T. 19655-19657.

- d. On 23 September 1992, Col. LISICA issued an Order for Further Operations to several formations including the Police Combat Group and the "Osinja Brigade", a military formation, under the command and control of TG 3. The police unit was attached to the military formation as reinforcement for a co-ordinated action ("*sadejstvo*") under the command and control of the military. The military forces included the Meša Selimović formation which was a volunteer group of Muslim fighters which became a company within TG 3.<sup>398</sup>
- e. On 5 November 1992, Commander Bosko Djurić issued an order in relation to Osmaci, near Kalesija in Zvornik Municipality: "owing to the serious situation at the front line, until further notice the Osmaci civilian police will not perform duties at the checkpoint or any other type of assignment except at a front line position. Muster them immediately and transport them to the front line (currently the area left by the Šekovići Company). At the front line, place these personnel under the command of the platoon commander."<sup>399</sup>
- f. On 11 November 1992, Col. LISICA issued two subordination orders to the police. He ordered the Doboj CSB and Doboj SJB to engage 200 policemen in military operations, with the Chiefs of CSB and SJB personally responsible to him for the implementation of this order.<sup>400</sup> LISICA also ordered the formation of a mixed battalion of military police and two civilian police companies and he appointed BJELOŠEVIĆ military commander of the battalion. This was an *ad hoc* formation which was ordered to be ready to engage in combat. They were fully subject to the regulations and the command of the army under the Law on National Defence and the Law on Armed Forces.<sup>401</sup>

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<sup>398</sup> 1D472, para.2; BJELOŠEVIĆ, T.19669-19676; LISICA, T.27001-27002.

<sup>399</sup> 1D409.

<sup>400</sup> 1D266.

<sup>401</sup> 1D410; BJELOŠEVIĆ T.19613-19614, 19681-19682, 21203-21204; LISICA T.26876-26877; 1D746 (T.26878-26879).

218. When a military commander determined that it was necessary to subordinate MUP members to the army, there was no prescribed procedure to apply for approval to the Ministry. The situation was dynamic and fluid and the military commander on the ground took immediate decisions he deemed appropriate. A senior military officer had the authority to bring an area under military Administration, as a temporary measure which gave full authority to the military over all matters, until civilian life could return to normal. All civilian organs were answerable to him for their work and they were obliged to report to him. In some cases, the military commanders were appointing members of the MUP to the posts of chiefs and deputy chiefs of SJBs on their own and sometimes even replacing chiefs and sending them to the frontlines, without any information or approval provided to or from the Ministry of the Interior.<sup>402</sup>

#### TOWN COMMANDS

219. In addition, the VRS was authorised to form Town Commands,<sup>403</sup> as an exceptional measure, when civilian authorities were unable to function.<sup>404</sup> Such was the case in Donji Vakuf, Derventa, Doboj, Bosanski Brod, and Kotor Varoš.<sup>405</sup>

220. 1D543 is the order of the commander of TG 3, Col. LISICA, issued on 8 July 1992, ordering the formation of a detachment for the defence of the town of Derventa, composed of the civilian police and one army battalion from Prnjavor and Derventa. He appointed Lt. Janković, as town commander. This order placed all structures, including civilian police, directly under his command. The military commander had the authority *inter alia* to designate the officer to be in charge of the SJB.<sup>406</sup>

221. LISICA issued orders directly to the SJBs in Derventa and Prnjavor. He ordered the entire police force from Derventa to be deployed at the front line urgently, in the direction of Bosanski Brod. He also issued a direct order to the police in the town of

<sup>402</sup> 1D473; 1D408; BJELOŠEVIĆ, T.19679-19680; KOVAČEVIĆ, T.23764; LISICA, T.26862, 26868-26869.

<sup>403</sup> 2D159 para 59; KOVAČEVIĆ, T.23688; 1D365; 1D388, LISICA, T.26997-26998.

<sup>404</sup> 2D159 paras.237-249; KOVAČEVIĆ, T.23760, LISICA, T.26910-26911.

<sup>405</sup> 1D267; 1D403; 1D404; 1D405; D470; 1D543; 1D473; 1D687; 1D764.

<sup>406</sup> BJELOŠEVIĆ, T.21221-21223.

Prnjavor to take over policing in Derventa and the surrounding areas and to ensure that law and order was maintained in the absence of the Derventa police. The second order issued to the Prnjavor was not a resubordination order to carry out combat activities. LISICA was however fully authorised to issue orders to the local SJBs and to engage the Prnjavor police in Derventa based on his authority in accordance with the Law on All People's Defence, the Law on the Armed Forces, and the Strategy of Armed Combat.<sup>407</sup> He issued these orders on an urgent basis and without consulting Doboj CSB chief BJELOŠEVIĆ, who learned about the orders issued by LISICA after the fact.<sup>408</sup>

222. Military Administrations were instituted in Derventa and Bosanski Brod because of the severely deteriorated security situation and because the local authorities were unable to function.

- a. On 8 September 1992, Col. LISICA introduced a Military Administration in the municipality of Derventa and he appointed Captain First Class Pero Stojaković commander, who was "responsible for and has the duty to regulate, together with his organs, life and work, and everyone is expected to comply with his orders and instructions". The town of Derventa had been devastated and parts of it set ablaze. The infrastructure was in ruin, and people were trying to get back to their homes. The Derventa SJB had been destroyed and it was located in a local primary school and later at the Institute for the Blind.<sup>409</sup>
- b. On 7 October 1992, Col. LISICA established a Military Administration in Bosanski Brod. The Town Commander Lt-Col. Mikić and his deputy are appointed. LISICA established *inter alia* a SJB and he appointed Nenad Miličić station chief, who until then was the commander of the Brod Battalion, and his deputy. All appointed organs and individuals were subordinated to the Town Commander.<sup>410</sup> On 3 November 1992, BJELOŠEVIĆ informed the RSMUP that Miličić had been appointed SJB

<sup>407</sup> 2D160; LISICA, T.26948-26954.

<sup>408</sup> BJELOŠEVIĆ, T.19660-19664, 21211, 21182-21183, 21324-21326; LISICA, T.26948-26949.

<sup>409</sup> 1D470, para.3; BJELOŠEVIĆ, T.19660-19664.

<sup>410</sup> 1D473, paras.1c), 1d), 4; BJELOŠEVIĆ, T.19676-19677.

chief by LISICA. In addition, the Ministry was told that Miličić had been removed from this position by LISICA for taking household goods from his family home, after they had fled the area, contrary to regulations. BJELOŠEVIĆ subsequently suggested a new SJB chief to LISICA who accepted his proposal. Eventually, the Bosanski Brod SJB started to function under the Doboj CSB, outside the structure of the town command.<sup>411</sup>

- c. On 7 October 1992, Col. LISICA issued an order in relation to the Organisation and Establishment of a Public Security System in the town of Bosanski Brod and he ordered that Doboj CSB chief, BJELOŠEVIĆ, supply uniforms and communications equipment for the engagement of some State Security Services operatives (1D267). This order relates to Bosanski Brod Battalion which operated in a municipality that is outside the area of responsibility of the Doboj CSB. The military is sending policemen to carry out military assignment in locations beyond their usual purview.

#### **MILITARY DISCIPLINARY AUTHORITY OVER POLICE**

223. Further evidence of the superior relationship of the military over the police can be seen through disciplinary matters, the transmission of military orders from the CSB level to the SJB level, and requests made by the police to the military.

- a. On 10 September 1992, Doboj CSB chief BJELOŠEVIĆ transmitted an order for implementation to his subordinate SJBs enclosing an order of the Serbian Army Operations Group, dated 8 September 1992. The military order had to be implemented because the military command was issuing the order within its zone of responsibility.<sup>412</sup>
- b. In regards to disciplinary matters, 1D469 is an order issued by BJELOŠEVIĆ on 3 July 1992 concerning disciplinary measures against policemen who had violated regulations. In full compliance with 1D46, paragraph 8, it includes the following proviso: "This order shall not apply to parts of the

<sup>411</sup> 1D408, BJELOŠEVIĆ, T.19678-19680.

<sup>412</sup> 1D407, BJELOŠEVIĆ, T.19665-19666.

police which are involved in actual war operations". The order did not apply to policemen who had been resubordinated to the army for combat because they were subject to military laws and regulations.<sup>413</sup>

- c. In September 1992, during combat operations in the direction of Bosanski Brod there was an unplanned retreat. LISICA placed the commander of that police platoon, Novo Blagojević, in custody and remand prison for 24 hours. In 1994, on Mount Ozren near Vozuća, the front line was being pierced and some people went AWOL. A number of police officers were sanctioned. They were arrested by the military police and detained.<sup>414</sup>
- d. On 21 September 1992, BJELOŠEVIĆ sent a request to the military asking that fourteen men currently serving in the army be allowed to return to the police to take a police training course. These police candidates included both reserve policemen and individuals who had no previous police experience. The military allowed these candidates to be taken off their military assignments and they were given wartime assignments in the Maglaj SJB.<sup>415</sup> Once they had successfully completed the course, they would become employed in the MUP.<sup>416</sup>
- e. On other occasions, however, the military refused requests made by the police. On 2 October 1992, BJELOŠEVIĆ wrote to LISICA to seek his approval for the withdrawal of police officers from combat to resolve and stabilize the security situation.<sup>417</sup> Col. LISICA denied the police request and he did not authorize the withdrawal of the police force from combat as he considered their contribution on the front lines to be paramount.<sup>418</sup>
- f. Police subordinated to the military came under military jurisdiction as military conscripts.<sup>419</sup>

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<sup>413</sup> 1D469, BJELOŠEVIĆ, T.19657-19661.

<sup>414</sup> BJELOŠEVIĆ, T.21187-21190.

<sup>415</sup> 1D471; BJELOŠEVIĆ, T.19665-19669.

<sup>416</sup> BJELOŠEVIĆ, T.21292-21293.

<sup>417</sup> 1D263.

<sup>418</sup> 1D264; BJELOŠEVIĆ, T.21208-21210; LISICA T.26882-26888.

<sup>419</sup> 1D411.



**EFFECT OF RESUBORDINATION ON FUNCTIONING OF THE MUP**

224. The subordination of the police to the army caused tremendous problems for the MUP. Police ranks were seriously diminished and there were not enough policemen to carry out regular police work. From April 1992 until the end of the year, between 50% and 80% of the entire police force at the CSB and SJB levels was engaged in combat: active-duty policemen, including crime investigators, and reserve policemen. At times, the army would subordinate the entire police force from certain SJBs and the police suffered heavy losses,<sup>420</sup> as in the case of Teslić<sup>421</sup>.

225. PLANOJEVIĆ explained that when the war started, the army was not organised and the police was engaged in combat operations and placed in the most difficult of circumstances on the front lines. Nonetheless, Stanišić insisted that the police not be sent to combat whenever it could be avoided. He believed that the police should be involved in combat activities, under military command, only when it was strictly necessary and unavoidable. Otherwise, they should go about their regular policing work. He insisted that the police perform its tasks and duties under its jurisdiction in conformity with the law, namely providing for law and order rather than taking part in combat and wartime operations.<sup>422</sup>

226. This is reflected in a dispatch Stanišić sent in response to an order issued by President Karadžić, as Supreme Commander, for the resubordination of police officers to the military. 1D99 is the handwritten Order sent by Karadžić to Stanišić on 1 July 1992 for the resubordination of two platoons, consisting of 60 men, to the military command of the Sarajevo-Romanija Corps. On 6 July 1992, Stanišić sent a dispatch to Karadžić to inform him that the policemen from the Stari Grad SJB had been dispatched and subordinated to the army. He also requested that these policemen be replaced by members of the army to enable them to return to their regular police work – law

<sup>420</sup> NJEGUŠ, T.11459-11460;BOROVČANIN, T.6804-6806; P731, pp.4-5; GAJIĆ, T.12919; PLANOJEVIĆ, T.16568-16569;MAČAR, T.22918-22921; P573, p.4, 7;P160, pp.4, 7, 9-11, 14, Conclusion 1;P427.8, pp.2, 4, 6;P1755; P163, pp.3-4, 7, 14, 18; P625, p.4, 8;P794, p.3, 11-12;1D76, para. b.

<sup>421</sup> (REDACTED);P839, p.4

<sup>422</sup> PLANOJEVIĆ, T.16415-16416, 16526.

enforcement, crime prevention, etc. – along the road between Ilidža and Pale (1D100). These roads had become unsafe for all travellers, civilian, military, and police, because when the police was engaged on the front lines local criminals would take advantage of the situation and their activities would increase. A police presence was necessary to keep the roads open and safe and to enforce the law.<sup>423</sup>

227. Furthermore, Stanišić took decisive steps to find a solution to the problem caused by the large scale subordination of policemen to the army. On 17 July 1992, the RSMUP sent a report to the RS President and the RS Government (P472.8) following the RSMUP Collegium, held on 11 July 1992. It was during this meeting that Stanišić learned for the first time from the CSB chiefs the extent to which the army had subordinated MUP employees into the ranks of the army for combat operations. It was concluded that the problem of the unnecessary engagement of the police in combat operations needed to be resolved and that the Prime Minister and the President must receive the minutes and the conclusions of the Collegium for their personal information and take further measures for the improvement of the work of the RSMUP.<sup>424</sup>

228. Stanišić informed the RS Presidency and the RS Government that a large number of MUP members – initially all of them, and by July 70%-100% – were subordinated to the army for war operations. He asked the Government and Presidency to remove obstacles which prevented the internal affairs organs from operating more efficiently and prevented them from fulfilling police work: crime prevention and detection and maintain law and order. He stated that this required that the police be exempt from combat duty except in emergency situations. Stanišić recommended that a joint meeting between the MUP and the army to resolve *inter alia* the problems of the activity of paramilitary formations; the problem of engaging police in combat activities when not necessary; the coordinated efforts of the Army and MUP to prevent crime, especially crimes committed by military personnel; the procedure and jurisdiction with regard to the treatment and

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<sup>423</sup> BOROVČANIN, T.6757-6758; NJEGUŠ T.11348-11349.

<sup>424</sup> P160, pp.4, 7-11, 14, Conclusions 13 and 18.

holding of prisoners; the functioning of mixed checkpoints; the work of military judicial organs, the exchange of information.<sup>425</sup>

229. On 19 July 1992, Stanišić sent a dispatch to the CSBs in line with the discussion and conclusions reached at the 11 July 1992 Collegium. He noted that it was agreed that briefings should be prepared for a meeting with Army representatives. He requested that the CSBs provide the following by 25 July 1992 for internal use and for briefing the Presidency and the Government: information on crimes, violations of public peace and order by paramilitary units, a month by month breakdown of the number of policemen involved in combat action where their involvement was not necessary and those who continued their regular work in the MUP, problems related to crime prevention and detection, procedure and jurisdiction over prisoners, persons evacuated from combat zones, collection camps into which the army brought Muslim residents without any documents that might state reasons for such action and then leaves these undefined camps to the organs of the interior, operation of military judiciary, and exchange of information (1D76).

230. An entry in the Mladić Notebook dated 27 July 1992, notes that a meeting took place between Gen. Mladić, Gen. Milanović, Deputy PM for Internal Affairs, TRBOJEVIĆ, and Stanišić. These cursory notes indicate that TRBOJEVIĆ talked about the necessity to establish legal, property and other security behind the front lines, mixed army and police units at border crossings, joint patrols, regulation for vehicle security and registration, matters concerning SJBs and military police. Stanišić makes a comment about the army having taken over the lines.<sup>426</sup>

#### **D. MINISTRY OF THE INTERIOR OF REPUBLIKA SRPSKA (RSMUP)**

231. The RSMUP was created, and its work was regulated, by the Law on Internal Affairs.<sup>427</sup> The Ministry was a specialist organ of State Administration, and an administrative part of the system of executive authority. The Law specified the remit,

<sup>425</sup> P427.8, p.2, 4, 6.

<sup>426</sup> P1755; MILANOVIĆ, T.18266-18267.

<sup>427</sup> P530.

responsibilities, organisation, powers and other relevant matters relating to the functioning and the discharge of the duties within the authority of the Ministry. In addition to the Law on Internal Affairs, the RSMUP was governed by numerous laws and by-laws, the most significant of which were the Constitution of the Serbian Republic of BH, the Law on the Government of the RS, the Law on Ministries, and the Law on State Administration.<sup>428</sup>

232. The Government has the executive power and is responsible for its work to the Assembly.<sup>429</sup> The Government supervises the work of each ministry, including the RSMUP, and may annul or revoke any official document issued by the Ministry. The Government is composed of the PM, his deputy, or deputies, and Ministers. Ministers are responsible to the PM in accordance with government policy and instructions as well as acting under specific instructions of the PM.<sup>430</sup> Ministries are obliged to provide annual reports on their work to the government which decides on the responsibility of the managerial staff it appoints in the ministries.<sup>431</sup> Collectively and individually all members of government are responsible for their work to the Assembly which appoints them.

233. According to the Law on Internal Affairs, the MUP was in charge of the following internal affairs matters: tasks and duties related to public security (Articles 3, 5, 15), tasks and duties related to national security (Articles 3, 5, 19), and administrative affairs, which included tasks and duties relating to identity cards, personal names, the registration of domicile and residence of citizens, citizenship, public records/registers, public gatherings, personal identification numbers, and other duties and tasks defined by law (Article 5).

234. In addition to the RSMUP at its headquarters, the Law on Internal Affairs provided that there were two overarching organisational entities - Public Security Service (Chapter II) and the National Security Service (Chapter III) – and the remit of the MUP

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<sup>428</sup> 1D662, paras.125-218.

<sup>429</sup> P181, Art.69-70, 94, L88.

<sup>430</sup> L88, Art.5, 9

<sup>431</sup> L88, Art.21-22.

was defined in relation to these two entities. Each service was headed by an under-secretary who was accountable for its work to the Minister (Articles 14 and 20).<sup>432</sup> Within the hierarchal structure of the RSMUP, all those employed in a specific department were accountable to the heads of the organisational entities of their department, who were further accountable to the chief of the CSB, and further to the under-secretary of the department.<sup>433</sup> Only the under-secretaries of the departments were directly accountable to the Minister.<sup>434</sup>

235. The Law on Internal Affairs stated that the tasks and duties of public security were discharged by members of the active-duty police force, and, when necessary, members of the reserve police force (Article 16). The total number of police employees (policemen) in the Republic, as well as the organisation and total number of reserve policemen, and the criteria for their engagement was set by the RS Government (Article 17).

236. Chapter IV of the Law on Internal Affairs – “The Responsibilities and Organisation of the Ministry” – provided for three levels of organisation: 1) Ministry headquarters, responsible for carrying out its functions in the entire territory; 2) security services centres (CSB), based on the regional principle, and 3) public security stations (SJB) for the territories of the municipalities.

237. Article 27 of the Law on Internal Affairs provided that in addition to the activities and tasks set out in the Rules on the Internal Organisation of the Ministry, a SJB shall also directly implement the regulations passed by the municipal assembly relating to public law and order and road traffic safety, as well as other regulations in the domain of internal affairs passed by the municipal assemblies. It pertains to regulations such as opening hours of cafes and restaurants, bans on sale of alcohol, or traffic regulations.<sup>435</sup>

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<sup>432</sup> P816, Art.34.

<sup>433</sup> P850, Art.62, item 3.

<sup>434</sup> P816, Art.34

<sup>435</sup> BJELOŠEVIĆ, T.21255-21258; MAČAR, T.23523-23525.

Until the Rules on Internal Organisation were adopted in March 1993, the Rules of the MUP-SRBH applied.<sup>436</sup>

238. As a corollary to the relationship between the CSBs, the SJBs, and the municipal authorities, Article 31 provided that, if so requested by the municipal assembly and its executive committee, a CSB and a SJB shall submit reports, information and other data relating to the situation and problems in the area in which and for which they have been established. However, these reports are referred to as “horizontal” reporting to municipal organs and do not replace the obligation of reporting to the Ministry.<sup>437</sup>

239. Article 32 regulated the relations between RSMUP headquarters and the CSBs and SJBs and RSMUP headquarters and the municipal assemblies and their executive committees. The municipal assembly and its executive committee could submit opinions to the Ministry headquarters and initiate proposals related to issues of significance for security in the area of the municipality and the work of the CSB and SJB. The Ministry headquarters would consider these suggestions, opinions and proposals and inform the municipal authorities of its views and measures taken, if any.<sup>438</sup>

240. The role, duties, and obligations of the Minister of the Interior were mandated by law. Article 33 of the Law on Internal Affairs, defines the tasks, duties and responsibilities of the Ministry headquarters:

The Ministry at its seat carries out the following activities and tasks:

- directly performs national security-related duties and tasks;
- monitors, guides and coordinates the work of security services centres and public security stations, especially in the duties and tasks related to public security, and in more complex situations, depending on need, takes direct measures for preventing and detecting crimes and locating and apprehending their perpetrators, extends specialised assistance to security services centres and public security stations and supervises their work;
- directly participates in the duties and tasks of protecting the lives and personal safety of citizens, as well as protecting facilities and other

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<sup>436</sup> P850, Art.6.

<sup>437</sup> BJELOŠEVIĆ, T.20938-20939, 21256-21257.

<sup>438</sup> 1D662, para.147; BJELOŠEVIĆ, T.20939-20943, 21258-21260.

material assets in cases of general emergency or serious breaches of public law and order;

- monitors the Administration of internal affairs entrusted to other organs, enterprises and other legal entities;
- proposes the organisation and the total number of the reserve police force in the Republic as well as criteria for filling posts in it;
- activates the reserve police force in emergency situations, upon orders from the President of the Republic;
- supplies the active and reserve police forces with weapons and equipment from funds earmarked for the purpose in the Republican budget;
- sets up professional and specialised training programmes for the active-duty and reserve police forces and other authorised officials and tests their training levels, is responsible for the implementation of these and orders the conduct of the appropriate exercises;
- ensures the application and advancement of specialist and scientific methods in the work and the subject-matter of the work of the Public Security Service;
- organises, develops, modernises and maintains a single functional communications system and pays particular attention to the counter-electronic protection of the system and devices connected to systems;
- provides complex forensic analyses for the needs of the security services centres and public security stations;
- ensures the introduction and application of modern scientific methods in crime prevention;
- cooperates with foreign organs and international organisations in the field of internal affairs;
- issues local announcements on wanted and missing persons and publishes the relevant bulletins;
- in charge of introducing personal identification numbers;
- ensures that internal affairs related data are processed in a uniform manner;
- keeps mandatory and other necessary records of statistical and operational data, and ensures the keeping of such records in security services centres and public security stations;
- conducts other duties and tasks placed within its remit by this and other laws.

The Ministry at its seat may also provide forensic expertise at the request of other state organs.<sup>439</sup>

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<sup>439</sup> 1D662, para.143-150;BJELOŠEVIĆ, T.20944.

241. In addition, between April and December 1992, the newly created Ministry of the Interior under the leadership of Mićo Stanišić had the added responsibility of establishing the most basic aspects of its legal and administrative infrastructure.

- a. Pursuant to Article 33(7) of the Law on Internal Affairs, the RSMUP headquarters supplied the active and reserve police forces with weapons and equipment from funds earmarked for the purpose in the Republican budget. However, there was no unified, central system for procurement and financing of the MUP from the Republican budget because of the disintegration of government infrastructure caused by the war. Financing was unreliable, late, and insufficient. The MUP did not have the ability to procure technical and communications equipment, vehicles, fuel, clothing footwear, food, flak jackets, helmets, and other special-purpose equipment. Salaries for the months of April, May and June 1992 were not paid out, nor were any funds intended for overhead expenses. For example, finances from the RS government were first received in early July or August 1992, after the Posavina corridor was opened.<sup>440</sup> Funding of CSBs and SJBs was often done through the municipal authorities which *de facto* intervened in police work and issued orders to MUP personnel which caused obstruction in the work of the internal affairs organs.<sup>441</sup>
- b. The Ministry through the Administration for Police Affairs and Tasks was required to draft and approve legislations, Rule Books, and Instructions which were necessary for the RSMUP to function legally and effectively. By autumn 1992, the Ministry prepared five Laws, seven sets of Regulations, two sets of Instructions, Decisions, Authorisations, Proposals, ministerial orders, and a large number of other instructions and documents.<sup>442</sup>
- c. Pursuant to Article 33(8) of the Law on Internal Affairs, the Ministry was required to set up professional and specialised training programmes for the

<sup>440</sup> BJELOŠEVIĆ, T.19598-15600.

<sup>441</sup> P573, p.11;P160, pp.7-9, 13-16, Conclusion 16; P427.8, pp.6-7; P163, p.20; P1269, p.5;P794, pp.27-28;P625, pp.28-29.

<sup>442</sup> P813; 1D60, p.1;NJEGUŠ, T.11426-11427; P625, pp.1, 23-25.



active-duty and reserve police forces and other authorised officials, to test their training levels, and to conduct of the appropriate exercises. The RSMUP lacked qualified personnel and the ability to train and educate police officers until the Internal Affairs School moved to Banja Luka in the summer of 1992. Police training and personnel matters were focussed on strengthening the crime prevention service, with special professional qualifications and abilities, and on reinforcing and raising the levels of personnel in public security, national security, and other MUP services.<sup>443</sup>

- d. The Ministry also had to create a secure system for logging and maintaining items confiscated in accordance with the Law on Criminal Procedure.<sup>444</sup> On 25 November 1992, the Ministry distributed the Directive on Maintaining Storage Deposits adopted by the RSMUP (1D321). Stanišić ordered that all CSB and SJB chiefs report on the amount of confiscated valuables and other items on deposit to enable the Ministry to compile a summary.<sup>445</sup>

242. During these proceedings, the Trial Chamber heard evidence from both Prosecution and Defence witnesses who gave firsthand accounts of the circumstances in which the headquarters of the RSMUP was established, created, transformed, and moved from location to location between April and early autumn 1992. The RSMUP had its headquarters at the School for the Interior at Vrace, then at two locations in Pale, and then in Bijeljina while retaining an outpost in Pale.<sup>446</sup>

243. In 1992, there were seven Administrations at the RSMUP headquarters within the Public Security Sector: Administration for Police Affairs and Tasks, Administration for Detection and Crime Prevention, Inspectorate for Fire and Explosive<sup>447</sup>, Administration for Communications and Cryptographic Data Protection, Administration for Analytics

<sup>443</sup> P427.8, p.7; P163, pp.20-21; P1269, p.5.

<sup>444</sup> P160, Conclusion 16; P427.8, pp.5-6.

<sup>445</sup> 1D538.

<sup>446</sup> P625, p.7; P163, p.19; P1269, p.3; 1D510, p.5.

<sup>447</sup> P615, Art.28, p.71.

and Information<sup>448</sup>, Administration for Material-Finances and Technical Tasks<sup>449</sup>, and Administration for Legal and Personnel and Administrative Tasks.<sup>450</sup>

244. The witnesses described how the RSMUP was “started from scratch”, when all government bodies and state institutions of the SRBH, including the MUP-SRBH collapsed and the war in BH erupted.<sup>451</sup> They provided testimony in relation to the wartime circumstances and conditions under which the RSMUP at its seat operated between April and December 1992: a shortage of personnel and the ability to train policemen and technicians to perform tasks needed in the organs of internal affairs,<sup>452</sup> establishing control over membership in the MUP through vetting and issuing police IDs,<sup>453</sup> the destruction and a shortage of equipment, facilities, and material, no centralized funding from state authorities for the payment of salaries, procurement of equipment and supplies,<sup>454</sup> local politicians, Crisis Staffs, war presidencies, town commands, military administrations, and other localized authorities which exercised command and control over the police, by making appointments, issuing orders, directives, and reporting obligations to the police, and using the police in combat,<sup>455</sup> a lack of logistical infrastructure to carry out good quality operative work and a proper system of reporting and information flow. The testimony of these witnesses corroborates contemporaneous accounts of these problems as contained in three internal RSMUP Reports<sup>456</sup> and a Report sent to the RS Government and RS President<sup>457</sup> and as discussed at five RSMUP Collegium meetings held between July and November 1992.<sup>458</sup>

245. This evidence relates to the National Security Service and four Administrations within the Public Security Service: Administration for Police Affairs and Tasks,

<sup>448</sup> P615, Art.30, p.72;P852, Art.41, p.87.

<sup>449</sup> P615, Art.41, p.106.

<sup>450</sup> P850, Art.10, pp. 8-9;P615.

<sup>451</sup> P2301,p.55;P2312, pp.1, 8-14;GAJIĆ, T.12800, 12808.

<sup>452</sup> P472.8, p.7; P163, pp.20-21; P1269, p.5; P794, p.15.

<sup>453</sup> P160, p.10; P163, p.16; P1269, p.4.

<sup>454</sup> BOROVCANIN, T.6747-6748;P573, p. 11; P160, pp.8-9, 16; P427.8, pp.3, 6-7; P163, p.20; P1269, p.5; P794, p.27-28; P625, pp.28-29.

<sup>455</sup> BOROVCANIN, T.6743-6744;P160, pp.7, 9, 13, 15;P427.8, p.3; P163, p.20.

<sup>456</sup> P573;P794;P625.

<sup>457</sup> P427.8.

<sup>458</sup> P160;P163;P1269;1D510; P1270.

Administration for Legal, Personnel and Administrative Tasks, Administration for Detection and Crime Prevention, and Administration for Communications and Cryptographic Data Protection. These are the most relevant sectors of the RSMUP for these proceedings and the evidence shows Stanišić did not act criminally or manifest any criminal intent in any of the actions he took or the words he spoke.

#### **NATIONAL SECURITY SERVICE – SNB**

246. The SNB worked out of a conference room, along with other personnel and third parties, at the scout's lodge at Kalovita Brda, near Pale. It was the only available premises. The circumstances under which the SNB was created were described as "setting off from a clearing". They did not have the basis amenities needed to work: communications facilities and equipment, uniforms, cars, staff, etc. The SNB lacked operatives and had to recruit personnel and establish separate services. A team of three lawyers worked on the rules for the Public Security Service. ŠKIPINA, the acting under-secretary of the SNB from 5 April until 3 July 1992 and another person started drafting the rules for the SNB. There was a breakdown in communications with some CSBs and no communication at all with others. ŠKIPINA could not communicate with the two existing CSBs in Banja Luka and Doboj. The SNB sectors in two of the three new CSBs – Trebinje and Bijeljina – were not even established before the end of his tenure as Under-Secretary on 3 July 1992. Both state security and public security found themselves in these circumstances. Some Administrations had no personnel, while others could not fill vacancies when personnel left.<sup>459</sup> ŠĆEKIĆ produced a new set of instructions on operative measures, technical, sanitary, and hygienic measures, as well as other forms of security to be provided to individuals and facilities which were approved and signed by Stanišić.<sup>460</sup>

#### **PUBLIC SECURITY SERVICE**

<sup>459</sup> ŠĆEKIĆ, T.6534-6538; ŠKIPINA, T.8292-8299, 8323.

<sup>460</sup> ŠĆEKIĆ, T.6543-6544. See, P625, p.11, and T.6544-6547.

247. The tasks of the Public Security Service are provided for in Rulebook on Internal Organisation.<sup>461</sup>

#### **ADMINISTRATION FOR POLICE AFFAIRS AND TASKS**

248. The main tasks of the Administration for Police Affairs and Tasks are provided for in the Rulebook on Internal Organisation.<sup>462</sup>

249. The Administration is responsible for issues related to the organisation of the police, defence preparations, professional training of RSMUP members, and procurement. From the very beginning, the Administration was severely understaffed. In May 1992, it had only four inspectors which was insufficient to fulfil the wide ranging tasks within its purview. Despite that fact, the inspectors were sent to instruct and inspect (ANDAN and Vuković).<sup>463</sup> GAJIĆ joined the RSMUP at Vrace at the beginning of May 1992, after spending a month in Montenegro. He was appointed head of defence preparations of police section, a similar position he held in the MUP-SRBH. However, due to the prevailing conditions, defence preparations, organisation of the police, expert professional training, and the procurement of material and equipment could not be carried out or implemented. Instead, GAJIĆ was instructed to write dispatches, analyse documents, and other similar tasks.<sup>464</sup>

250. Chief of Administration Kusmuk was replaced due to his poor performance and KOVAČ was appointed on 6 August 1992. The Administration was properly set up in Bjeljina and additional inspectors joined. It started to work in a more organized fashion and inspectors were dispatched to all CSBs to conduct inspections and to provide instructions and assistance. By September 1992, the Administration had 13 inspectors.<sup>465</sup>

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<sup>461</sup> P615, Art.22;P850, Art.32.

<sup>462</sup> P615, Art.36 (English Translation in error reads Art.26);P850, Art.46.

<sup>463</sup> P867, Njeguš T.11457

<sup>464</sup> GAJIĆ, T.12800-12801, 12854-12855.

<sup>465</sup> P1501; P631.

**ADMINISTRATION FOR LEGAL, PERSONNEL AND ADMINISTRATIVE  
TASKS**

251. In early May 1992, NJEGUŠ became acting Chief of the Administration for Legal, Personnel and Administrative Tasks. In the month previous, he was Chief of Cabinet to Minister Stanišić.<sup>466</sup> He too testified that his Administration “started working from scratch”. He spent May at Vrace, June at Jahorina, and he moved to Bijeljina in July, where work conditions permitted his Administration to carry out its duties.<sup>467</sup> Initially he worked alone but, by the end of 1992, his staff grew from two to six associates.<sup>468</sup> Up until the summer of 1992, the entire staff of the RSMUP including drivers, technical staff, and secretaries included approximately forty people. In contrast, the MUP-SRBH had as many as four hundred staff at headquarters.<sup>469</sup>

252. At headquarters they worked to organise the RSMUP in keeping with the Law on Internal Affairs and the rules on internal organisation of the MUP. The outbreak of the war caused organisational problems across the entire territory, particularly at the SJB level. The situation varied from municipality to municipality depending on the competence, professionalism, and personality of the SJB chief and the influence and control the local authorities exerted over the police chief through the Crisis Staffs.<sup>470</sup>

253. During 1992, despite the circumstances, the Administration for Legal Affairs did its utmost, and they drafted five Laws, seven sets of Regulations, two sets of Instructions, Decisions, Authorisations, Proposals, ministerial orders, a large number of instructions and other documents, including<sup>471</sup>:

- a. 1D320, Rules on the Form of Identity Cards of Authorised Officials of the Organs of Internal Affairs, August 1992;<sup>472</sup>

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<sup>466</sup> NJEGUŠ, T.11293-11294.

<sup>467</sup> NJEGUŠ, T.11318-11319.

<sup>468</sup> NJEGUŠ, T.11303, 11426; P1419.

<sup>469</sup> NJEGUŠ, T.11427;P867.

<sup>470</sup> NJEGUŠ, T. 11303-11305, 11458-11459, 11461-11466.

<sup>471</sup> NJEGUŠ, T.11318, 11392, 11426-11427, P625, pp.23-25.

<sup>472</sup> NJEGUŠ,T.11431-11436. P573, pp.8-9, P794;pp.24-25; P427.8, p.5;P163, p.17, 20-21, P1269, p.4.

- b. 1D319, a letter dated 23 September 1992, concerning an initiative to receive amendments to the Law on Internal Affairs;<sup>473</sup>
- c. P615, Rule Book on Internal Organisation of the Ministry of Internal Affairs Under the Circumstances of Immediate Threat of War and War, September 1992;<sup>474</sup>
- d. 1D50, Instruction on the Rules of Behaviour and Interpersonal Relationships Between Officers of the Ministry of Interior, September 1992;<sup>475</sup>
- e. 1D51, Instructions on Urgent, Current, Periodical and Statistical Reporting in Internal Affairs Agencies, October 1992;<sup>476</sup>
- f. 1D54, Rules on the Disciplinary Responsibility of Ministry of the Interior Workers of the Serbian Republic Under the Wartime Regime, 19 September 1992;<sup>477</sup>
- g. P616, The Draft Decision Establishing Which Officers of the Ministry of the Interior are Considered Authorised Officials, 1 October 1992;
- h. 1D52, Mandatory Instructions on the Procedure of the Ministry of the Interior in the Performance of Searches and Pursuits, October 1992;<sup>478</sup>
- i. 1D321 is a cover letter dated 25 November 1992, for the distribution of Directive on Maintaining Storage Deposits adopted by the RSMUP;
- j. P988, Inspection Check List;<sup>479</sup>
- k. 1D525, Instructions on Record-Keeping in Police Stations; and<sup>480</sup>
- l. 1D318, Rules of Procedure on the Internal Organisation of the Ministry of the Internal Affairs During a State of Imminent Threat of War and War, January 1993.

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<sup>473</sup> NJEGUŠ, T.11427.

<sup>474</sup> NJEGUŠ, T.11428, P850.

<sup>475</sup> NJEGUŠ, T.11428-11429; 1D807 (KRULJ T.2129-2130).

<sup>476</sup> NJEGUŠ, T.11428

<sup>477</sup> NJEGUŠ, T.11429-11430, KRULJ, T.2144-2147, TUTUŠ T.7876. Gagula Case, P1039, 2D26, 1D237, 1D238 (T. 7877-7882), 1D258 (PETROVIĆ T.9912-9917).

<sup>478</sup> KRULJ, T.2141-2142; TUTUŠ, T.7873-7875; BJELOŠEVIĆ, T.19846-19847.

<sup>479</sup> MAČAR, T.22986-22987; BOROVČANIN, T.6646-6648.

<sup>480</sup> 1D525; BJELOŠEVIĆ, T.19900-19905; 1D524; BJELOŠEVIĆ, T.19896-19900.

**ADMINISTRATION FOR DETECTION AND PREVENTION OF CRIME**

254. The tasks of the Crime Prevention Administration are provided for in the Rulebook on Internal Organisation.<sup>481</sup>

255. In chaotic circumstances, the Crime Prevention Administration started working with an acute shortage of everything it needed to operate. There was no equipment, a shortage of personnel, office space, typewriters, telephones, and technical equipment. In Vrace and Pale, there were no shops selling the most basic supplies: typewriters, paper, vehicles, fuel, etc. The RSMUP had no budget or procurement system for the most basic infrastructure needs.<sup>482</sup> In particular, as acknowledged by the Prosecution, the RSMUP lacked supplies needed to work on the ground and perform on-site investigations (such as cameras and film), and there were no film development laboratories. At the Ministry, they had to rely on "friendly contacts" to receive equipment. For two months, MAČAR personally funded fuel for two vehicles of the Ministry of Interior.<sup>483</sup>

256. The Administration moved three times: Vrace to Kalovita Brda (early June) to Bijeljina (between July and October 1992). Headquarters only started functioning properly after the move to Bijeljina. At that point, there were adequate facilities to send dispatches, reports, and exchange information, with internal mechanisms to ensure implementation of orders.<sup>484</sup>

257. In mid-May 1992, when MAČAR joined the RSMUP, he got assignments from PLANOJEVIĆ, the head of the Administration. Stanišić had ordered them to establish the Administration to assist the establishment and functioning of the CSBs in accordance with the law.<sup>485</sup> In addition to the problems at the seat of the Ministry, the situation was further complicated because there were three new CSBs: Sarajevo, Bijeljina, and Trebinje

<sup>481</sup> P615, Art.25, 11, 26; P850, Art.35.

<sup>482</sup> BOROVCANIN, T.6742-6743; PLANOJEVIĆ, T.16518-16521; MAČAR, T. 22858-22861, 23170-23171.

<sup>483</sup> MAČAR, T. 23204-23205, 22891-22892.

<sup>484</sup> P160, p.11; BOROVCANIN, T.6742-6743; PLANOJEVIĆ, T.16518-16521.

<sup>485</sup> ORAŠANIN, T.21856-21857.

which were starting from scratch. Banja Luka CSB and Doboj CSB already existed.<sup>486</sup> However, from 3 May until early July 1992, the Doboj CSB ceased to operate.<sup>487</sup> Headquarters lacked communication equipment and they could not establish a functioning reporting system with the outlying areas. As a result, the Ministry was not informed about the actual security situation at the local level: personnel situation, equipment and material. The managing staff at headquarters was unable to make quality assessments about managing and organizing the service.<sup>488</sup>

258. In early September 1992, MAČAR was given an oral order by Stanišić to organise a crime enforcement Administration in Bijeljina.<sup>489</sup>

259. There was a shortage of experienced policemen with the required knowledge and experience to organise and make the Ministry headquarters function. From April until the end of July 1992, there were only four or five inspectors.<sup>490</sup> In June 1992, one inspector was added and a total of nine people worked in the Administration.<sup>491</sup> Dragan ANDAN and Danilo Vuković were sent to Bijeljina to help out the SJB and to assist in the efforts to set up a Bijeljina CSB.<sup>492</sup> In July 1992, two new inspectors were added.<sup>493</sup> On 22 or 23 July 1992, PLANOJEVIĆ left his position as Assistant Minister.<sup>494</sup> In August, there was no increase in the number of inspectors.<sup>495</sup> In September 1992, after moving to Bijeljina, two new inspectors were added to the Administration.<sup>496</sup>

260. TUŠEVLJAK testified in relation to attempts to man the Crime Prevention Administration in the RSMUP. 1D575 is a List of the Operatives on the Territory of Sarajevo, dated 15 May 1992. General crime, while collar crime, forensics, and counter-

<sup>486</sup> MAČAR, T.22858-22860, 22876-22877; PLANOJEVIĆ, T.16518-16520.

<sup>487</sup> 1D259, BJELOŠEVIĆ, T.19595-19597, 19823-19826, 19844; LIŠINOVIĆ T.26507.

<sup>488</sup> MACAR, T.22861-22862.

<sup>489</sup> MACAR, T.23177.

<sup>490</sup> 1D569; PLANOJEVIC, T.16518-16521, 16605-16606; ORASANIN, T.21853-21857, 21868-21896, 21988; MACAR, T. 22858-22861, 22890-22891, 23170-23171.

<sup>491</sup> ORAŠANIN, T.21862-21863.

<sup>492</sup> MAČAR, T.23171-23173.

<sup>493</sup> P2382; ORAŠANIN, T.21864; MAČAR, T.23178-23179.

<sup>494</sup> MAČAR, T.23174.

<sup>495</sup> ORAŠANIN, T.21866-21867.

<sup>496</sup> ORAŠANIN, T.21868.



sabotage operatives of the crime police who worked in the MUP-SRBH in the territory of Sarajevo had literally fled the town in their slippers and gone to territory under the control of the RS TO when the war broke out. As Sarajevo City Coordinator, his job was to locate these operatives and assign tasks and duties to them. Only five of ten police stations that existed in Sarajevo are represented on this list. Apart from the people named in this document, there were no other operatives from the crime police who were available to the RSMUP in the territory of Sarajevo. Some operatives were unable to get out of Sarajevo and others did not report to the RSMUP.<sup>497</sup>

#### **ADMINISTRATION FOR COMMUNICATIONS AND CRYPTOGRAPHIC DATA PROTECTION**

261. Pursuant to Article 33(10) of the Law on Internal Affairs (P530), the Ministry, at its seat “organises, develops, modernises and maintains a single and functional communications system and, in particular, attends to the anti-electronic protection of the system and of devices connected to the system”. The Administration for Communications and Cryptographic Data Protection (“Communications Administration”) was responsible for providing, organising and maintaining a unique functional system of communication and cryptographic protection in the RSMUP.<sup>498</sup>

262. Similarly to other RSMUP administrations, when the seat the RSMUP was being created, the Communications Administration had no premises, furniture, equipment or trained personnel, and it lacked proper documents to regulate its work.<sup>499</sup> In April 1992, communications workers from the MUP-SRBH headquarters and the Sarajevo City SUP did not join the RSMUP.<sup>500</sup> In May 1992, the Communications Administration had 12 employees and only three of them were operators/encoders.<sup>501</sup> The lowest level communication centre at SJB level required a minimum of 5 operatives, while the RSMUP required far more to work around the clock.<sup>502</sup> By the end of June 1992, there

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<sup>497</sup> TUŠEVLJAK, T.22223-22226.

<sup>498</sup> P615, pp.3, 79; P850, p.9.

<sup>499</sup> KEZUNOVIĆ, T.11537-11538, 11594, 11638-11639; RAKOVIĆ T.6990.

<sup>500</sup> P573, p.8; PEJIĆ, T.12123-12125.

<sup>501</sup> KEZUNOVIĆ, T.11659; P867, p.2.

<sup>502</sup> KEZUNOVIĆ, T.11659.

were 18 employees with communications related duties and tasks.<sup>503</sup> In short, the communications systems of the MUP-SRBH disintegrated and the RSMUP headquarters were cut off the CSBs and SJBs because of physical damage to the system or because it was deliberately cut off by the MUP-SRBH.<sup>504</sup>

263. In the first part of April 1992, KEZUNOVIĆ, the former chief of communications in the MUP-SRBH, was appointed by Minister Stanišić to head the new Communications Administration. He was the most competent and experienced person for the job and the Minister gave him *carte blanche* and his support to create a communications system.<sup>505</sup>

264. KEZUNOVIĆ initially attempted to establish the Communications Administration in the police school in Vrace. It was intended only to serve the needs of the school's communications with the seat of the MUP-SRBH and internally within the school.<sup>506</sup> It was not set up to communicate with other organs.<sup>507</sup> The seat of the Communications Administration changed four times in 1992: Vrace to Lukavica, then to Pale and, at the end of the year to Bijeljina.<sup>508</sup> With each move, the communications system had to be re-established which disrupted communications between the CSBs and the seat of the RSMUP.<sup>509</sup> The communications system at headquarters was properly established only when the RSMUP moved to Bijeljina.<sup>510</sup>

265. On 14 April 1992, ST-126 KEZUNOVIĆ informed the Minister and his collegium that the Communications Administration lacked the organisation, the means, and the personnel to function properly.<sup>511</sup> There were only three people in the Communications Administration.<sup>512</sup> At Vrace, there was only one functional phone connected to the

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<sup>503</sup> P573, p.8.

<sup>504</sup> P625, pp. 25-26. P794, p.26; KEZUNOVIĆ T.11535-11536, 11682.

<sup>505</sup> KEZUNOVIĆ, T.11533-11534, 11630-11631, 11651.

<sup>506</sup> KEZUNOVIĆ, T.11538-11539; PEJIĆ T.12109.

<sup>507</sup> PEJIĆ, T.12171.

<sup>508</sup> KEZUNOVIĆ, T.11631-11632, 11568-11569, 11659; PEJIĆ, T.12121-12122.

<sup>509</sup> P573, p.8; KEZUNOVIĆ, T.11683; RAKOVIĆ, T.6988; P625, pp.25-26.

<sup>510</sup> P625, p.26; RAKOVIĆ, T.6992.

<sup>511</sup> P541, p.2.

<sup>512</sup> KEZUNOVIĆ, T.11540; PEJIĆ T.12112-12115, 12121-12123.

switchboard, with no internal phone connection within the premises.<sup>513</sup> In mid-May, no phones in the offices worked.<sup>514</sup> They had one fixed radio station and some mobile radio stations.<sup>515</sup> The Communications Administration borrowed two phone numbers from people living in the neighbourhood to have basic communications. These two open lines could not be used for confidential messages and they were soon shut down by the Muslim side which controlled the main switchboard in Sarajevo.<sup>516</sup>

266. The Performance Report for the Period April-June 1992, issued by the RSMUP on 29 June 1992. Part C of the Report addresses the problems with communications (page 7): the fragmentation of the territory of the RS and CSBs and SJBs resulted in the total collapse of all pre-existing communications systems of the MUP-SRBH. Special telephone links, teleprinter links and cryptographic protection systems were either destroyed or shut down in the territories of CSBs Sarajevo, Trebinje and Bijeljina. CSB Banja Luka had telephone and telegraph connections with its SJBs, but their links to Sarajevo and to other regions had been shut down. The RSMUP was isolated from its subordinate CSBs. Only four CSBs are mentioned since communication links with CSB Doboj were severed in late April or early May, and CSB Doboj did not operate between May and July 1992.<sup>517</sup>

267. The RSMUP used telephone/fax, teleprinter (dispatch), short-wave (high frequency) radio, and ultra short wave (ultra high frequency)<sup>518</sup> radio as means of communication. Throughout 1992, there were constant breakdowns in these systems: public telephone and telegraph systems were blocked, radio links disintegrated, links from transit areas passed through nodes held by the enemy and there were no secure links for passing confidential information, systems were jammed, short wave and ultra short

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<sup>513</sup> PEJIĆ, T.12128.

<sup>514</sup> TUŠEVLJAK, T.22582.

<sup>515</sup> PEJIĆ, T.12115-12116.

<sup>516</sup> KEZUNOVIĆ, T.11541-11544; PEJIĆ, T.12115-12116.

<sup>517</sup> P573; BJELOŠEVIĆ, T.20920-20924, 19601-19608, 21081-21083.

<sup>518</sup> PEJIĆ, T.12116.

wave networks fell apart, there was a lack of personnel and compatible radio stations, and the network was incomplete because of problems with repeaters.<sup>519</sup>

268. In the MUP-SRBH, the police had its own secure phone network, which used public PTT conduits.<sup>520</sup> The RSMUP had no secure phone lines in 1992.<sup>521</sup> To improve reporting, on 20 April 1992, Stanišić ordered that all CSBs install fax machines.<sup>522</sup> Fax machines could be used for open documents but only if the telephone lines were functioning.<sup>523</sup> When the public phone lines were cut off or there was electricity shortage, police phone and fax lines could not function.<sup>524</sup>

269. In 1992, the dispatch system was the main means of communication in the RSMUP. Dispatches were sent as either open dispatches or encoded (confidential) dispatches by teleprinter.<sup>525</sup> They were registered in the logbook by the communications department and distributed to their addressees.<sup>526</sup> Dispatches could only be sent when phone lines were functioning. At its seat, the RSMUP had only one teleprinter that could be used to send one dispatch at a time.<sup>527</sup> It was not operational while the seat of the RSMUP was at Vrace because the communications node was in hands of the Muslim side.<sup>528</sup>

270. To read the encoded dispatch, its recipient needed an encryption table to decipher it.<sup>529</sup> However, these encryption tables could only be delivered in person. Due to the fragmentation of the territory and the inability to travel to all CSBs and SJBS, coded dispatches could not be delivered in many areas for a long time, especially during the first

<sup>519</sup> P573, p.8; P625, p.26-27; KEZUNOVIĆ T. 11558-11563, 11573-11574; T.11632-11633, 11671-11672, 11682-11683; PEJIĆ, T.12118; for UKT and TK terminology explanations see RALJIĆ, T.12456; PEJIĆ T.12122, 12198-12199; RAKOVIĆ, T.6996; MAČAR, T.22867, 22878.

<sup>520</sup> KEZUNOVIĆ, T.11636.

<sup>521</sup> PEJIĆ, T.12237; MAČAR T.22867.

<sup>522</sup> P546; KEZUNOVIĆ, T.11584; P2311, p.18, MAČAR, T.22876.

<sup>523</sup> KEZUNOVIĆ, T.11579-11581, 11585, 11636; PEJIĆ, T.12119.

<sup>524</sup> KEZUNOVIĆ, T.11636.

<sup>525</sup> PEJIĆ, T.12174; RAKOVIĆ, T.6880-6882, 6887-6889, 6977-6978; RALJIĆ, T.12407-12408; KEZUNOVIĆ, T.11634-11635.

<sup>526</sup> RAKOVIĆ, T.6981-6982.

<sup>527</sup> KEZUNOVIĆ, T.11550-11551.

<sup>528</sup> PEJIĆ, T.12116; ŠKIPINA, T.8407-8408.

<sup>529</sup> RAKOVIĆ, T.6885-6886; JANKOVIĆ, T.24855, P688.

few months of existence of the RSMUP. In addition, there was a lack of trained personnel with the required knowledge to deal with coded documents.<sup>530</sup>

271. According to the rules that governed communications, dispatches were given a priority code: dispatches marked "very urgent" had to be sent within 30 minutes, "DD" within one and three hours, "DX" within four hours, "D" within eight hours, and "O" within sixteen hours.<sup>531</sup> If an urgent message could not be delivered within a prescribed deadline, it would be sent back to its originator to decide whether it should be sent at a later stage by other means.<sup>532</sup> Delayed information forced the RSMUP officials to remedy problems rather than direct activities.<sup>533</sup>

272. PEJIĆ testified that more dispatches were sent with delays than on time, while some never reached their destination. Two hours per day of the communications system being functional was considered a success.<sup>534</sup> Approximately 20-25% of outgoing dispatches never reached their destination, while 50% were delivered with delays.<sup>535</sup> Approximately 50% of dispatches delivered with delays became redundant.<sup>536</sup> The impeded communications and delays in receiving responses from the SJBs caused the CSBs delays in reporting to the RSMUP.<sup>537</sup>

273. The problems experienced throughout the RSMUP concerning communications was discussed at the first Collegium held on 11 July 1992 in Belgrade.<sup>538</sup> Designating codes for all stations and basic names, and establishing a standardised code procedure was made a priority.<sup>539</sup> Measures were taken to organise new police courses, forensics

<sup>530</sup> KEZUNOVIĆ, T.11551-11552; PEJIĆ, T.12135-12137.

<sup>531</sup> PEJIĆ, T.12137-12138; RAKOVIĆ, T.6895-6896.

<sup>532</sup> RALJIĆ, T.12411.

<sup>533</sup> PEJIĆ, T.12138-12140, 12199; see also RAKOVIĆ, T.6880-6881.

<sup>534</sup> PEJIĆ, T.12247-12248.

<sup>535</sup> PEJIĆ, T.12249.

<sup>536</sup> PEJIĆ, T.12250-12251.

<sup>537</sup> TUŠEVLJAK, T.22290, P589, para.1-3; P730, pp.6-7; TUŠEVLJAK, T.22313-22314.

<sup>538</sup> P160, Župljanin pp.7-8, Cvijetić pp. 9-10, Savić p.11.

<sup>539</sup> P160, pp.15-16, Conclusion 15; KEZUNOVIĆ, T.11572-11573, 11638.

courses, and communications and cryptographic data protection courses (Conclusion 17).<sup>540</sup>

274. Between April and December 1992, the process of establishing and installing a telex system was a priority of the Communications Administration.<sup>541</sup> By the end of the year, despite the fact that the single teleprinter link and the system of cryptographic data protection for written communication had disintegrated, telex connections had been established with almost 70% of the SJBs.<sup>542</sup> A course in cryptographic data protection had been held and another course was being prepared.<sup>543</sup> The RSMUP requested assistance of the FRYMUP to provide some communication equipment in accordance with Article 2 of the Law on Internal Affairs.<sup>544</sup>

275. According to the Annual Report the RSMUP headquarters sent a total number of 4170 dispatches and received 4400 in all lines of work.<sup>545</sup> When compared to the pre-war situation and the communications traffic after 1992, it shows that an extremely low number of dispatches were sent and received. In the MUP-SRBH, during peacetime, approximately 300,000 dispatches were sent and received per year.<sup>546</sup> It could be reasonably expected that traffic would significantly increase during wartime by at least 30%.<sup>547</sup> However, the annual wartime traffic in the RSMUP during 1992 was lower than monthly traffic before the war.<sup>548</sup> The low number of dispatches was the result of communications problems (severed connections, lack of equipment and personnel) not the number of security related events.<sup>549</sup> There was a breakdown in communications between the personnel at the source of events (SJB level) and seats of their respective organisational units (CSB level). This disruption in communications affected reporting to

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<sup>540</sup> P160.

<sup>541</sup> P1269, p.6.

<sup>542</sup> P625, p.26.

<sup>543</sup> See, P160, Conclusion 17.

<sup>544</sup> P1270, p.10, P1425; KEZUNOVIĆ, T.11548-11550, P530, Art.2, 33(13).

<sup>545</sup> P625, p.23.

<sup>546</sup> KEZUNOVIĆ, T.11684-11686.

<sup>547</sup> KEZUNOVIĆ, T.11686; PEJIĆ, T.12130, 12170, 12228-12229.

<sup>548</sup> P625, p.23; RAKOVIĆ, T.6992-6993.

<sup>549</sup> PEJIĆ, T.12191-12192.

the seat of the RSMUP at the Ministry.<sup>550</sup> After 1992, when the communications system was finally established, the number of dispatches rose to 353,215, close to the pre-war level.<sup>551</sup>

276. Delays and disruptions in communications can be seen in the following example: Stanišić's order 1D76 is dated 19 July 1992 and sent out to all CSBs. P390 is the response by the chief of SJB Sanski Most dated 3 August 1992. The information requested by the RSMUP could only reach headquarters at least 2-3 weeks after the date it was requested, despite the RSMUP order to receive a response within one week.<sup>552</sup> A similar situation existed in Sarajevo CSB in response to the same request by Stanišić, where SJB Ilijaš sent its response to the CSB on 5 August 1992 and it only reached the CSB Sarajevo on 11 August 1992.<sup>553</sup> Banja Luka CSB did not receive responses to this request until 18 August 1992, when Župljanin urged the SJBs to submit their responses.<sup>554</sup>

277. The communications problems which existed in 1992 can also be seen by looking at the pre-war CSB Sarajevo, where there was a minimum of four persons working around the clock in the communications centre. One logbook would be filled up within a week to ten days with data on all incoming and outgoing dispatches.<sup>555</sup> The Sarajevo CSB had approximately 200 incoming and outgoing dispatches per month, which equalled pre-war daily traffic. The total number of sent dispatches also included dispatches sent to other organs outside the RSMUP, e.g. the RS Government.<sup>556</sup>

278. 2D52 shows that CSB Banja Luka received 188,168 and sent 39,858 dispatches during the first nine months of 1991. In comparison, the RSMUP at its headquarters in Vrace was unable to send a single dispatch to Banja Luka in April and May of 1992.<sup>557</sup>

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<sup>550</sup> KEZUNOVIĆ, T.11692-11693.

<sup>551</sup> 1D338, p.55; PEJIĆ, T.12192-12193.

<sup>552</sup> 1D76.

<sup>553</sup> 1D76; P1073; P1476; PEJIĆ, T.12200-12205,12158-12162,12198-12205.

<sup>554</sup> 1D82;P1003 (T.6994-6996);1D84;MAČAR, T.22900-22901.

<sup>555</sup> PEJIĆ, T.12167-12169.

<sup>556</sup> P1428; PEJIĆ, T.12193-12194.

<sup>557</sup> PEJIĆ, T.12147-12148.

### ISOLATION OF THE SEAT OF THE RSMUP

279. In addition to the disintegration and destruction of the pre-existing communications system caused by the war, the lack of premises, equipment, personnel, funding and documents to regulate the work of the Public and State Security sectors, and the frequent changes to the location of its headquarters, the seat of the RSMUP was physically cut off from the regions and without the means to exchange information with the CSBs. The entire territory was fragmented and local municipal authorities and the military exercised command and control over the police, by making appointments, paying salaries, issuing orders, and creating military town commands, and by subordinating the police to the army for combat operations. As a result, it was not possible for Stanišić to direct and manage the RSMUP effectively and he faced great difficulties and opposition from local leaders when he took steps and insisted on the RSMUP operating in full compliance with the hierarchy and procedures mandated by law.

280. 1D636 is a map of BH, marked by MAČAR to show the five CSBs and the problems with communication between the Ministry headquarters and the CSBs. The territory of Trebinje CSB included the following municipalities: Trebinje, Bileća, Gacko, Foča, Grude, Višegrad and Čajniče. However, CSB communication with Višegrad, Foča, Grude, and Čajniče was disrupted and could only be accessed via Montenegro and Serbia. The only route from Pale to Trebinje by road took between ten and twelve hours via Sarajevo, Sokolac, Han Pijesak, Maslenica-Zvornik. Then, one would cross into Zmajevu in Serbia and continue on to Bajina Bašta, Užice, Nova Varoš and then into Montenegro, via Prijepolje and Nikšić, to arrive in Trebinje. In April, May, and June 1992, it was not possible physically to communicate with the Banja Luka and Doboj Centres, because the Posavina Corridor was not open.<sup>558</sup>

281. Only after mid-August 1992 was the RSMUP able to establish direct control over SJBs which had been cut off from the Ministry since the start of the war because of the

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<sup>558</sup> MAČAR, T.22891-22895.



Corridor being closed. From April to June many police stations were destroyed, they were demolished, burned, the documents were destroyed, the cadres had left. Simply put, it was necessary to get the select competent staff, commanders, cadres, and other specialized staff members at the SJBs. In stations like Bosanski Šamac, Derventa, Doboj, Modriča, Brčko, the staff and infrastructure of the station needed to be established. There was extensive destruction and the paramilitaries had committed crimes.<sup>559</sup> Nonetheless, even after the Corridor was established, road communications were very difficult and dangerous in August and September 1992. The road was often shelled from Orazija and Gradačac.<sup>560</sup>

282. ORAŠANIN, an inspector from the seat of the RSMUP had to travel over 500 kilometers to reach Višegrad and Foča from headquarters, through BH, Serbia, and Montenegro using auxiliary roads in dangerous territory. To get to CSB Trebinje, they had to go from Bijeljina via Zvornik, then drive through Montenegro because that was the only safe road at the time.<sup>561</sup> He described Višegrad, Foča and Rudo as “being left out in the cold”. They had not received any assistance from headquarters before September 1992, when ORAŠANIN and his colleagues from headquarters visited them.<sup>562</sup>

283. RS Government officials testified that the central authorities were cut off from the regions. DJOKANOVIĆ, the Republican War Commissioner was unable to receive information from the area of the RS east of Brčko, including Zvornik, before he visited the region himself. The Government and the Presidency were unable to establish control over that area. The western part of the RS, west of Brčko – ARK - was for all intents and purposes outside the reach of the government or the Presidency in Pale.<sup>563</sup>

284. DJERIĆ stated that the RSMUP was being “set up in a meadow” without proper infrastructure, appropriate staff, something far removed from any modern understanding

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<sup>559</sup> (REDACTED).

<sup>560</sup> RADULOVIĆ, T.11032; TRBOJEVIĆ, T.4095-4096; MARKOVIĆ, T.12774.

<sup>561</sup> ORAŠANIN, T.21938-21939.

<sup>562</sup> ORAŠANIN, T.22095.

<sup>563</sup> DJOKANOVIĆ, T.3607-3609.

of what a ministry should look like.<sup>564</sup> As for the government, it was completely isolated and cut off from all sources of communication, ranging from institutions and services, and it lacked information, equipment, technology and staff. In the field there was confusion and disarray: some local leaders placed personal interests before national interests, the interests of the people and the state. The ARK and SAO Herzegovina were fully cut off from the Government for a certain period.<sup>565</sup>

### **E. STANIŠIĆ IMMEDIATE ORDERS AND ACTIONS**

#### **PUBLIC SAFETY – CRIME PREVENTION**

285. Immediately after the Declaration of the Imminent Threat of War and the rapidly deteriorating security situation, Stanišić issued orders to put MUP personnel on notice to step up measures to ensure public safety, crime prevention and detection, and to maintain public peace and order under wartime conditions.<sup>566</sup> These orders highlight the existing duty on police officers to protect property and to arrest and detain anyone who commits property crimes,<sup>567</sup> and to increase police measures following the declaration of the imminent threat of war.<sup>568</sup>

286. On 17 April 1992, Stanišić ordered CSB chiefs and SJB chiefs to take disciplinary and criminal proceedings against MUP employees who illegally requisition property, to prosecute, without exception, anyone who commits crimes, to return any stolen property to its owner or safeguard it, if the owner is unknown, and to inform the Ministry of such cases.<sup>569</sup>

287. On 19 April 1992, Stanišić instructed all SJBs in the city of Sarajevo to organise patrols, to seize and impound illegally possessed property, and to organise the crime service and its activities in the field, including, among others, the execution of on-site investigations (P1323). This order was sent to reinstate peace and order to the extent

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<sup>564</sup> DJERIĆ, T.2516.

<sup>565</sup> P199, pp.20-21.

<sup>566</sup> 1D61;P792;1D634;P1252.

<sup>567</sup> 1D61; KRULJ, T.2163-2165.

<sup>568</sup> 1D634;MAČAR, T.22862-22863;MANDIĆ T.9728-9729.

<sup>569</sup> P1252; ŠKIPINA, T.8315-8317; MAČAR,T.22865-22866; P553;TUTUŠ, T.7865.

possible because of the escalation in terrorism, violence, robberies and general disarray caused by the war.<sup>570</sup>

### REPORTING

288. Furthermore, Stanišić issued a series of orders on reporting obligations between 16-20 April 1992.<sup>571</sup> These documents repeat the Minister's request for Bulletins of daily events made on 16 April, with a warning that that they must be received by noon every day. At the same time, these orders highlight the communications problems which existed at ministry headquarters: the Ministry is providing its new fax numbers to the CSBs and Stanišić orders CSBs and SJBs to obtain fax machines by lease or requisition, to install them, and to provide their phone numbers to the ministry (P546). Despite the problems caused by the outbreak of an armed conflict and the breakdown in the communications system, Stanišić took all possible steps to create a functioning communications system and he insisted that timely information be provided to the Ministry headquarters.

289. In the period between April and December 1992, Stanišić issued numerous dispatches and orders requiring timely and regular reports from the CSBs with strict deadlines. He requested information which was necessary for the proper functioning of the RSMUP in wartime conditions: information and documents on crimes, the daily situation in the field, the status of organisation, personnel, replenishment, and other elements in the police command and control system at the SJB level, information required to prepare annual reports and reports for submission to the RS Government and the RS Presidency.<sup>572</sup> The orders emphasized that CSBs were required to duly inform and report to the Ministry continuously in all lines of work in accordance with valid regulations to ensure that appropriate measures could be taken, focusing on priorities and providing specialist assistance, as well as informing the competent state organs.<sup>573</sup>

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<sup>570</sup> MANDIĆ, T.9462-9465.

<sup>571</sup> P543; 1D72 (T.22866); P545; P546; 1D537; P553.

<sup>572</sup> P173; P564; P1472; 1D62; P571; 1D91; P856; 1D563; 1D53.

<sup>573</sup> 1D176, para.9.

290. In addition, at RSMUP Collegiums, Stanišić stated that it was necessary to inform the Ministry, in a timely and continuous fashion, about the security issues and measures to enable the Ministry to assess the quality of police work and to inform Republican organs. Managing staff was required to hold staff meetings regularly and subsequently report to the Minister to improve work in all the departments and reports the Minister receives.<sup>574</sup> The Minister ordered that, following the example of Zvornik SJB, disciplinary measures, including replacement, be taken against SJB Chiefs for failure to report to the CSB and the MUP.<sup>575</sup>

#### APPOINTMENTS AND DELEGATION OF AUTHORITY TO APPOINT

291. With the creation of the RSMUP, all existing employees of MUP-SRBH were given an option to join the RSMUP.<sup>576</sup> Appointments were made temporarily to allow for proper vetting to be conducted in compliance with the law and regulations on general conditions for employment in the police. Individuals who were determined unfit to perform police work were removed from the service in accordance with the law. Stanišić issued several orders in 1992 to ensure that this aspect of the law was fully applied.<sup>577</sup>

292. Work on the preparation of the Rules on the Organisation of the MUP in Wartime Conditions was continuous between June and December 1992.<sup>578</sup> Only those duly appointed by the Minister were considered authorised officials to whom the rights and obligations to abide by the Law on Internal Affairs and other Rules, Regulations, and Instructions applied.<sup>579</sup>

293. On 25 April 1992, Stanišić delegated limited authority to CSB chiefs to make appointments which normally could only be made by the Minister (1D73). This Decision

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<sup>574</sup> P1269, p.3-4.

<sup>575</sup> P1270, p.7.

<sup>576</sup> P353.

<sup>577</sup> P1013;1D58; 1D59; 1D176; P855.

<sup>578</sup> P573, pp.8-9, P160, Conclusion 2 and P427.8, p.5;1D60, p.1;1D318.

<sup>579</sup> NJEGUŠ, T.11319-11326; ORAŠANIN, T.22067-22070, 21884-21886, 21950-21951; TUŠEVLJAK, T.22382-22384.

is based on the Law on State Administration and the Law on Internal Affairs. Paragraph 2 specifies which officials may be appointed with the prior approval of the Minister: heads of SNB Sector, Chief of CSB Public Security Sector, SJB Chiefs, Commanders of police stations and police station departments and chiefs of crime prevention departments in CSB. The authority to make all other appointments was delegated to CSB chiefs, with the requirement to inform the ministry immediately about any appointment and the distribution of work.<sup>580</sup>

294. 1D73 is an example of an affirmative step taken by Stanišić to ensure that SJBs were properly staffed given the difficult prevailing circumstances. It was sent to the five CSBs using open-line fax communication.<sup>581</sup> However, at the time, there was no communication whatsoever between the Doboj CSB and the seat of the RSMUP. This Decision was delivered to CSB chief BJELOŠEVIĆ by MP's from Doboj who travelled from Pale by helicopter in May 1992.<sup>582</sup>

295. 1D73 refers to the engagement of employees from the MUP-SRBH and the hiring of new employees. The MUP-SRBH Collegium of 1 April 1992 instructed that MUP employees must be given an opportunity to decide on their own free will, whether they wished to join the RSMUP.<sup>583</sup> (REDACTED).<sup>584</sup> This information had been conveyed to all CSBs (P2320) and, when Stanišić issued 1D73, it must be assumed that he expected his Decision to be implemented in this spirit of these previous directions from the Ministry.<sup>585</sup>

296. On 26 April 1992, the RSMUP sent a letter, together with a sample form, to the CSBs to ensure that 1D73 was correctly interpreted and implemented. This document re-emphasized that for the appointment of the listed categories of managerial positions, the heads of CSB "are obliged to obtain agreement by the Minister" (P1420).

<sup>580</sup> NJEGUŠ, T.11418. See, also P1420; NJEGUŠ, T.11373-11375, 11416-11417.

<sup>581</sup> KEZUNOVIĆ, T.11579-11583; P367, para.21.

<sup>582</sup> BJELOŠEVIĆ, T.19615-19616.

<sup>583</sup> 1D78; P2320.

<sup>584</sup> (REDACTED).

<sup>585</sup> P2301, p.30-31, 35-38; P2307, p.11-13; MANDIĆ, T.9686-9689 and P530, Art.127.

297. Both the request from the CSB Chief and the subsequent agreement by the Minister had to be done in writing. The following are examples of requests sent to the Minister in accordance with his Decision (1D73) and his letter (P1420): the request sent by the Banja Luka CSB chief for appointment of Mirko Vrućinić, as chief of SJB Sanski Most and some other candidates for managerial positions,<sup>586</sup> the Proposals for appointments for SJB Petrovo chief and managerial positions at SJB Teslić, sent by Dobož CSB.<sup>587</sup>

298. The Minister's agreement on appointment of a candidate for a managerial position was done in a form of a Decision on Appointment. There are a number of these Decisions on the record in these proceedings.<sup>588</sup> One example is P1415, the appointment of Tomislav KOVAČ as Chief of SJB Ilidža, another is P1448, appointment of Mičić Stjepan as Chief of Crime Prevention Department, SJB Pale.

299. Nonetheless, the Report of the Personnel Service at the Ministry from 8 June 1992 (P1421) identified the existence of serious flaws in appointments procedures, such as "employees were issued appointment decisions without meeting necessary formal conditions" or "certain proposals were processed on the basis of verbal suggestions" and that "a number of blank decisions were given to supervisors who later issued them to employees without informing the Ministry."<sup>589</sup> The Report further indicates that a number of SJBs issued employment documents to reservists. One of the measures proposed is to "(i)mmediately cease issuing standard decisions bearing the Minister's signature, decisions without the approval of the responsible supervisor, and in case of supervisory positions, without the approval of the responsible managers and the Minister". Stanišić subsequently issued orders to that effect.<sup>590</sup>

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<sup>586</sup> P366.

<sup>587</sup> 1D512; P2342; P1040.

<sup>588</sup> 1D715; P597; P599; P1000; P1267; P1407-P1416; P1448; P2016-P2017; P2020-P2022; P2037.

<sup>589</sup> P1421, p.3.

<sup>590</sup> 1D176, para 8.

300. MAČAR testified that Decision 1D73 was not always implemented in practice and many executives, such as chiefs of stations and heads of crime prevention services, were not appointed with the approval of the Ministry due to the fragmentation of the territory and the influence of the Crisis Staffs in the municipalities.<sup>591</sup> This resulted in certain appointments being made at the SJB level without the agreement, knowledge, or approval of Minister Stanišić.

301. For example, SJB Bosanski Šamac chief, Stevan Todorović was appointed by the Municipal Assembly on 28 March 1992, and he became a member of the Bosanski Šamac Crisis Staff between 15-17 April 1992.<sup>592</sup> As a result, he was not an employee of the RSMUP and he could not be disciplined under the disciplinary regime which applied to members of the RSMUP.<sup>593</sup> When the Chief of CSB Doboj, BJELOŠEVIĆ, intervened with the President of the Bosanski Šamac Crisis Staff, Blagoje Simić, he was threatened.<sup>594</sup> Todorović was only appointed Chief of SJB Šamac on 3 June 1993, when then Minister Adžić issued a decision backdating its validity from 28 March 1992.<sup>595</sup>

302. (REDACTED)<sup>596</sup> (REDACTED)<sup>597</sup> (REDACTED)<sup>598</sup> (REDACTED)<sup>599</sup>

303. (REDACTED)<sup>600</sup> (REDACTED)<sup>601</sup> (REDACTED)<sup>602</sup>

#### **INSPECTIONS OF CSBs AND SJBS – MAY – DEC 1992**

304. As noted above, the wartime conditions severely disrupted all forms of communication between the seat of the Ministry and the CSBs, and in particular these

<sup>591</sup> MAČAR, T.22884-22885, 23192-23194.

<sup>592</sup> (REDACTED); LUKAČ, P2159, pp.1611-1612.

<sup>593</sup> P2086; 1D518.

<sup>594</sup> BJELOŠEVIĆ, T.19786-19787.

<sup>595</sup> P2438.

<sup>596</sup> P366.

<sup>597</sup> P384.

<sup>598</sup> (REDACTED).

<sup>599</sup> 1D81.

<sup>600</sup> P2463.

<sup>601</sup> P2462; (REDACTED).

<sup>602</sup> KOVAČ, T.27240-27241, 27251-27252.

conditions prevented Stanišić from holding a Collegium with his CSB chiefs and other MUP executives until 11 July 1992. Nonetheless, Stanišić sent inspectors into the field to fulfil the tasks and responsibilities required of the Ministry and the Minister according to Article 33(2) of the Law on Internal Affairs, namely to monitor, guide and coordinate the work of CSBs and SJBs, especially in the duties and tasks related to public security, and in more complex situations, depending on need, take direct measures for preventing and detecting crimes and locating and apprehending their perpetrators, extend specialised assistance to CSBs and SJBs and supervise their work.<sup>603</sup>

305. The Trial Chamber has heard the evidence of three inspectors who visited CSBs and SJBs around the RS between May and the end of 1992: (REDACTED), BOROVČANIN, and ORAŠANIN. They described the turmoil, disorganisation, chaos, and lawlessness that existed throughout this period at the lower level organisational units of the RSMUP. As they travelled through war torn areas, they discovered that the entire infrastructure of the MUP was destroyed and non-operational: SJBs were isolated and cut off from their CSBs, communications were down, policemen were subordinated to the army and not available to perform police work, MUP employees had fled when the war started, managerial staff had either not been appointed or was not competent, local authorities made appointments to police stations without the authority or the knowledge of the ministry, departments within police stations were not established, prosecutors offices and courts were not working, etc.

**MAY 1992 – INSPECTION - ZVORNIK, SKELANI, BRČKO, AND  
BIJELJINA SJBs**

306. In mid-May 1992, BOROVČANIN, ORAŠANIN, and Petko Pekić formed a mixed inspection team and Stanišić had told the head of Crime Prevention, PLANOJEVIĆ to send the inspection team out to four SJBs in four areas – Zvornik, Skelani, Brčko, and Bijeljina – to see whether they were functioning properly in accordance with the norms

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<sup>603</sup> ANDAN, T.21573-21576; P993(T.22314-22315); MAČAR, T.22968-22974, 23352-23354.



and standards required under the law and regulations. The inspection team was sent out by the Under-Secretary for Public Security, Čedo Kljajić.<sup>604</sup>

307. The SJB Karakaj station was located on the premises of a company called Standard, near Zvornik. It was non-operational and without executive personnel. The local Crisis Staff had appointed an elderly man named Pantelić from Loznica, a town in Serbia some 30 kilometres from Zvornik, as SJB Chief.<sup>605</sup> Conditions did not allow the inspectors to carry out an inspection or to discuss crime prevention problems. They discussed how to organise the police station and to bring it within the legal structure of the MUP.<sup>606</sup>

308. The Zvornik Crisis Staff appointed several unqualified and inexperienced individuals to the executive positions at the SJB without the approval or knowledge of the RSMUP. The SJB chiefs appointed by the Crisis Staff included Mile Mijić (a former judge), Pantelić, Marinko Vasilić and the SJB commanders were Dragan Spasojević (a former medical technician), Marinko Vasilić, Momcilo Marić. It was not until July 1992 that the RSMUP first appointed qualified individuals as chief (Milorad Lokančević) and commander (Branislav Mihaljević).<sup>607</sup>

309. Similarly, in Skelani, the local Crisis Staff had established a SJB and made appointments. Skelani was a new municipality which had a police sub-station but no SJB before the war. The inspectors told the commander, Marko Milanović, that the SJB must operate in line with the laws and regulations governing the work of the MUP. However, the policemen appointed by the local Crisis Staff were not under the control of the authorities of the RSMUP.<sup>608</sup>

310. At Bijeljina, none of the chiefs were present and the CSB was non-functional. The inspectors had a coffee with a man named Grković, the chief of legal affairs. He was

<sup>604</sup> ORAŠANIN, T.21873-21876, 220420-22043.

<sup>605</sup> P2351.

<sup>606</sup> ORAŠANIN, T. 21877-21880, 22043.

<sup>607</sup> PANIĆ, T.2977, 2873-2874, 2914-2915, 2999-3000, 2928-2931, 3051.

<sup>608</sup> ORAŠANIN, T. 21880-21886, 22064-22066, 22069, 22157-22163.

not qualified to deal with legal and administrative affairs and, after an hour, the inspectors continued on their way.<sup>609</sup>

311. In Brčko, the SJB chief was not present and there were combat operations around the town. They met an inspector named Gavrilović and learned that the crime service had not been organised. The inspectors and Gavrilović came under sniper fire in the street. Someone let the air out of a tire of their vehicle. Gavrilović seemed to be afraid of the people who had sabotaged the visit by the inspectors. It was not possible for the inspectors to do their work and, after an hour and a half, they left town.<sup>610</sup>

312. The visits to these four SJBs in mid-May 1992 were characterized by confusion, disarray, and mishaps which could be expected during the first weeks of a war. ORAŠANIN described them as "blitz visits". Legal bodies and institutions had broken down and disintegrated. The SJBs were not operational. The police was not properly manned or organised. The inspectors were moving through a war zone and they came under sniper fire in Brčko. They were the first physical contact between the Ministry and these police stations in the field. After visiting these four localities, the inspectors were in a traffic accident. Under normal circumstances, each inspector of the mixed team would report to his respective Administration. However, as a result of the car accident, ORAŠANIN was absent for about ten days and, he produced no report following these visits.<sup>611</sup>

#### **MAY 1992 – INSPECTION - VOGOŠĆA AND ILIJAŠ SJBs**

313. On 27-28 May 1992, BOROVČANIN and ORAŠANIN were again sent out by the Ministry to visit local SJBs at Vogošća and Ilijaš (P989). SJB Vogošća was not functioning at all. Not one of its organizational units had been established and the crime prevention section was not working because of a shortage of personnel. It lacked material and technical equipment and there were difficulties with communications. The posts of SJB chief and station commander remained vacant and these duties were being

<sup>609</sup> ORAŠANIN, T.21886-21887, 22083-22086.

<sup>610</sup> ORAŠANIN, T. 21888-21891.

<sup>611</sup> ORAŠANIN, T.21891-21893, 22037, 22042-22043.

carried out by the deputy commander. SJB Chief Maksimović, who had been appointed by the local Crisis Staff, had been wounded during an attack on the police station.<sup>612</sup> The inspectors recommended that personnel matters, equipment shortages and recruitment issues be addressed by the ministry.<sup>613</sup>

314. The SJB Ilijaš had been established however it remained isolated (P989). There was no communication between the SJBs and their superior CSB. Vogošća and Ilijaš were only some 20 kilometres apart but they could not communicate. The inspectors could not call their superiors in the ministry. Ilijaš was in a war zone with daily battles and it was simply impossible to move about without being targeted by gun fire. The SJBs were acting autonomously and simply reacting out of necessity to the situation the grounds. At the Ilijaš SJB, a special unit had been formed, as an assault unit, that was engaged in combat, without any orders, knowledge, or approval from the superior organs of the Ministry.<sup>614</sup>

#### **VISITS TO DOBOJ AND BANJA LUKA CSBs AND THEIR TERRITORIES**

315. On 25 August 1992, after the Posavina Corridor was opened, MAČAR authorised inspectors Nikola Milanović, ORAŠANIN, and Ostoja Minić to conduct inspections in the territory under Doboj CSB. BJELOŠEVIĆ briefed them regarding crime and the problems with the relationship between the CSB and SJBs Modriča, Bosanski Šamac, and Derventa. In particular, he emphasised that SJB chief PETROVIĆ, who was not a professional policeman, would not listen to him or follow his instructions. He also told them that the resubordination of the police to the army caused organisational problems at the CSB.<sup>615</sup>

316. After a short meeting with BJELOŠEVIĆ, they met with the chief of the crime prevention service, Vojo Blagojević. They inspected serious crime files concerning ten

<sup>612</sup> ST-214, T.12955-12960; 13053; 1D341 (T.13078-13079); (REDACTED).

<sup>613</sup> ORAŠANIN, T.21892-21897, 22150-22154.

<sup>614</sup> ORAŠANIN, T. 21897-21898, 22013, 22018-22023; BOROVČANIN, T.6650-6656. P2019.

<sup>615</sup> P404; ORAŠANIN, T. 21901-21907, 21975-21976, 22114-22117.

or eleven murders: log-book registration, investigation procedures, etc. There was a shortage of operatives and inspectors, but they insisted that the prosecutor's office receive all criminal reports.<sup>616</sup>

317. ORAŠANIN also met with the prosecutor and the president of the court. He reviewed criminal reports for known and unknown perpetrators. All crimes regardless of the ethnicity of the perpetrators or the victims were investigated. There were problems associated with securing the presence of the accused in court.<sup>617</sup>

318. The following day, the inspectors visited Banja Luka. The log books at SJB Banja Luka were kept in accordance with the instructions. Milanović and Minić met with the deputy chief Bulic at CSB Banja Luka. As at Doboj CSB, criminal reports were properly submitted to the prosecutor's office. The inspection team verified that the instruction on the prevention and detection of crimes was being applied.<sup>618</sup>

319. In the autumn of 1992, the Ministry continued to send inspectors into the field. They visited SJBs to assess whether their previous instructions had been implemented and to assess what additional measures were needed to make the SJBs functional. Between 7-13 September 1992, Nikola Milanović, ORAŠANIN, and Ostoja Minić inspected the SJBs at Foča, Čajniče, Rudo, and Višegrad. They discovered many problems which had become common since the outbreak of the war which seriously impaired police work. There was no functioning court and office of the prosecutor, an SJB had come under attack by military conscripts, police personnel did not know which prosecutor or courts were competent to handle certain matters, police were heavily engaged in fighting on the front lines, the SJBs had no forensic equipment. The SJBs were unable to cope with the situation because of constant war operations which prevented police work from being carried out in a timely manner and they were completely cut off from the Trebinje CSB (1D571).<sup>619</sup>

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<sup>616</sup> ORAŠANIN, T.21907-21908.

<sup>617</sup> ORAŠANIN, T.21908-21920, 22118-22123; 1D356; 1D357.

<sup>618</sup> ORAŠANIN, T.21920-22125.

<sup>619</sup> ORAŠANIN, T.21933-21935; MAČAR, T.22983-22984.

320. The inspectors visited the Višegrad SJB for about an hour. Except for the chief, all other MUP personnel were engaged by the army in combat on the front lines. In addition, they experienced problems with the prosecutor's office, courts, and a lack of forensic material to conduct on-site investigations.(1D571).<sup>620</sup>

321. RSMUP inspectors (crime service and administrative affairs) conducted two instructive visits at Doboj CSB in the autumn of 1992.<sup>621</sup> P405 is the report prepared following the inspection by Nikola Milanović, Ostoja Minić, and Radenko Vujičić. They met BJELOŠEVIĆ at the Doboj CSB and then went to visit SJBs in the field: Doboj, Teslić, Derventa, Bosanski Brod, Bosanski Šamac, Modriča, and Odžak between 19-21 October 1992. After their tour, they briefed BJELOŠEVIĆ at the CSB Doboj about their observations and later sent him a copy of this report.<sup>622</sup> In relation to the Doboj SJB, the report records that the Doboj SJB refused to implement the order of the Doboj CSB on the reduction of reserve police.<sup>623</sup> In addition, the Doboj SJB was found not to have a KU Criminal Record Log Book even though it was instructed to establish one at the beginning of August 1992. The inspectors set a deadline of 22 October 1992 for the establishment of the KU and for the retroactive entry of all criminal reports.<sup>624</sup> SJB chief PETROVIĆ was replaced because of omissions in his work, and disciplinary procedure initiated,<sup>625</sup> but he left the RSMUP.

322. In Teslić municipality, the local authorities decided to join the ARK. As a result, contrary to the Law on Internal Affairs, the Teslić SJB operated as a part of the organizational unit of the Banja Luka CSB rather than the Doboj CSB.<sup>626</sup> The inspectors were unable to resolve this situation during a meeting with the management of the Teslić SJB and the President of the Teslić municipality. They insisted on adhering to the

<sup>620</sup> ORAŠANIN, T.22126-22127, 22134-22135.

<sup>621</sup> BJELOŠEVIĆ, T.19842;MAČAR, T.23357-23360.

<sup>622</sup> BJELOŠEVIĆ, T.19852-19843.

<sup>623</sup> P405, pp.1-2.

<sup>624</sup> P405, p.7; BJELOŠEVIĆ, T.19843-19844.

<sup>625</sup> P2339; 1D545; 1D54; BJELOŠEVIĆ, T.21293-21320, 21118-21127; PETROVIĆ T.9893-9894, 9898-9899, 9912-9916.

<sup>626</sup> 1353.04, P839, 2D74, (REDACTED);BJELOŠEVIĆ, T.19596-19597.

decision of the Municipal Assembly to remain in the ARK under Banja Luka CSB. The position did not change after a subsequent meeting between the inspectors and the chiefs of Teslić SJB and Doboj CSB. It was agreed however that the Teslić SJB would communicate and cooperate with the Doboj CSB for official requirement.<sup>627</sup>

323. The inspectors visited the Bosanski Šamac SJB. From April 1992 onwards, there were no communications and no contiguous territory between Doboj and the SJB Bosanski Šamac. The Municipal Assembly had appointed the SJB chief. The area of Derventa, Modriča and Odžak was occupied and cut off the communication between the two points.<sup>628</sup>

324. In late October or early November 1992, MAČAR visited CSBs Doboj and Banja Luka, with Nikola Milanović, Siniša Karan, ORAŠANIN, and another inspector. It was during the visit to the Doboj CSB that he learned about the crimes that had been committed by the Mice Group and that they had been arrested and investigated by the police in accordance with the Law on Internal Affairs and the Law on Criminal Procedure.<sup>629</sup>

325. 1D643 is a report dated 29 October 1992, submitted by police inspectors Ostoja Minić and Goran Sarić concerning the arrest and mistreatment of two RSMUP policemen by members of the military police. This was one example, among others, of attacks against MUP members by the military in 1992. This report was meant for the RS government with the expectation that the Prime Minister would take the matter up with the Minister of Defence.<sup>630</sup>

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<sup>627</sup> P405, pp.3-4.

<sup>628</sup> (REDACTED); LUKAČ, P2159, pp. 1611-1612; BJELOŠEVIĆ T.19844-19846.

<sup>629</sup> MAČAR, T.23360-23362, 23368-23369; 2D27; 2D88; P1312; P1313; P1314; P1342; P1343; P1351; P1353.11; P1353.12; P1353.27; P1361.6; P1363; P1364; P1383; P703; P837; P838; P839; P840; (REDACTED) RADULOVIĆ, T.10918-10943, 11029-11030, 11079-11090, 11103.

<sup>630</sup> MAČAR, T.22984-22985, 23391-23395.

326. At the CSB level, inspectors visited subordinate SJBs to assess and assist the functioning of crime prevention departments.<sup>631</sup>

#### **MAY – JUNE 1992 - ANDAN INSPECTIONS**

<sup>327.</sup> Between 29 May and 12 June 1992, Stanišić sent ANDAN and Danilo Vuković to the SJBs in Brčko, Zvornik, and Bijeljina to conduct instructional inspections and offer required professional assistance.<sup>632</sup> On 17 June 1992 they produced a written report for the RSMUP.<sup>633</sup> In addition, at Stanišić's request, a SSUP unit came to the RS to train the Special Police Unit at Ministry headquarters and to work along with members of the RSMUP to dismantle and arrest paramilitary formations in Brčko, Bijeljina, Zvornik, Lopare, Ugljevik, Foča, etc. who had taken over CSBs and SJBs, and other institutions, committed crimes against citizens of all ethnicities, and who forcefully and violently opposed any attempt by the authorities of the RSMUP to control and manage police operations in these areas.<sup>634</sup>

#### **BRČKO**

328. ANDAN spent the first two weeks of June 1992 in Brčko. He immediately met with the SJB chief, Dragan Veselic, and, on 2 June 1992, ANDAN organised a Collegium meeting at the Brčko SJB (1D547). Veselic, who had no previous experience in the police, was appointed SJB chief by the local Brčko authorities. The SJB had no internal organisation and was not functioning: there was no commander or deputy commander, there were two assistant commanders, the SJB lacked material and equipment, especially for communications (UHF sets, hand held radios, teleprinter and telephone communications with neighbouring municipalities), it was understaffed, undisciplined, people came and went into offices at the SJB and took documents, such as driving licenses and traffic licenses. In April, MUP personnel of all ethnicities left the station, taking with them log-book registers, seals, and other necessary administrative papers. Apart from a duty service, consisting of five or six men, the entire police force had been

<sup>631</sup> P997; TUŠEVLJAK, T.22323-22324.

<sup>632</sup> NJEGUŠ, T.11335; P2018

<sup>633</sup> P338; ANDAN, T.21439.

<sup>634</sup> P794, p.15.

subordinated by the army into its ranks and was on the fine lines in combat. As a result, the SJB was performing police work in a superficial manner, or not at all.<sup>635</sup>

329. Under the guidance of ANDAN, the foundations for the proper functioning of the Brčko SJB were laid. On his recommendation, SJB chief Veselic appointed Petar Djokic, a graduate from police school in Sarajevo and the law faculty in Belgrade, as commander, along with a deputy and assistants. Buildings were secured, checkpoints were set up to prevent the illegal movement of goods, a daily events log book, a KU book, a daily-events bulletin, a special list of the tasks and assignments were instituted. An administrative department, a crime prevention service, and depository and certificates for temporarily seized items were constituted. A curfew was established by the local authorities and implemented by the police to prevent crime from being perpetrated and applied equally to protect citizens of all ethnicities and their property. Services, including a patrol service, were established by withdrawing 155 policemen from the front lines with the permission of the military organs to enable the SJB to function. People were no longer able to walk into the police station with a rifle and to take driver's licences, traffic licences, licence plates and so on. Citizens could go to the administrative department in a legal and legitimate way to take care of the business.<sup>636</sup>

330. In Brčko, the inspectors called for action to be taken against paramilitary formations from Serbia and a local paramilitary unit headed by Goran Jelisić who were committing serious crime and threatening and intimidating local policemen.<sup>637</sup> (REDACTED).<sup>638</sup> He was known to wear both a police uniform and a camouflage uniform. He liked to change uniforms very often.<sup>639</sup> ANDAN never visited the military facility called Luka, located near Brčko.<sup>640</sup> He had no knowledge about Muslims and Croats being detained at the Laser Company facilities the Westfalia Restaurant, the

<sup>635</sup> ANDAN, T.21406-21412, 21418, 21426, 21635-21637.

<sup>636</sup> ANDAN, T.21426-21428.

<sup>637</sup> ANDAN, T.21642-21643; DAVIDOVIĆ, P1557.1, para.115.

<sup>638</sup> (REDACTED).

<sup>639</sup> GAŠI, T.1836-1840.

<sup>640</sup> ANDAN, T.21647, 21651-21652.



primary school in Loncari, or co-operative store in Pelagicevo.<sup>641</sup> ANDAN never heard that a man named Ranko Česić was a reserve policeman or that had committed murders against civilians.<sup>642</sup> He did not know whether Goran Jelisić wore a police uniform and told people that he was a policeman.<sup>643</sup> However, ANDAN was aware that individuals broke into the police warehouse at the Brčko SJB and stole uniforms, belts, boots, equipment, and conferred ranks and titles on themselves.<sup>644</sup>

### **ZVORNIK**

331. In Zvornik, the SJB was organised and functioning and adequate records were being kept. However, the police was under the direct control of the local TO and Government of the Zvornik municipality. As in other localities, paramilitary formations had free reign and intimidated local authorities. On 25 May 1992, paramilitaries led by Captain Dragan, including Crni, arrived in Zvornik, and with the approval of the army occupied the Vidikovač motel. Along with local criminals, they searched houses, and stole property. Along with the military and TO, they made arrests and set up detention centres. Pursuant to the instruction of the Government of the Zvornik Municipality, the police took over providing security at the prisons created by the paramilitaries and military police. Under the law, the police was not supposed to secure a prison or similar institution. Paramilitaries threatened to attack the SJB when police employees were opposing them in looting and other actions. They held the Government and Crisis Staff encircled for 4-5 hours and one paramilitary threatened the President of the Government by holding a pistol under his throat. The chief of the SJB had submitted a request to the local authorities to be released from his duty because he was dissatisfied with a decision by the military authorities to tolerate these activities.<sup>645</sup>

### **BIJELJINA**

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<sup>641</sup> ANDAN, T.21429-21434.

<sup>642</sup> ANDAN T.21647.

<sup>643</sup> ANDAN T.21644.

<sup>644</sup> ANDAN T.21814-21816.

<sup>645</sup> P338; (REDACTED); PANIĆ, T.2920-2923, 3003-3004, 3016-3018.

332. In Bijeljina, the CSB was not functioning: there were no common agreements, directions, instructions, work coordination, and a lack of communications equipment, personnel, etc. There was as a “dishonest battle for power” between Radicals and the SDS at the newly formed CSB. The Radicals were attempting to make personnel changes at both the SJB and CSB by using armed force. There was a dispute about where the CSB should be located and which municipalities would come under its jurisdiction. 550 members of a Chetnik formation rebelled and wanted to destroy the police building using surface-to-surface missiles and other infantry and light artillery. The inspectors made the following recommendations: the RSMUP should send inspectors to the territory to coordinate and direct the work until the functioning CSB is complete, a strong stand should be taken against paramilitaries, the activities of the special units at the SJBs should be regulated and the units should be trained (P338).

333. On 24 June 1992, a week after ANDAN and Vuković submitted their report to the RSMUP, Stanišić granted Vuković the authority to coordinate and direct the work of the criminal investigation service at Bijeljina CSB and at the SJBs at Bijeljina, Brčko, Zvornik, Ugljevik, Milići, Vlasenica, [ekovi]i and Bratunac. He was given the responsibility to look into the crime situation in these areas and point out omissions and shortcomings on the spot, to work on improving the performance of the service with senior staff and officers at the public security stations, to organise working meetings with senior staff on the problems of crime, and to report on the crime situation to the Ministry (1D391 and 1D322).<sup>646</sup>

#### **SSUP ASSISTANCE TACKLING PARAMILITARIES**

334. In addition, as Stanišić became aware of the drastic security situation that existed since the outbreak of war, he sought the assistance Federal Secretary of the Interior of the FRY (“SSUP”). Pursuant to Article 33(13) of the Law on Internal Affairs, the Ministry at its seat cooperates with foreign organs and international organisations in the field of internal affairs. In addition, pursuant to Articles 64-66, members of the SSUP, with the consent of the RSMUP Minister of the Interior could be authorised to carry out

<sup>646</sup> NJEGUŠ, T.11134-11136, 11449-11450; PLANOJEVIĆ T.16555-16557; P1889.

assignments in the RS with the same duties and authorities as authorised officials of the RSMUP.<sup>647</sup>

335. DAVIDOVIĆ was sent to BH by the federal authorities to work along side members of the RSMUP in May 1992. Members of the SSUP assisted the RSMUP in organising and training the Special Police Unit at the seat of the Ministry, under the command of Milenko Karišik and in taking action to arrest, detain, and interrogate criminal elements in the RS. The federal policemen received IDs from the RSMUP and a written ruling from Stanišić on their assignment.<sup>648</sup>

336. The police brigade under the command of DAVIDOVIĆ was sent to the RS to engage directly engaged in stabilising the security situation, to establish the legality of work and normal functioning of organs of internal affairs, and to ensure the legitimacy of the organs of authority.<sup>649</sup> To deal with this situation, Stanišić sent DAVIDOVIĆ and his unit and an expert team of inspectors, with a part of the Special MUP unit, led by ANDAN to Bijeljina CSB to create the necessary conditions for the legal and lawful functioning of the authorities in Bijeljina.<sup>650</sup>

337. On 27 June 1992, a fully equipped 17-member police brigade under DAVIDOVIĆ's command, and three all-terrain vehicles joined forces with the team from the RSMUP, headed by ANDAN, in Bijeljina.<sup>651</sup> ANDAN briefed DAVIDOVIĆ about the situation in Brčko and the measures that had been taken at the SJB. They agreed that similar measures were needed at the Bijeljina CSB and its subordinate SJBS.<sup>652</sup>

338. Stanišić gave DAVIDOVIĆ full authority to arrest all paramilitaries wherever possible, without any limitations, irrespective of the circumstances or situation, regardless of name, gender, ethnicity, etc. Stanišić instructed him that whenever it was

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<sup>647</sup> DAVIDOVIĆ, T.13557-13563.

<sup>648</sup> DAVIDOVIĆ, P1557.2, para.46; P1557.3, pp.14189, 14211-14212, T.13532-13534.

<sup>649</sup> 1D646, p.1.

<sup>650</sup> 1D97, p.3.

<sup>651</sup> 1D646, p. 2; 1D97. DAVIDOVIĆ, P1557.1, para.34;T.13523-13524;ANDAN, T.21454.

<sup>652</sup> ANDAN, T.21425-21426.

his assessment that paramilitaries had taken power and done unlawful things, they should be arrested and criminal investigations and proceedings should be instituted in accordance with the law. DAVIDOVIĆ explained that these paramilitary formations had entered the RS from the Republic of Serbia on the pretext of being volunteers, coming to fight on behalf of the Serbian people across the RS. However, they refused to be subordinated to the army or any other authority and it soon became clear that they had come with the sole intention of looting, killing, and attaining material benefit, under the guise of being patriots and liberators. They intimidated and sometimes collaborated with local authorities and terrorised and abused the local population.<sup>653</sup>

339. DAVIDOVIĆ (1D646, 8 August 1992)<sup>654</sup> and ANDAN (1D97, 29 July 1992) submitted reports to their superiors following their activities in Bijeljina. They reported that prior to 27 June 1992, there was widespread lawlessness, violence, and terror in the areas of Bijeljina, Zvornik and Brčko. Crimes were committed against the local population regardless of ethnic affiliation: mistreatment, terrorising, theft, robbery, armed robbery, rape, unauthorised appropriation of property, random murders of individuals of various ethnic groups. Paramilitary formations and local armed individuals took advantage of the passivity, disorganisation and chaos of the existing organs of authority and created their own parallel authorities with the assistance of local personalities and by using physical force and violence. The local police, and in particular the local police chief, Predrag Ješurić hid in the police station and policemen were ordered to sit in the police station while paramilitaries headed by Arkan did what they wanted. The situation was presented as a normal state of affairs and the local police authorities did not report these events to their superiors in the RSMUP.<sup>655</sup>

340. The Serbian Volunteer Guards had taken over complete control of the Bijeljina CSB. The Red Berets stormed the Brčko SJB using a self-propelled gun and anti-aircraft machine-guns and they took the President of the municipality and the Chief of Staff of the 1<sup>st</sup> Posavina Brigade hostage. The local police authorities acted illegally by

<sup>653</sup> DAVIDOVIĆ, T.13586-13591, 13623-13630.

<sup>654</sup> MAČAR, T.23005-23007.

<sup>655</sup> DAVIDOVIĆ, T.13586-13591, 13623-13630; DAVIDOVIĆ, P1557.1, paras.84-85, P1557.4, p.14260.

committing crimes (beatings and killings), failing to investigate crimes, registering stolen vehicles and weapons, illegally issuing drivers' licences, and by providing assistance to the illegal activities of the paramilitary formations for material and other advantages for themselves. As a result of the illegal functioning of the organs of the interior and the crime and terror caused by the paramilitaries, a large number of Muslims and Serbs inhabitants of Bijeljina, Brčko, and Zvornik left the area which made the security situation more complex.<sup>656</sup>

341. The formations led by DAVIDOVIĆ and ANDAN took swift and decisive action to restore law and order. They immediately instructed and trained the organs of internal affairs to ensure that the police operated legally and to normalize the overall security situation. New qualified and competent policemen were hired. Policemen who had acted illegally were removed from the force and their illegal activities were investigated. The reserve force was reduced from 867 to 345 to meet the needs of the service and the remainder were placed at the disposal of the army and sent to the front lines.<sup>657</sup> Checkpoints, beat and patrol sectors, a duty service, a building security service, a curfew, and cooperation and communication with military and civilian authorities were established.<sup>658</sup> The police service was purged and reordered to act in accordance with the law and to directly serve the needs and rights of citizens.<sup>659</sup>

342. All crimes, including serious crimes against life and limb, were investigated by the police in full equality and without discrimination in accordance with the law. Criminal reports were prepared and submitted to prosecutors.<sup>660</sup>

343. The police raided storage facilities where the paramilitaries led by Ljubiša Savić, "Mauzer" had taken stolen property. The police under ANDAN discovered both stolen goods and three detained Muslim who were immediately given water and released. The police offered to escort the Muslim men home. However, the police did not have the

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<sup>656</sup> 1D646, pp. 1-3, 1D97.

<sup>657</sup> ANDAN, T.21454-21456, 21664-21666.

<sup>658</sup> 1D555, 1D556 (T.21466-21469, 21675-21677, 21818-21820).

<sup>659</sup> 1D646, pp. 3-4; 1D97.

<sup>660</sup> 1D551; 1D552; 1D553; 1D105(T.21446-21454).

means to provide full protection for them at home and it was suggested to them that they go to their relatives for their safety. Mauzer was arrested and placed in remand custody. But, his paramilitaries attacked the police station with tanks and other weapons and a negotiated settlement between the local authorities and his men led to Mauzer's release. ANDAN and DAVIDOVIĆ were opposed to Mauzer's release but it prevented a full scale armed battle from erupting. Mauzer had over 1000 men at his disposal with an arsenal that included tanks, anti-aircraft weapons, three-barrelled canons, Pragas, self-propelled guns, mortars, 60 mm and 82 mm infantry weapons, hand-held rocket launchers, Zoljas, Tromblones, pistols, rifles, and grenades.<sup>661</sup>

344. The actions taken by DAVIDOVIĆ and ANDAN resulted in improvements in the security situation and legality of work in all segments of social life: there was not one inter-ethnic murder, two other murders were quickly solved and perpetrators arrested, there was not a single armed robbery, groups involved in organised crime were discovered, arrested and investigated or expelled, public law and order were raised to an exemplary level, crime was prevented, and paramilitaries were prevented from starting armed conflicts which were essentially motivated by robbery rather than political reasons.<sup>662</sup>

345. In particular, paramilitary formations and other armed formation which had designs on taking over all power in Bijeljina, Brčko, and Zvornik were neutralized by forces led by DAVIDOVIĆ and ANDAN.

346. In Bijeljina, they disarmed and broke up all the paramilitary formations in the area of the Bijeljina CSB. Paramilitaries were arrested and prosecuted, while others were disarmed and returned to the FRY, if they were citizens of that country, or assigned to army duty, in the case of locals.<sup>663</sup>

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<sup>661</sup> 1D549(T.21440-21442), 21442-21446; 1D541 (T.21653-21655), 21656-21660, 21816-21818.

<sup>662</sup> 1D646, pp.4-6; 1D97.

<sup>663</sup> 1D646, p.9; 1D97.

347. At Brčko, as a result of the measures taken by the police to restore law and order, the Red Berets struck back and launched several armed attacks against the police and the Brčko SJB. DAVIDOVIĆ and ANDAN decided that decisive needed to be taken against the Red Berets once and for all. With the assistance of Čedo Kljajić, approximately 20 men led by Duško Malović were summoned from Pale and placed under the command of ANDAN and DAVIDOVIĆ. During one police raid, paramilitaries were arrested. In retaliation, paramilitaries kidnapped Major Šehovac and threatened to kill him, if their cohorts were not released from police detention. ANDAN resisted their threats, Major Šehovac was released, and members of the paramilitary unit remained in police custody. The next day, they were stripped to their underwear, placed on buses, and handed over to representatives of the MUP of the Republic of Serbia, together with a list containing their names, their personal details, and details of what they had done.<sup>664</sup>

348. The unit led by Malović took part in the actions under DAVIDOVIĆ and ANDAN in Brčko to arrests and eliminate paramilitaries in Brčko (Red Berets), Zvornik (Yellow Wasps), Lopare, and Ugljevik.<sup>665</sup> Malović's unit performed professionally and in accordance with the law.<sup>666</sup>

349. The many paramilitary formations in the region reacted strongly to the steps taken by the police because it spelled the end to their ability *inter alia* to rob, loot, murder, threaten, intimidate, and overthrow local police officials and politicians, take over and control police stations, pose as police officers, confiscate police weapons, equipment, documentation, IDs, vehicles, and create private prisons.<sup>667</sup> DAVIDOVIĆ and ANDAN were both threatened with liquidation by the leader of the Serbian Volunteer Guard, Ljubiša Savić, aka Mauzer. There were demonstrations of force and threats to attack the police station with a tank, several APC's, and over 100 men fully armed with infantry weapons. DAVIDOVIĆ testified that Stanišić always supported him in the fight against the

<sup>664</sup> DAVIDOVIĆ, P1557.1, paras.106-113; ANDAN T.21416, 21421; 1D554(T.21456-21464, 21666-21674).

<sup>665</sup> ANDAN, T.21456-21466, 21472-21473, 21666-21674.

<sup>666</sup> ANDAN T.21463; NJEGUŠ, T.11395-11396.

<sup>667</sup> 1D646, pp. 6-12, 1D97.

paramilitaries even in the face of this resistance from these groups and individuals at the local level.<sup>668</sup>

350. The report prepared by ANDAN for the RSMUP was sent *inter alia* to RS President Karadžić to provide full information on the steps and measures taken by the RSMUP to establish authority under the rule of law. It was ANDAN's objective to inform the top leadership in the RS about the jeopardy citizens and police faced in Bijeljina. He was opposed to the fact that paramilitaries entered the RS. He addressed the highest leadership of the RS in detail on the security situation and to ask for their full support. The police needed political support for the measures they were trying to implement.<sup>669</sup>

#### MEASURES TO ARREST AND PROCESS YELLOW WASPS

351. The previous sections of this Submission show that Stanišić took immediate decisions, and adequate measures, within his purview as Minister, using all the means at his disposal, in the middle of an armed conflict, to fight crime, combat illegality, and to arrest and dismember paramilitaries and others who committed crimes against citizens, state organs and institutions, and privately owned property. At the same time that Stanišić sent inspectors to the regions and dispatched ANDAN, Vuković, and DAVIDOVIĆ, along with their units and reinforcements from the RSMUP, he instructed Goran Žugić, an employee of the State Security Service to collect information on the activities paramilitaries in the Zvornik municipality: their location, membership, strength, composition, weaponry, and their links to the municipal leadership, etc.

352. In May 1992, Stanišić sent Žugić to Zvornik where he learned that a strong paramilitary group called the Yellow Wasps had looted all of Zvornik, including the Glinica factory, committed crimes against Muslims, and that they used a train to ship goods to Serbia. Žugić met with ST-215 in Zvornik and told him that when all necessary information was collected about the paramilitaries, the RSMUP was going to take action against them. (REDACTED). (REDACTED). In early June 1992, Stanišić told ŠKIPINA

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<sup>668</sup> DAVIDOVIĆ T.13591.

<sup>669</sup> ANDAN T.21538-21541.



that he had learned that there were large groups of criminals from Serbia and the Yellow Wasps were in Zvornik and that the RSMUP would be taking measures to arrest them all.<sup>670</sup>

353. On 3 July 1992, after visiting Zvornik, DJOKANOVIĆ met with Stanišić in Pale and informed him about the problems he had experienced and seen in Zvornik and in particular the problems caused by paramilitaries. Stanišić told him that he was aware of the major problems caused in the RS by paramilitaries and that he had sent a dispatch to the Federal secretary of the interior of the FRY, Petar Gračanin in Belgrade for assistance because most of these paramilitary forces came from Serbia.<sup>671</sup>

354. Stanišić authorised and ordered the RSMUP to take action in Zvornik. He gave DAVIDOVIĆ full authority to plan and to uncover any kind of criminal acts, without any restrictions. It was a very sensitive operation that was planned and conducted secretly.<sup>672</sup> Before taking action, a comprehensive plan was developed and put into action by the RSMUP. ANDAN went to Zvornik undercover to liaise with Goran Žugić for three or four days to establish the locations and activities of the paramilitaries who had taken control in Zvornik.<sup>673</sup>

355. On 20 July 1992, ANDAN sent a dispatch concerning the paramilitaries in Zvornik to Stanišić and the Under-secretary for Public Security, Kljajić. It detailed the existence of three paramilitary formations led by Žučo, Pivarski, and Niški. The Yellow Wasps, led by Žučo, numbered approximately 100 men, armed with infantry weapons, heavy machine guns, and three anti-aircraft cannons fitted on trucks. The other two groups had infantry weapons and they came to Zvornik town in groups of 20 men at a time. The Yellow Wasps, controlled local authorities in Zvornik through force and threats of violence. Its members were appointed to political and economic positions in the municipality and with the assistance of the local Government of the Zvornik

<sup>670</sup> ŠKIPINA, T.8381-8383, (REDACTED); P321 (T.14915-14916); 1D577, p.1, ANDAN T.21680-21682.

<sup>671</sup> DJOKANOVIĆ, T.3587-3588, 3612-3613.

<sup>672</sup> DAVIDOVIĆ, T.13565-13566, 13614-13615.

<sup>673</sup> ANDAN, T.21473-21474, 21489-21490.

municipality, they committed crimes. ANDAN recommended that the RSMUP Special Unit be sent to the region to prevent, disable, and eliminate these paramilitary formations, to improve legal authority, and to make conditions for the stabilisation of the security situation. (P317.22)<sup>674</sup>

356. In addition to these three paramilitary formations, there was fourth group of 30 men led by Simo Chetnik. The Yellow Wasps were constructing an armoured train in the Glinica factory.<sup>675</sup>

357. The contemporaneous notes taken by ANDAN during meetings held at the end of July and early August 1992 with Stanišić, the Under-secretary for Public Security, Kljajić, MAČAR, DJERIĆ, ORAŠANIN, DAVIDOVIĆ, and others provide an account of the planning and the steps taken by the RSMUP against paramilitaries in Brčko, Zvornik, Foča, Rudo, Višegrad, Trebinje under the leadership of Stanišić (1D557).<sup>676</sup>

358. On 20 July 1992, the same day ANDAN sent the above-noted dispatch to Stanišić (P317.22), a meeting was held in Bijeljina with DJERIĆ, Kusmuk, DAVIDOVIĆ, and ANDAN. They informed DJERIĆ of the security situation the area and he confirmed to them that their activities were being carried out pursuant to an order by Stanišić, which was supported by the government.<sup>677</sup>

359. On the same day, at a working meeting, chaired by Kljajić, they discussed *inter alia* the objectives behind the steps that would be taken to crush the paramilitaries in the region: establishing legitimate organs, preventing activities and paramilitary formations and organised crime, and conditions for legal and unobstructed work. The reference to organised crime referred to the paramilitaries who came with one single objective: to loot, rape, etc. and to cross the border with their booty. The units led by DAVIDOVIĆ and

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<sup>674</sup> ANDAN, T.21474.

<sup>675</sup> ANDAN, T.21479-21480.

<sup>676</sup> (REDACTED).

<sup>677</sup> 1D557, p.2; ANDAN, T.21482-21485.

Duško Malović were reinforced by the Special Police unit of the RSMUP, led by Milenko Karišik pursuant to decisions taken by Stanišić.<sup>678</sup>

360. On 23-24 July 1992, 110 policemen from Bijeljina, along with police operatives from RSMUP moved against the Red Berets in Brčko.<sup>679</sup> The next day, a meeting was held at the Bijeljina CSB to decide how to neutralize the paramilitaries in Zvornik which had returned earlier in July from Serbia, after they had been expelled from the area a few months earlier. Meetings to plan this operation were held between 25-29 July 1992. There was sense of urgency to get the operation underway and eliminate the paramilitaries.<sup>680</sup>

361. On 29 July 1992, members of the RSMUP, along with military police took action against the paramilitaries in Zvornik. Sixty-five persons, including forty-seven members of the Yellow Wasps were disarmed, arrested, and detained. Other paramilitaries were expelled from RS and handed over to the MUP of the Republic of Serbia, along with a list of names of the perpetrators and a description of the crimes they had committed.<sup>681</sup> Investigations carried out by the military police and the SNB in early August 1992, and subsequent prosecutions, showed that during May and June 1992 the paramilitaries had substantial quantities of artillery, infantry weapons, and mine explosives, that they had committed large scale crimes including the theft of gold, weapons, ammunition, alcohol, technical good, cars, blank form drivers' licences, insurance policies, and they committed the massacre of citizens of BH of Muslim ethnicity.<sup>682</sup>

362. To deal immediately with the criminal processing of the paramilitaries, a meeting was held at the Bijeljina SJB on 4 August 1992. The police lacked personnel to process all those who had been arrested. Kljajić contacted Stanišić and it was agreed that

<sup>678</sup> 1D557, p.2; ANDAN, T.21485-21488; (REDACTED).

<sup>679</sup> 1D557, pp.3-4; ANDAN, T.21488-21489.

<sup>680</sup> ANDAN, T.21683-21684.

<sup>681</sup> ANDAN T.21687-21688.

<sup>682</sup> P2053; 1D558; 1D560; P1557.11; P1557.12; 1D75; 1D86; P322; (REDACTED); 1D86; P322; ANDAN T.21506-21527 related to P317.18; 1D558; P1557.11; 1D599; 1D75; P1557.12; 1D561; P341; 1D563; P317.21; P344; P637; P345; P195. MAČAR, T.22999-23005 related to 1D75, DAVIDOVIĆ, P1557.1, paras.133-142.

MAČAR, the Acting chief of the Crime Administration would be dispatched, along with five to ten crime police inspectors to speed up the process of documenting the activities of the Yellow Wasps, issue crime reports, and send the files to the prosecutor. MAČAR treated the investigation of all crimes, including war crimes, without bias or prejudice, and he instructed all his investigators to conduct investigations regardless of the ethnicity of the victims or the perpetrators. He never received any orders from his superiors or came under any pressure from anyone to conduct crime investigation in a discriminatory manner.<sup>683</sup>

363. As the prosecutors' offices and the courts in RS were not properly staffed or functioning because of the war conditions, the paramilitaries were handed over to the authorities in Serbia, along with appropriate documentation to take legal measures against them as they were citizens of the Republic of Serbia. The prosecutorial authorities and the courts in the Serbia had jurisdiction over these individuals on the basis of their Serbian citizenship. Indeed, this led to the filing of criminal complaints against the members of the Yellow Wasps (1D86) and their conviction for war crimes before the courts in Serbia (P1979).<sup>684</sup>

364. After receiving reports of the arrests of these paramilitaries, Stanišić came to Zvornik on 2 August 1992 and he conducted a two-hour meeting to discuss the overall security situation in the municipalities of Bijeljina, Brčko, and Zvornik. It was then that Stanišić praised the policemen for their work. Stanišić was informed that police officers, including the SJB commander had taken part in criminal activities and that Žučo had control of the SJB through him. The Minister made the following points: the police must fight crime, the special police units at the CSB level were being disbanded and that there would be an open competition for special units detachments, all those with criminal records must be dismissed from the reserve police and placed at the disposal of the army, all authorised officials engaged in criminal activities must be dismissed, the order on

<sup>683</sup> 1D557, pp.8-9, ANDAN, T.21497-21498, 21711-21712; ORAŠANIN, T.21952-21953; MAČAR, T.23402-23403; (REDACTED); (REDACTED)

<sup>684</sup> MAČAR, T.23558-23559.;P120 art.26,29;SIMEUNOVIĆ, T.13298-13300;13366-13368,13318 - 13329,13368 - 13371,13405-13406,13422-13423.

selection in the service must be implemented by 3 August, and anyone who challenged this order would face criminal prosecution, internal affairs organs must strictly abide by orders, tasks, instructions, and other documents, military police must fight all types of crime, and paramilitaries must be arrested, expelled or disarmed.<sup>685</sup>

365. Stanišić stated categorically and emphatically that these measures must be dealt with fully and immediately “on pain of death”. ANDAN knew Stanišić to be a very decisive person with a very strong character who could speak in such strong terms.<sup>686</sup>

#### **FURTHER MEASURES AGAINST PARAMILITARIES AND CRIMINAL GROUPS**

366. Further measures were taken to stabilize the security situation at a meeting held on 5 August 1992. Some 80 Serb policemen from the MUP-SRBH who had fled areas under the control of BH forces were employed in the RSMUP, after being vetted.<sup>687</sup> In the Muslim settlement of Janja (near Bijeljina), the police presence was increased from six or seven to thirty, check-points were established, and an intervention platoon was established to protect the local Muslim population and their property. After the RSMUP took these measures, there were no cases of looting, persecution, or any other type of crimes.<sup>688</sup>

367. At the meeting held on 2 August 1992 in Zvornik, Stanišić told ANDAN that he would be involved in similar operations against paramilitaries in other localities. On 11 August 1992, there was a meeting held with MAČAR concerning the police actions in Brčko and Zvornik and to discuss further actions in Ugljevik and Lopare.<sup>689</sup>

368. On 13 August 1992, there was a meeting to discuss the “immediate preparations for Foča”. Military personnel from the so-called Drago Nikolic detachment attacked the police station in Foča on 23 July 1992 (1D647). The same day, MAČAR and Čedo Kljajić

<sup>685</sup> 1D557, p.8, ANDAN T.21493-21497, DAVIDOVIĆ P1557.1, para.144.

<sup>686</sup> 1D557, p.8, ANDAN T.21494-21497.

<sup>687</sup> 1D557, p.2, ANDAN T.21485-21488, (REDACTED).

<sup>688</sup> 1D557, pp.9-10, ANDAN, T.21498-21501.

<sup>689</sup> ANDAN, T.21701-21702.

agreed that a special police unit should be sent urgently to Foča. On 10 August 1992, inspectors from the RSMUP visited the area under the Trebinje CSB. They recommended that a special unit be sent to the area of the Foča SJB to destroy outlaw groups and paramilitary formations and to establish the normal functions of the SJB.<sup>690</sup>

369. On 18 August 1992, ANDAN was summoned to a meeting with Stanišić in relation to his participation in a RSMUP action against paramilitaries in Foča, along with the Special Purposes Unit and 30 men comprised of uniformed police, crime police, and national security. Stanišić stated that the paramilitaries in Foča must be wiped out at all cost. An operative plan was prepared by ORAŠANIN and it envisaged the arrest of paramilitaries, whom the RSMUP considered terrorist groups.<sup>691</sup> The order issued by Stanišić called for all legal powers to be used, including the use of fire-arms, if the legal conditions are met. The goal of the operation was to enable the legitimate authorities in Foča to function, to disarm and arrest the paramilitaries and other criminal groups, to investigate their criminal activities and submit criminal reports to the local public prosecutor's office. The police was supposed to stay in Foča and assist the authorities and the local SJB for awhile.<sup>692</sup>

370. Stanišić told ANDAN that he wanted him to lead the operation in Foča. The unit led by DAVIDOVIĆ had returned to the federal SUP and ANDAN was instructed by Stanišić to form a unit from the existing complement of police forces in Bijeljina and to prepare for their mission in Foča in the coming days.<sup>693</sup>

371. On 19 August 1992, Kljajić ordered that a minibus and driver be sent to the Bijeljina SJB for the needs of the Special Unit on 21 August, along with personal weapons, equipment, and daily allowances for thirty days. On the same day, Stanišić sent a request to the MUPs of the Republic of Serbia and the Republic Montenegro to permit the Special Unit to travel through their territory on 21 August 1992 to reach Foča. The

<sup>690</sup> 1D557, p.13, ANDAN, T.21503, 1D647, 1D648, 1D649, para.10, MAČAR, T.23011-23014. See, also 1D566 (T.21545-21547).

<sup>691</sup> ORAŠANIN, T.21953-21963.

<sup>692</sup> 1D557, pp.13-14, ANDAN T.21503-21505

<sup>693</sup> ANDAN, T.21697-21699.

only land route between Bijeljina and Foča was through these two Republics of the FRY. The deployment of the Special Unit to Foča was organised at a meeting held at the Bijeljina SJB on 20 August 1992. However, the Special Unit was unable to travel to Foča because permission from the MUPs of Serbia and Montenegro could not be obtained.<sup>694</sup>

372. An additional problem was that the presence of the paramilitaries and volunteers from abroad was supported by some political leaders in the RS. This became a matter of open conflict between Stanišić and Plavšić. At the beginning of the conflict, she had invited foreigners and armed groups to participate in the fighting in RS. This made the RSMUP and Stanišić unpopular with some Serb leaders.<sup>695</sup> As noted above, for measures taken against the criminal activities of these groups and others, ANDAN and DAVIDOVIĆ were threatened with liquidation by paramilitary leaders.<sup>696</sup> Stanišić was criticized publically in the RS Assembly by Plavšić for spearheading the steps taken to arrest and break up paramilitary groups and other formations, after they had committed crimes.<sup>697</sup> The official position of the RSMUP was not to allow politics to interfere with police work. Everything was done in accordance with the law. As ANDAN put it: "they tried to switch off the lights and kill all the roaches, but they did not achieve their goal".<sup>698</sup>

373. On 27 October 1992, Stanišić took further measures to strengthen security measures. He ordered that 50 member the Special Detachment be deployed on the territory of the Rudo and Višegrad SJBs with sufficient combat equipment, weapons, and technical equipment to control roads, and people entering the RS, and to prevent crimes and other activities.<sup>699</sup>

374. Stanišić took these measures because 18 Muslims civilians had been kidnapped from a bus by a group of armed people in military uniforms in Rudo municipality, which

<sup>694</sup> 1D567, ANDAN, T.21547-21548, 21820-21823; MAČAR, T.23018-23019.

<sup>695</sup> MAČAR, T.23468-23469.

<sup>696</sup> 1D646, pp. 6-12, 1D97; DAVIDOVIĆ, T.13591.

<sup>697</sup> P400, p. 20; MANDIĆ, T.9724-9726.

<sup>698</sup> ANDAN T.21684-21692; MAČAR, T.23029-23030.

<sup>699</sup> 1D651; MAČAR, T.23029-23033.

is immediately adjacent to the Višegrad municipality. There was information at the time that Milan Lukić's group was responsible. He was originally from Višegrad but he worked in the police in Obrenovac (Serbia)<sup>700</sup> and at one point was placed in custody in Užice (Serbia) by the MUP of the Republic of Serbia. After investigations by the RSMUP, the identification of these crimes could not be ascertained and a criminal complaint against unknown perpetrators was filed.<sup>701</sup>

375. At the end of November 1992, another request for travel sent to the authorities of the MUP in the Republic of Serbia and the Republic of Montenegro to permit free passage of the Special Unit across the only route between Mali Zvornik and Trebinje was granted. The movement of the police forces, along with their equipment, was necessary to protect the security of the property of citizens in the territory of eastern Herzegovina.<sup>702</sup>

376. In addition to RSMUP actions in Bijeljina, Zvornik, and Brčko, the Mice Group was arrested in Teslić municipality at the end of June 1992 in a joint action by the army and the Banja Luka CSB. In early June, the Mice Groups arrived in Teslić and took over the SJB and TO through force, violence and intimidation. In the following weeks, they committed crimes against the local Croats and Muslim population. On 8 July 1992, following a police investigation, the police prepared a Report and submitted criminal complaints to the prosecutor against sixteen members of the Mice Group.<sup>703</sup>

377. In BH during 1992, paramilitaries often declared themselves as patriots fighting to protect their people (ethnicity) who under the law could be considered "volunteers" within the TO structure.<sup>704</sup> Such was the case of Northern Bosnia (Paraga group), ARK (SOS), Bosanski Šamac (Lugar and Crni group), Zvornik (Yellow Wasps, niski group, Pivarski group etc), Teslić (Mice group), Bjeljina (Arkans tigers, Chetnics and Mauzer

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<sup>700</sup> T.2256.

<sup>701</sup> MAČAR, T.23022-23043, 23415-23418.

<sup>702</sup> 1D650; MAČAR, T. 23019-23021, 23414-23415.

<sup>703</sup> 2D27; 2D88; P1312; P1313; P1314; P1342; P1343; P1351; P1353.11; P1353.12; P1353.27; P1361.6; P1363; P1364; P1383; P703; P837; P838; P839; P840; (REDACTED); RADULOVIĆ, T.10918-10943, 11029-11030, 11079-11090, 11103.

<sup>704</sup> L33, Art.43.



group), Vogošća (Brnetovi Chetnics), Sarajevo (Prazina group, Čelo group etc.), and Hercegovina (Croatian National Guard).<sup>705</sup> However, many of these groups were in fact criminal groups prone to plundering, looting, theft, rapes and murders committed against members of all ethnic groups. In the chaotic situation that ensued after the start of hostilities such groups terrorized the population and took over state organs and institutions, including SJBs in municipalities throughout BH. The situation worsened when JNA pulled out of BH as some volunteers who initially joined JNA formed their own renegade groups and remained in the territory of BH. Depending on the situation, they either joined TO units or established close relationship with Crisis Staffs in certain municipalities.<sup>706</sup>

#### **F. MUP ACTIVITIES CONDUCTED IN NON-DISCRIMINATORY MANNER**

378. The evidence in this case provided by both Prosecution and Defence witnesses shows unequivocally that the policy and approach to the investigation of all crimes – including war crimes – by the RSMUP was non-discriminatory and carried out professionally and in full compliance with the law.<sup>707</sup> This testimony corroborates entirely the records of meetings, orders, instructions, and other documents, including the specific directions given by Stanišić that the RSMUP must act professionally when taking measures to ensure the safety of all people and property and legal security of citizens, prevent and detect crimes and their perpetrators, maintain law and order, and carry out specialist tasks in connection with the crossing and protection of the state border and other duties in the area of internal affairs. In particular, he emphasized the importance of preventing criminal activities committed not only by citizens, but also soldiers and Army officers, active-duty and reserve police and members of the internal affairs organs and their officers who are found to have committed crimes of any kind.<sup>708</sup>

<sup>705</sup> 1D74; 1D800; P347; P411.35; P842; P858; P161; P162; P338; 1D97; 1D539; P730; P632; 1D649; P406; P390; P845; P339; P340; P590; 1D467; P998; 1D587; P591.

<sup>706</sup> P591; P161; P866.

<sup>707</sup> 1D655-1D660, MAČAR T.23058-23080.

<sup>708</sup> P160, p.15; P1252; ŠKIPINA, T.8315-8317; MAČAR, T.22865-22866; P553; TUTUŠ, T.7865; ORAŠANIN, T.21908-21920, 22118-22123; 1D356; 1D357.

379. All orders, instructions, and guidelines issued by the Ministry and sent to CSBs for further distribution to subordinate SJBs insisted, above all, on the police acting in accordance with the laws and regulations. There were no instructions to the effect that crimes committed against victims who were not Serbs should not be investigated, documented, or reported. The RSMUP never issued instructions or written or oral orders, nor was there any attitude or behaviour expressed concerning the discrimination of non-Serbs in the activities of the police.<sup>709</sup>

380. TUŠEVLJAK categorically rejected the suggestion put to him by the OTP that he received clear instructions from his superiors from the Minister downwards to investigate war crimes against Serbs and effectively not to bother with the war crimes that were committed against non-Serbs. He never received any such instructions from his superiors or anyone from the headquarters of the RSMUP. Such an instruction would have been contrary to the Law on the Interior and it would not have been binding on MUP members. He would never have acted upon an illegal instruction.<sup>710</sup>

#### **ROLE OF POLICE IN CRIMINAL PROCEEDINGS**

381. Responsibilities for the reporting, investigation and prosecution of criminal acts were divided between three institutions: 1) the police and the investigative judges, 2) the public prosecutors' offices, and 3) the courts,<sup>711</sup> and governed by the Law on Criminal Proceedings (P120),<sup>712</sup> the SRBH Criminal Code and SFRY Criminal code were applicable at the time (P119 and L11),<sup>713</sup> the Law on Public Administration, and the Law on Internal Affairs.<sup>714</sup> (L17 and P530)

382. When a crime was committed, the role of the police, as mandated by law, was to secure and preserve evidence, undertake preliminary investigative measures, log all this

<sup>709</sup> PEJIĆ, T.12185-12186, PLANOJEVIĆ, T.16553-16555.

<sup>710</sup> TUŠEVLJAK, T.22736-22737, 22788-22789.

<sup>711</sup> KOVAČEVIĆ, T.14158

<sup>712</sup> P120; DELIĆ, T.1543, GAĆINOVIĆ, T.15049; PERIĆ, T.10554.

<sup>713</sup> DELIĆ, T.1543

<sup>714</sup> (REDACTED).

material, attach it to the criminal report and submit it to the Prosecutor.<sup>715</sup> The investigative work conducted by the police was known as “preliminary procedures”.<sup>716</sup> An on-site investigation would usually be conducted when a serious crime was reported.<sup>717</sup> From that moment on, both the investigating judge and the prosecutor provided instructions to the police,<sup>718</sup> the police did not act independently.<sup>719</sup> Upon submission of a criminal report to the prosecutor, criminal proceedings began, and the further conduct of the proceedings was determined by the prosecutor.<sup>720</sup> The Prosecutor logged all criminal reports<sup>721</sup> and had the exclusive authority to prosecute perpetrators of criminal offences.<sup>722</sup> The specification of the crime by the police in their criminal report in no way limited the prosecutor to investigate the crime.<sup>723</sup>

383. Criminal proceedings are finalized when an investigation is dropped, or when a judgement is passed. The prosecutor can also reject the criminal charges and does not have to initiate proceedings. The police do not initiate, conduct, or finalise the criminal process.<sup>724</sup>

384. As the OTP acknowledges,<sup>725</sup> the RSMUP filed criminal reports with the local prosecutors in the RS in accordance with the law. The evidence in this case shows moreover that in 1992 the RSMUP gathered substantial and reliable material during the investigation of crimes involving victims and alleged perpetrators of all ethnicities which has been used in the courts of BH since the end of the war to prosecute accused Serb and non-Serb individuals.<sup>726</sup>

<sup>715</sup> R.RODIĆ(ST-125),T.8884-8887;SIMEUNOVIĆ,T.13304-13306, 13361-13362,13394-13395; MAČAR T.22914-22916; DELIĆ,T.1595-1597.

<sup>716</sup> SIMEUNOVIĆ, T.13362.

<sup>717</sup> DELIĆ, T.1518, 1521,1745-1746;R.RODIĆ(ST-125),T.8884-8887.

<sup>718</sup> GOJKOVIĆ, T.11776.

<sup>719</sup> GOJKOVIĆ, T.11775-11776, 11779; DELIĆ,T.1581-1582; SIMEUNOVIĆ,T.13307-13308.

<sup>720</sup> GOJKOVIĆ,T.11773-11774,11778; R.RODIĆ(ST-125),T.8884-8889; See also DELIĆ, T.1520,1525-1526; SIMEUNOVIĆ,T. 13306-13307,13361-13362; GAČINOVIĆ,T.15067-15068; PERIĆ,T.10562,10486-10487.

<sup>721</sup> GAČINOVIĆ,T.15034-15035; DELIĆ,T.1539;GOJKOVIĆ,T.11752; DRAŠKO,T.12303-12304,12378; PERIĆ, T.10566-10567.

<sup>722</sup> SIMEUNOVIĆ,T.13365; PERIĆ,T.10556

<sup>723</sup> GOJKOVIĆ,T.11774; T.11779; GAČINOVIĆ,T.15095; SIMEUNOVIĆ,T.13365-13366; KOVAČEVIC,T.14190

<sup>724</sup> DELIĆ,T.1582-1583; SIMEUNOVIĆ,T.13366; PERIĆ,T.10486-10487; DELIĆ,T.1525-1526.

<sup>725</sup> TUŠEVLJAK, T.22447.

<sup>726</sup> 1D595-1D601, T.22434-22451.

385. In relation to the investigation and prosecution of war crimes and serious crimes endangering life (such as aggravated murder), it is important to bear in mind the provisions of the Criminal Codes which applied at the relevant time in the RS: the SFRY Criminal Code (L11) and the SRBH Criminal Code. Under the SFRY Criminal Code, Articles 141-149 the maximum penalty envisaged for crimes against international humanitarian law, such as genocide, war crimes against civilian population, against prisoners of war was up to 15 years imprisonment or the death penalty which could be commuted to a 20-year prison sentence. However, in 1990 or 1991, the federal Assembly of the SFRY abolished the death penalty and the maximum sentence for these offences was 20 years imprisonment. These crimes did not exist in the SRBH Criminal Code. The SRBH Criminal Code provided for the crime of aggravated murder for which the maximum sentence was 15 years imprisonment or the death penalty, which could be commuted to 20 years imprisonment. As a result, the maximum punishment for aggravated murder was more severe than the punishment for war crimes, i.e. the death penalty for aggravated murder. The offence of aggravated murder was a more serious offence than war crimes.<sup>727</sup>

386. In 1992, there was no discrimination based on the ethnicity of victims or perpetrators when charges were brought. All charges and criminal reports submitted to the prosecutor were treated equally. The characterisation of these crimes was not motivated by the desire to qualify crimes against one ethnicity as being one type of crime rather than another. The offence charged depended on the information, or the evidence, that the SJB or the CSB had been able to gather. As the OTP has stipulated,<sup>728</sup> in 1992, when the prosecutor in the RS received a criminal report from the RSMUP charging an individual with aggravated murder under Article 36(4) of the SRBH Criminal Code, the prosecutor had the discretion to reclassify the offence. In other words, the prosecutor could on his own authority, based on the evidence, charge the individual with murder, aggravated murder, a war crime, or genocide, etc.<sup>729</sup> The prosecutor could also direct the

<sup>727</sup> TUŠEVLJAK, T.22426-22431; (REDACTED); DRAGANOVIĆ, T.3948-3949; GOJKOVIĆ, T.11782-11783; KOVAČEVIĆ, T.14192

<sup>728</sup> TUŠEVLJAK, T.22440.

<sup>729</sup> (REDACTED).

local SJB to conduct further investigations and gather further evidence after having received the criminal report.<sup>730</sup> In addition, a Trial Chamber is not bound by the prosecutor's qualification in the indictment; but, rather is only bound by the facts stated in that indictment, and a person may be convicted of the offence the Chamber determines has been proven.<sup>731</sup>

387. Prosecutors and judges who testified for the OTP stated that there was no selectively, bias, or discrimination in the investigation or prosecution of crimes during 1992. There were no instructions, policies, or views expressed that there should be any discrimination in the work of the police, prosecutors, investigating magistrates, or judges based on the ethnicity of a victim or the alleged perpetrator of a crime.<sup>732</sup>

#### **STANIŠIĆ IMMEDIATE RESPONSE TO INCIDENTS IN HIS KNOWLEDGE**

388. Stanišić insisted on four issues: 1) Discipline within the police force; 2) work aimed at prevention and detection of crime; 3) processing and removing from the police force those individuals who were involved in criminal activities; and 4) the prevention and detection of all crimes. In particular, he insisted on investigations into all war crimes, whether committed against Serbs or non-Serbs and whether or not Serbs or non-Serbs were the alleged perpetrators of the crimes.<sup>733</sup>

389. This applied not only to the orders and instructions he issued to all MUP members but also to steps he was able to take personally, when he learned of situations which required immediate action. For example, when Stanišić learned directly that a man known as "Batko" – a member of the army or TO – was committing crimes in the area of Grbavica against Bosniaks, he informed the army which had the authority and jurisdiction to arrest Batko. In June 1992, PLANOJEVIĆ told DJERIĆ that Stanišić would call the military command concerning Batko and he suggested that DJERIĆ should do the

<sup>730</sup> TUŠEVLJAK, T.22431-22434, 22494-22496, 22741-22743; MAČAR, T.22904-22905.

<sup>731</sup> GOJKOVIĆ, T.11779-11781; PERIĆ, T.10613; (REDACTED); GAČINOVIĆ, T.15095; KOVAČEVIĆ, T.14190-14191.

<sup>732</sup> GAČINOVIĆ, T.15085-15086; SIMEUNOVIĆ, T.13385,13396-13397; KOVAČEVIĆ, T.14193-14194; DAVIDOVIĆ, T.8663; DELIĆ, T.1644-1645.

<sup>733</sup> NJEGUŠ, T.11475-11477

same. DJERIĆ phoned either Karadžić or the military command in PLANOJEVIĆ's presence to request that the matter concerning Batko be addressed. Batko was arrested soon thereafter.<sup>734</sup>

390. On another occasion, TUTUŠ, the chief of SJB Banja Luka had detained in remand, as suspects, two members of the special purpose detachment from CSB Banja Luka. TUTUŠ was asked to reconsider his custodial decision. However, he believed that there existed just cause for them to remain in custody. He consulted Stanišić directly about the matter because of the pressure being exerted on him to release the men. Stanišić supported the decision made by TUTUŠ and told him that the men should remain in prison and that the competent court should decide upon any further course of action.<sup>735</sup>

391. When information on the commission of a crime reached Stanišić, he acted swiftly and decisively. When RADULović learned about the events at Korićanske Stijene on 22 August 1992, he discussed it with Zivko Bojić, an experienced and reliable professional policeman. RADULović told Bojić about the events because he believed that he would forward it to the higher level institutions in the RSMUP. RADULović knows that this information reached Stanišić in the Ministry and that he sent out orders to amplify investigations and bring the perpetrators of the killings at Korićanske Stijene to justice.<sup>736</sup>

392. P847 is the dispatch sent by Stanišić on 31 August 1992 to CSB Banja in which he requests a full investigation regarding the death of 150 Muslim at Korićanske Stijene and to inform the Ministry of the results of the investigation and to initiate criminal proceedings against the perpetrators. This response by Stanišić was made in full conformity with his obligations under the law. P1380 is a dispatch Župljanin sent to SJB Prijedor on 11 September 1992 which incorporates the order issued by Stanišić (P847) and it further orders that written statements be taken immediately from the policemen that

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<sup>734</sup> NJEGUŠ, T.11475-11476; ŠKIPINA, T.8339-8364; PLANOJEVIĆ, T.16411-16412,16537-16539; MAČAR, T.23473-23474.

<sup>735</sup> TUTUŠ, T.7707-7712; P628.

<sup>736</sup> RADULović, T.10883-10886.

escorted the convoy and to deliver the statements, with biographical data on these policemen as well as the names of those who travelled in those convoys by 15 September 1992, at the latest.<sup>737</sup>

393. 2D35 are criminal charges filed on 8 September against unidentified perpetrators for murder committed against several unidentified persons on the evening of 21 August 1992 at Korićanske Stijene. Initially, a criminal report against unknown perpetrators is filed until the perpetrators are identified. P1567 are the Record and Official Notes concerning the investigations conducted in relation to Korićanske Stijene. It shows that the Investigating Judge preserved the evidence by taking statements of victims who survived. In 1995, a group of alleged perpetrators was identified.<sup>738</sup>

#### **RSMUP GUIDELINES ON CRIMINAL INVESTIGATIONS**

394. The policy of the RSMUP in regards to non-discriminatory crime investigation is demonstrated in the Guidelines sent out from headquarters on 5 June 1992 (1D84 and P568) by PLANOJEVIĆ. He explained that there are two versions of this same document because at the time communications lines were down and it was sent out over open telefax lines or hand delivered by inspectors who had been sent out by the ministry into the field.<sup>739</sup>

395. The Guidelines instruct MUP members to combat a surge of crime against property, illegal trade, and especially war crimes, energetically. They reflect the position of the Minister and the other officials of the RSMUP that war crimes against all citizens, regardless of ethnicity, must be investigated in full.<sup>740</sup> The police are instructed to investigate all crimes according to the laws and regulations governing police work. However, if circumstances did not permit a full investigation, all possible information

<sup>737</sup> RADULOVIĆ, T.10897-10898; MAČAR T.23485-23489.

<sup>738</sup> MAČAR, T.23575-23576.

<sup>739</sup> PLANOJEVIĆ, T.16416-16420. 1D85 (T.16420-16421).

<sup>740</sup> (REDACTED), BOROVČANIN T.6766-6768, MAČAR T.22900-22901. 1D637 (T.22901-22902), 1D637 (T.22902).

about a crime should be collected and preserved. When conditions became more favourable, complete operative and investigative measures and the prosecution of perpetrators could take place.<sup>741</sup>

396. PLANOJEVIĆ rejected the suggestion made by the Prosecution that this instruction was intended to cover-up crimes or prevent adequate measures from being taken. To the contrary, the purpose of the instructions was to collect information in Official Notes (statements and other evidence) which are part and parcel of a case file. The Guidelines reflected the reality on the ground and they were meant to direct police officers in their investigative work. In times of combat, it was not even possible to approach the front lines, and the entire Sarajevo area was one large front line (especially Ilidža, Vogošća, Hadžići, and parts of Pale).<sup>742</sup> Police officers were often subordinated to the army to fight in combat on the front lines. When the war erupted, there were mass casualties, retaliation, and the arrival of refugees. In such a situation, no one dared to go about and arrest people. There were problems with paramilitaries who were more than ready to kill policemen and their commanders. In the prevailing circumstances, it was the best that could be done.<sup>743</sup>

#### **11 JULY COLLEGIUM – POSITION OF MINISTRY – INVESTIGATE ALL CRIMES**

397. The position of the ministry to investigate all crimes, without bias, and regardless of the ethnicity of the victims or alleged perpetrators can clearly be seen from the record of the first RSMUP collegium held on 11 July 1992 and from the reports, orders, and instructions that flow from that meeting. At this collegium, Kljajić, PLANOJEVIĆ, and TUŠEVLJAK all stated that, based on the information that was coming in from the field, documenting war crimes and filing criminal reports was a priority for the service.<sup>744</sup>

<sup>741</sup> PLANOJEVIĆ, T.16416-16420, 16562-16567, 16595-16597; GOJKOVIĆ, T.11795-11796

<sup>742</sup> PLANOJEVIĆ, T.16416-16420, 16562-16567, 16595-16597.

<sup>743</sup> PLANOJEVIĆ, T.16618-16623.

<sup>744</sup> P160, pp.18-19; PLANOJEVIĆ, T.16432-16434; 1D189.



398. Conclusion 6 and 7 deal directly with the non-discriminatory investigation of all crimes – including war crimes – in accordance with the law. TUTUŠ, PLANOJEVIĆ, and TUŠEVLJAK were in attendance at this collegium. They testified that these conclusions reflect the insistence of the Minister and the policy of the RSMUP that when investigating crimes or filing criminal reports, including war crimes, no distinction was made on the basis of the ethnic background of the victim or the perpetrator.<sup>745</sup>

399. The testimony of those who attended this collegium is significant because the record of the meeting is simply a summary of the meeting and not a verbatim transcript of the discussions. This testimony provides the details and the intentions behind the policies of the RSMUP under the leadership of Stanišić. For example, in relation to Conclusion 6, TUŠEVLJAK explained that the reference to preventing and documenting war crimes and using all legally prescribed resources and methods for documenting such “enemy activity” refers to those whom the RSMUP considered the “enemy”: Green Berets, HOS, Patriotic League, and all paramilitary units, such as the Yellow Wasps.<sup>746</sup> In relation to Conclusion 7, he explained that the reference to the discovery of serious crimes such as looting, war profiteering, serious crimes against life and limb and other criminal offences irrespective of who the ethnicity of the perpetrators, includes serious crimes of endangering life, i.e. aggravated murders.<sup>747</sup>

#### **17 JULY REPORT FROM RSMUP TO GOVERNMENT – NON-DISCRIMINATORY PREVENTION AND DETECTION OF CRIMES**

400. The Report sent by the RSMUP to the RS President and Prime Minister on 17 July 1992 echoes the discussions and conclusions at the RSMUP Collegium, held six days earlier. The Report states *inter alia* that “the tasks which should constantly be insisted upon include prevention and detection of crimes and their perpetrators, with emphasis on looting, war profiteering, serious crimes against life and other crimes, regardless of who the perpetrators are”.<sup>748</sup> (emphasis added) The report clearly notes that

<sup>745</sup> TUTUŠ, T.7914-7915, PLANOJEVIĆ, T.16569; TUŠEVLJAK, T.22276-22278.

<sup>746</sup> TUŠEVLJAK, T.22770-22771.

<sup>747</sup> TUŠEVLJAK, T.22769-22770.

<sup>748</sup> P427.8, p.5.

Serbs – including policemen of Serb ethnicity – were believed to be committing crimes and war crimes and that these offences, along with all others, must be documented.<sup>749</sup>

#### **18 JULY STANIŠIĆ LETTER TO DJERIĆ**

401. On 18 July 1992, as a government member, Stanišić wrote a very stern letter to PM DJERIĆ (with a copy to the RS Presidency and the SSUP) to admonish him for failing to heed Stanišić's repeated requests for the government to adopt a platform in relation to the war-time activities of the Army, groups, and individuals, to prevent breaches of international law and international law of war, which may result in consequences resembling genocide or war crimes. He criticized DJERIĆ for failing to articulate clearly the legitimate political goals of the Serbian people to disassociate the government from all groups and individuals with other intentions. He points out that DJERIĆ has failed to make efforts to establish military courts and, as a result, measures are not being taken against members of the army for alleged perpetrators of crimes because civilians do not have jurisdiction over them. Finally, Stanišić informed DJERIĆ that he issued orders and instructions to MUP members to abide by international law and the criminal code and that the RSMUP is "working on the collection and documentation of war crimes, i.e. genocide, regardless of the perpetrators and their ethnicity" (P190, underlined in the original).

#### **19 JULY – STANIŠIĆ DISPATCH TO CSBs - QUESTIONNAIRES ON WAR CRIMES**

402. On 19 July 1992, in accordance with the conclusions adopted at the RSMUP collegium, held on 11 July 1992, Stanišić sent a dispatch to the CSBs enclosing questionnaires RZ and RZ-1 on war crimes and victims of genocide which had been compiled in the Information Analysis Administration.<sup>750</sup> The dispatch instructed CSBs to complete a questionnaire for all persons regardless of ethnicity, (Muslims, Croats, Serbs and others) against whom criminal reports have been submitted on reasonable grounds for suspicion that they have committed the given crimes, as well as a questionnaire for

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<sup>749</sup> P427.8, pp.3-5.

<sup>750</sup> 1D63.

victims regardless of their ethnicity and regardless of whether a criminal report has been submitted or the procedure of gathering evidence for the submission of a criminal report against a perpetrator is still in progress. A deadline of 10 August 1992 was set for receipt of questionnaires for earlier cases, with a direction to submit them in succession thereafter.<sup>751</sup>

403. PLANOJEVIĆ, together with ORAŠANIN, Nenad ŠKIPINA, and Petko Pekić from the Crime Prevention Administration, drafted the outline that became the questionnaire. The general commitment and the intention of the members of the RSMUP collegium was reflected in the document. The questionnaire dealt with all war crimes regardless of ethnicity. Page 3 is headed: "Victim of War Crimes". Item 5 is "ethnicity" and item 6 is "religion". PLANOJEVIĆ had no knowledge that members of the MUP at the lower levels did not adhere to these principles.<sup>752</sup>

404. ORAŠANIN categorically disagreed with the suggestion made by the Prosecution that these orders, instructions, and forms were mere "window dressing". He stated unequivocally that the RSMUP did not discriminate when it investigated war crimes. He found the suggestion by the Prosecution to be offensive.<sup>753</sup> Similarly, TUŠEVLJAK testified that the Prosecution was completely incorrect to suggest that the position and policy of the RSMUP was only to document war crimes committed against Serbs.<sup>754</sup> He testified that the Guidelines issued by PLANOJEVIĆ in June (1D84 and P568), the conclusions of the Collegium in July and the forms, prepared and distributed by the Ministry (1D63) were the basis for recording information pertaining to any and all alleged war crimes, without discrimination, regardless of the ethnicity of the victim or the alleged perpetrator to ensure that those responsible would be prosecuted.<sup>755</sup>

#### OCTOBER – RSMUP INSTRUCTIONS ON REPORTING

<sup>751</sup> (REDACTED); BOROVČANIN, T.6768-6769.

<sup>752</sup> PLANOJEVIĆ, T.16570-16574.

<sup>753</sup> ORAŠANIN, T.22143-22144.

<sup>754</sup> TUŠEVLJAK, T.22771-22773.

<sup>755</sup> TUŠEVLJAK, T.22415-22419; 1D328; 1D189.

405. In addition, the RSMUP headquarters prepared 1D51, the Instructions on Urgent, Current, Periodical and Statistical Reporting in Internal Affairs Agencies, Bijeljina, October 1992.<sup>756</sup> They were received and acted upon at the SJB level.<sup>757</sup>

406. The Instructions clearly defined the system and regulations on reporting. Page 5, item 9(a) provided *inter alia* that local internal affairs organs have duty to urgently report, especially on war crimes (about which questionnaire RZ and RZ-1 should be delivered subsequently). A war crime was considered a piece of information about which the MUP had to be informed urgently. But, there was also the complete set of forms for statistics covering all areas, including public law and order, traffic, general crime, white-collar crime and so on.<sup>758</sup> The KRIM 1 on page 17 is a form for all MUP members to fill out to provide data on the injured parties.<sup>759</sup> Under number 39.3, next to gender and citizenship, the ethnicity of the injured party is explicitly required. This shows that all victims were treated equally, without any discrimination. All KRIM forms were filled out by operatives who either received criminal reports, who attended the onsite investigation, or those whose duty it was to resolve the criminal offence committed. Based on this, the analyses and IT department processed this data, which contributed to a more efficient uncovering of the perpetrators of crimes.<sup>760</sup>

407. On 5 October 1992, Stanišić sent a dispatch to all CSBs to reiterate requests for questionnaires RZ and RZ-1 and criminal reports – pursuant to 1D63 – and any documentation on crimes against the Serbian population (for prosecution and to accurately inform the local and international public) – pursuant to P173.<sup>761</sup> The dispatch highlights that without these questionnaires and complete details, the ministry is unable to appraise the Presidency and the Government of the number and profile of the perpetrators and victims of war crimes, such as their nationality, age, occupation, manner

<sup>756</sup> NIEGUS, T.11428, P163, Conclusion 9, P1270, p.11.

<sup>757</sup> TUTUS, T.7875-7876 ; KRULJ T.2142-2143.

<sup>758</sup> PEJIC, T.12183-12185.

<sup>759</sup> 1D51 page 17 is not translated into English. See, BCS version, ERN 0090-3533.

<sup>760</sup> PEJIC, T.12185.

<sup>761</sup> 1D572.

of perpetration and other elements from the questionnaire. A deadline for receipt of the questionnaires was set at 10 October.

408. 1D51 – Instruction on Reporting, dated October 1992 – is linked to 1D53, the Instruction on Drafting Annual Reports issued by Stanišić.<sup>762</sup>

#### STATE DOCUMENTATION CENTRE

409. As noted above, information gathered through the investigation of alleged crimes was used first and foremost to identify victims and to detect and prosecute perpetrators regardless of their background or ethnicity. It was also used to prepare reports on the work of the RSMUP and to apprise the RS Presidency, Prime Minister, the Government, and other authorities about events which occurred during the war.

410. On 17 June 1992, the RS Presidency concluded that the RS Government would establish a State Documentation Centre to gather all genuine documents on crimes committed against the Serbian people during war.<sup>763</sup> Prior to that, on 22 April 1992, the RSMUP *inter alia* received a document from the SSUP. It is headed: “State Commission for Genocide, Responsibilities of the OUP, internal affairs organs” (1D635). The SFRY Assembly had adopted a decision on 18 March 1992 on the formation, scope, and composition of the state commission for the collection of data for verification of war crimes, crimes of genocide, and other crimes against humanity and international law committed against Serbs and other ethnicities during the armed conflict in Croatia and other parts of the country. On that date, the SRBH was a part of the SFRY. The federal commissions sought data for the verification of war crimes, crimes of genocide, and other crimes against humanity and international law committed against Serbs and other ethnicities, i.e. Muslims, Croats, and others who lived in the SFRY.<sup>764</sup>

411. In addition, on 17 July 1992, the RS Government in its Operative Programme made the Ministry of Justice responsible for the work of the State Commission for the

<sup>762</sup> KRULJ, T.2142-2143; NJEGUŠ, T.11441.

<sup>763</sup> P273, item 3; NJEGUŠ, T.11481-11483.

<sup>764</sup> 1D635; MAČAR, T.22879-23192.

Establishment of Crimes and Genocide Against the Civilian Population and Victims of War. This Commission was directed to cooperate with international organisations, international courts and United Nations agencies. (1D96, para.27)

412. Information was gathered about crimes committed against Serbs from territories outside the RS, under the control of the ABiH and the MUP of the Republic of BH, rather than in the territory where the RSMUP operated. The RSMUP learned about these events through interviews with Serb refugees who had escaped from these areas. Criminal reports would be filed with the relevant military prosecutor, along with all available evidence: statements, medical documents concerning injuries, etc. The MUP would sometimes assist by providing forensic examination of a body or by performing a post-mortem analysis. As a rule, the alleged perpetrators would not be within the reach of the organs of the RS.<sup>765</sup> There were no investigations or prosecutions being carried out against the alleged perpetrators against the Serbian population in the territories under the control of the BH authorities.<sup>766</sup>

413. KRULJ described the problems faced in these terms. P167 is a Criminal Report, dated 30 November 1994, which he signed as chief of CSB Bijeljina, investigating war crimes against Serbs. Čapljina was not within RS and outside the territory of the Trebinje CSB. These crimes were documented because there was some doubt whether the authorities in Čapljina would investigate. In addition, the witnesses and victims were within the RS. If the victims left the territory, it would be impossible to investigate, file a criminal report, or locate witnesses, collect evidence, and institute criminal charges against perpetrators.<sup>767</sup>

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<sup>765</sup> TUŠEVLJAK, T.22420-22426; P2373; P2376; P2378; P2380; P2381 (T.22775-22778).

<sup>766</sup> P166; NJEGUŠ, T.11500-11503; P2372; TUŠEVLJAK, T.22695-22700; 1D189; P2377 (T.22778-22780), 1D189; P2367-2381 (T.22720-22731).

<sup>767</sup> KRULJ, T. 2109-2113.

414. Information relating to war crimes committed against Serbs was requested from CSBs and SJBs because a report had to be drawn up, pursuant to the request of the Ministry of Foreign Affairs. Information was compiled and sent to the government.<sup>768</sup>

415. On 25 September 1992, the RS Presidency requested that information be gathered about crimes committed against the Serbian people because the Croatian and Muslim alliance had set up special bureaux which were presenting Serb victims as their own and sending this information to all international organisations and embassies. (P625)<sup>769</sup>

### MILITARY JURISDICTION

416. The military judiciary was separate from the civilian judiciary. The law prescribed that the military had its own military police, prosecutor's office,<sup>770</sup> courts, and penitentiaries.<sup>771</sup> Articles 9 and 13 of the Law on Military Courts (P1284.07) define the jurisdiction of the military courts.<sup>772</sup> Pursuant to Article 9, military courts have jurisdiction based on the capacity or status of the perpetrator: (1) a soldier on compulsory military service; (2) a military school cadet; (3) an active junior officer, officer, or military clerk; (4) a person from the reserve force while, as a conscript, on military duty; (5) a civilian carrying out a specific military duty.<sup>773</sup> All persons over the age of 18 are military conscript. Once the person serves his compulsory service, he becomes military reservist. Some military reservists have war assignments with the police and they are therefore called reserve policeman. However, if a police unit –both active and reserve policeman – is resubordinated to the army, they are considered military conscripts and they come under the jurisdiction of the military courts pursuant to Article 9(4).<sup>774</sup>

417. Article 13 puts regular civilians under the jurisdiction of military courts on the basis of the type of crime committed.<sup>775</sup> The prosecution erroneously takes the position

<sup>768</sup> MAČAR, T.22902-22903, 23233.

<sup>769</sup> MAČAR, T.23571-23527.

<sup>770</sup> P1284.08, Art.6.

<sup>771</sup> MANDIĆ, T.9622.

<sup>772</sup> (REDACTED).

<sup>773</sup> (REDACTED); P1284.07, Art.9.

<sup>774</sup> JOVIČINAC, T.26850-26853.

<sup>775</sup> P1284.07, Art.13; (REDACTED), GAČINOVIĆ, T.15128-15129.

that Serb civilians who commit war crimes are not under the jurisdiction of the military judiciary. While there has been some ambiguity and disagreement amongst the witnesses about the interpretation of Article 13, there has been general agreement that war crimes come under the jurisdiction of the military. This is confirmed by the Guidelines on Military Prosecutors, issued to subordinate military prosecutors' offices by the Military Prosecutor's Office at the Main Staff, concerning crimes against humanitarian and international law pursuant to chapter 16 of the SFRY Criminal Code.<sup>776</sup>

418. These Guidelines provide that the Criminal Code applicable on the territory of RS defined 16 criminal offences, including genocide, Article 141; war crimes against the civilian population, Article 142; war crimes against the wounded and the sick, prisoners of war....".<sup>777</sup> The organs of the military police, military security and the military judicial authorities were required to "grant priority to these crimes in their work so that the Main Staff and the other competent institutions should be informed as soon as possible so that they take steps in their own jurisdiction."<sup>778</sup>

419. This confirms that these crimes from chapter 16, crimes against humanity and international law, fell within the exclusive purview of military judicial authorities.<sup>779</sup> For crimes committed during an Imminent Threat of War, serious penalties, including the death sentence, are envisaged.<sup>780</sup>

420. De facto, from 1992 until 1995 there was a permanent armed conflict in Bosnia and Herzegovina.<sup>781</sup> During the general mobilisation in 1992 all military conscripts had a wartime assignment, while those without a wartime assignment had a work obligation.<sup>782</sup> The Guidelines set out that "The greatest numbers of these crimes can be committed only in a time of armed conflict or they are, in some other way closely related to the armed struggle requires that such crimes are committed as part of a large-scale military

<sup>776</sup> 1D368, p.7; P1284.10; KOVAČEVIĆ, T.14199-14201.

<sup>777</sup> KOVAČEVIĆ, T.14201; 1D368 p.7.

<sup>778</sup> KOVAČEVIĆ, T.14201-14202, 1D368 p.9.

<sup>779</sup> KOVAČEVIĆ, T.14202; T.14231-14232, P1284.10, item 3.

<sup>780</sup> KOVAČEVIĆ, T.14232, P1284.10, p.4.

<sup>781</sup> KOVAČEVIĆ, T.14232-14233.

<sup>782</sup> KOVAČEVIĆ, T.14233.



operation and on the orders of superiors."<sup>783</sup> KOVAČEVIĆ agrees with this legal qualification for this group of crimes.<sup>784</sup>

421. The Guidelines also set out the obligation of any officer in any unit to draw up reports covering incidents related to this type of crime, regardless of whether the crime was committed by its own members, or by the other side. There is also the obligation to inform the appropriate military Prosecutor so that other steps might be taken.<sup>785</sup> Unit commands were required to work on uncovering any war crimes that may have occurred in their own area of responsibility and to inform the nearest military police, security, and judicial organs as quickly as possible.<sup>786</sup> Detailed instructions on securing evidence necessary to press charges were provided to the military police and security and military judicial organs.<sup>787</sup> The military commander, in the area of responsibility of his unit, was required by law to detect war crimes.<sup>788</sup> The purpose of these Guidelines was to ensure that all the regulations and the laws were being fully applied.<sup>789</sup>

422. These Guidelines were sent to all the units, secretariats for national defence in all municipalities, police stations, the military police, and military courts.<sup>790</sup> It was not disputed at the time that the military prosecutor's office had jurisdiction and was in charge of prosecuting war crimes and crimes against humanity.<sup>791</sup> It was not in dispute that all commanders of military units were duty-bound in keeping with this instruction to work on detecting and documenting any and all cases of violation of international humanitarian law.<sup>792</sup>

423. P1284.55 is a report on the work of Military Prosecutor's offices for 1992. Criminal reports were filed against 4008 persons in all, soldiers, non-commissioned

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<sup>783</sup> P1284.10,pg.12.

<sup>784</sup> KOVAČEVIĆ, T.14233-14234.

<sup>785</sup> (REDACTED); P1284.10,p.8.

<sup>786</sup> (REDACTED); KOVAČEVIĆ, T.14236.

<sup>787</sup> (REDACTED); KOVAČEVIĆ, T.14234; P1284.10,p 9.

<sup>788</sup> KOVAČEVIĆ, T.14235-14236.

<sup>789</sup> (REDACTED).

<sup>790</sup> P1284.10; KOVAČEVIĆ, T.14236-14237.

<sup>791</sup> KOVAČEVIĆ, T.14236-14237.

<sup>792</sup> KOVAČEVIĆ, T.14237.

officers, 688 civilians and 6 unidentified persons (pg.2). Criminal reports were filed against 233 persons and 84 civilians for crimes against humanity and international law (pg.8). Civilians could be tried before military courts, if they committed crimes against international humanitarian law.<sup>793</sup>

424. 2D107 is a report by the prosecutor attached to the VRS Main Staff, which instructs all the subordinate military prosecutor's offices to give priority to prosecutions of crimes, for example, under bullet 3, "against humanity and international law."<sup>794</sup> These documents demonstrate a very clear responsibility and obligation on the part of military structures to collect evidence and to prosecute any alleged crime against humanity.<sup>795</sup>

425. The prosecutor's office and the military judiciary prosecuted and processed war crimes.<sup>796</sup> A member of the military judiciary conducted an on-site investigation for alleged crimes against civilians in a combat area.<sup>797</sup> Any alleged crimes committed at the front line would be investigated by the military police and subsequently dealt with by the military prosecutor and the military court.<sup>798</sup> In the summer of 1992, for shorter periods, the territories of Banja Luka or Prijedor, or Ključ, or Sanski Most were regarded as war areas.<sup>799</sup>

426. Military judicial authorities had jurisdiction over civilian police, who committed an offence, while re-subordinated to the army. During such periods, the civilian police is considered a part of the army, and the sole jurisdiction for any crimes committed by such personnel lay with the military judicial system.<sup>800</sup>

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<sup>793</sup> (REDACTED).

<sup>794</sup> KOVAČEVIĆ, T.14241-14242.

<sup>795</sup> KOVAČEVIĆ, T.14242.

<sup>796</sup> DRAŠKO, T.12354.

<sup>797</sup> SIMEUNOVIĆ, T.13394.

<sup>798</sup> (REDACTED).

<sup>799</sup> (REDACTED).

<sup>800</sup> (REDACTED).

427. In 1992, the following procedure was applied.<sup>801</sup> If a re-subordinated policeman commits a crime in the AOR, the security officer of the military unit and immediate superior officer are informed.<sup>802</sup> The military police attend at the scene, secure evidence, and they may request the assistance of the forensic department of the civilian police in the territory, if logistic support is necessary.<sup>803</sup> Every incident is reported in a daily combat report and sent directly to the corps command. The military superior officer prepares a criminal report and sends it to the military prosecutor.<sup>804</sup> The military prosecutor will examine all the elements, take any additional steps necessary, and file a request for an investigation with the competent military court. There were also cases where such reports were submitted before civilian prosecutors.<sup>805</sup>

### **G. THE FIVE CSBs**

428. As a result of the situation that existed at the level of the CSBs and below, the RSMUP intervened and took measures, based on orders issued by Stanišić. As noted above, three CSBs “started from scratch” – Trebinje, Sarajevo, Bijeljina – and from May until July 1992, the Doboj CSB was not operating. The circumstances and the ability of the police to conduct police work varied from region to region: the ability of a CSB to communicate with its subordinate SJBs and the Ministry, the impact of fighting, war time conditions, and the participation of MUP personnel in combat operations, the lack of material and equipment available to effectively investigate and document crime, the existence and activities of paramilitary formations, rogue groups, and individual acts of criminality, the authority and influence of local Crisis Staffs and other local government bodies.

### **CSB DOBOJ**

429. The CSB Doboj functioned as a unified organ and communicated with both the MUP-SRBH and the RSMUP until communication lines with Doboj were cut off in late

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<sup>801</sup> (REDACTED).

<sup>802</sup> (REDACTED).

<sup>803</sup> (REDACTED).

<sup>804</sup> (REDACTED).

<sup>805</sup> (REDACTED).

April or early May 1992.<sup>806</sup> CSB chief BJELOŠEVIĆ complied with the orders and commands of the MUP-SRBH Minister<sup>807</sup> because he believed that, since the meeting held in Banja Luka on 11 February 1992, steps would be taken to ensure equal treatment for all the CSBs and SJBs and that the MUP would start functioning in accordance with the law. He hoped that the anarchy, confusion, and arbitrariness that had permeated the infrastructure and functioning of the MUP-SRBH in the previous year would be overcome and that the Ministry would function in an orderly and hierarchical manner. BJELOŠEVIĆ understood that there would be a central MUP headed by Delimustafić and a RSMUP headed by Mićo Stanišić. In these circumstances, he considered it legitimate and legal to inform and communicate with both the MUP-SRBH and the RSMUP as envisaged by the Cutileiro Plan.<sup>808</sup>

430. On 6 April 1992, the MUP-SRBH Minister, Delimustafić sent two dispatches to all CSB Chiefs. The first dispatch ordered the immediate implementation of all three degrees of the Order on Alert Measures. The second dispatch ordered active-duty personnel to report immediately to their duty stations to receive tasks and work duties. All the legal bodies including CSBs and SJBs had their own plans of defence in case of war or an immediate threat of war, emergencies and extraordinary situations, including Alert Measures.<sup>809</sup>

431. In response to the first dispatch, BJELOŠEVIĆ sent a response to both the MUP-SRBH and the SSUP, for their information. He followed this course of action because only the Presidency of the SFRY could issue orders with regards to the Alert Measures in the third degree and some of the measures in the second degree. He felt duty bound to comply with the instructions issued by the MUP-SRBH, but he was compelled to point out that the Minister of the interior of a republic was not competent to issue orders in relation to these matters.<sup>810</sup>

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<sup>806</sup> BJELOŠEVIĆ, T.19597-19598, 21248-21249.

<sup>807</sup> 1D456; 1D457; 1D458, and 1D459. BJELOŠEVIĆ, T.19545.

<sup>808</sup> BJELOŠEVIĆ, T.19545-19548, 20917-20920, 20979-20882.

<sup>809</sup> 1D457. BJELOŠEVIĆ, T.19535-19542.

<sup>810</sup> 1D458. BJELOŠEVIĆ, T.19535-19542.

432. BJELOŠEVIĆ informed the Ministry that he had complied with the second dispatch. All employees at the Doboj CSB had responded to their posts, except for four individuals who were on sick leave. The heads of the organizational units were given instructions to ensure continuity of work and completion of tasks by line of work.<sup>811</sup>

433. Shortly after the 8 April 1992 dispatch from Jašarević concerning the resubordination of volunteers and TO to the MUP was sent out, volunteers started appearing at police stations.<sup>812</sup> On 16 April 1992, Doboj CSB sent a dispatch to the MUP-SRBH, when SJB Derventa was occupied by armed individuals who introduced themselves as territorial units and the defence of the city. They made all regular MUP employees leave, then they ransacked the premises, and took records and other files, including application forms for passports, driving licences, vehicle registration papers.<sup>813</sup>

434. The violence and security problems in the area of the Doboj CSB degenerated rapidly in March and April 1992. A wave of violence spread from Bosanski Brod to Derventa, Odžak, Modriča, in a southerly direction. Camps were set up at the Polet stadium and in the village of Tulek where the captured Serb population was detained.<sup>814</sup>

435. As a result, the Doboj Council for National Defence, together with the commander of the JNA Doboj garrison, Colonel Ćazim Hadžić, and the representative of the police all agreed that check-points manned by joint teams should be established within the town of Doboj to keep the situation stable and under control. This Council was a multi-ethnic body: Ahmet Aličić (SDA) was the President of the municipality, Boro Paravac, was the secretary of National Defence, the garrison commander, and SJB chief.<sup>815</sup> Elsewhere, in the town of Doboj and in the territory of the municipality, check-points were set up by different forces in March. In the area towards Šušnjari, there were check-points under the command of the SDA. People, including the police, were not free to enter this area. There was a check-point in the village of Jekovač which was manned

<sup>811</sup> 1D459. BJELOŠEVIĆ T.19543.

<sup>812</sup> BJELOŠEVIĆ, T.19448-19550, 1D257.

<sup>813</sup> BJELOŠEVIĆ, T.19448-19550.

<sup>814</sup> BJELOŠEVIĆ, T.20903, 21240-21242, 1D453 (T.19527).

<sup>815</sup> (REDACTED)

by HDZ forces. In late March or early April 1992, there were check-points in Modriča, Derventa and Doboj Istok, where weapons and vehicles were seized from JNA members when they arrived.<sup>816</sup>

436. By the end March 1992, the fighting, expulsions and detention of Serbs in Bosanski Brod, Derventa, Odžak, and Modriča showed that the Croatian and Muslim forces were trained, equipped, armed, and prepared to do the same in Doboj.<sup>817</sup> A huge number of refugees arrived in Doboj and Banja Luka who spoke about these events. The areas beyond the town of Doboj were under the control of the Muslim forces: reserve police stations were mobilized, barricade erected, cars were hijacked and plundered, government officials and a JNA officer were abducted.<sup>818</sup> The area west toward Krajina was completely surrounded and lawlessness prevailed. The police was no longer able to function, the economy and supply routes were cut, the paramilitaries and armed individuals moved about freely, broke into homes, and took property, etc.<sup>819</sup>

437. The division of the town of Doboj into a Serb and Muslim-Croat sections was debated by politicians at the Doboj municipal assembly and a meeting attended by Ninković, JNA garrison commander Ćazim Hadžić (a Muslim), his deputy, Major Stanković, and Borislav Paravac, president of the SDS and of the Serb Crisis Staff.<sup>820</sup> Major Stanković was commander of defence of Doboj.<sup>821</sup> The three national parties in Doboj agreed to create separate ethnic municipalities.<sup>822</sup> Following a session of the Assembly of Serbian people of the Doboj municipality on 26 March 1992, the Serbian municipality of Doboj was declared publicly.<sup>823</sup> In the night between 26-27 March 1992, HOS and Muslim paramilitary units attacked and killed Serb residents of the village of Sijekovac.<sup>824</sup> On 22 April 1992, the military helicopter moving wounded soldiers from Doboj barracks was shot at by Muslim forces situated in Čaršija over Doboj. Garrison

<sup>816</sup> Adj.F, 1265, BJELOŠEVIĆ, T.19527, 19686-19688.

<sup>817</sup> BJELOŠEVIĆ, T.20903.

<sup>818</sup> BJELOŠEVIĆ, T.19596-19597, 21240-21242.

<sup>819</sup> BJELOŠEVIĆ, T.19682-19683.

<sup>820</sup> Adj.F, 1266.

<sup>821</sup> LIŠINOVIĆ, T.26456, 26509.

<sup>822</sup> LIŠINOVIĆ, T.26475.

<sup>823</sup> 1D420; BJELOŠEVIĆ, T. 20885-20891.

<sup>824</sup> BJELOŠEVIĆ, T.19561.

Commander, Ćazim Hadžić issued a threat that if this were to be repeated, he would raze Čaršija to the ground with artillery.<sup>825</sup>

438. The Tuzla corps commander made an assessment of military situation and he expected that enemy forces would launch an offensive through this region to central Bosnia and cut BH into two parts. (REDACTED).<sup>826</sup> By the end of April 1992, this movement of enemy troops was evident as all municipalities north of Doboj (Brod, Derventa, Modriča, Odžak) were in their hands,<sup>827</sup> while Doboj was surrounded (Gradačac, Gračanica, Maglaj, Tešanj) there was but a narrow passage from Doboj to the west towards Banja Luka while all other directions were blocked.<sup>828</sup>

439. The JNA Fourth detachment took control of Bosanski Šamac town and municipality in mid April. It was presumably done in attempt to block the enemy offensive and secure the town.<sup>829</sup>

440. Teslić municipality decided to join ARK and thereby severed its connections to Doboj.

441. On 2-3 May 1992, the army took over the town of Doboj pursuant to the decision of the military command as a clear military necessity.<sup>830</sup> Intelligence showed that the Patriotic League and the Green Berets were concentrated in and around Doboj and that they were preparing to attack. The Muslim forces held part of the town beyond Petar Urić Street. They were trained, armed, and organised into squads, platoons, and companies.<sup>831</sup> The JNA prevented the seizure of Doboj by these paramilitary formations, and placed the town under army controlled Town command. JNA forces entered the town of Doboj and they took key positions in the urban quarters of the town: certain intersections, institutions such as municipality building, the court building, the police

<sup>825</sup> 1D820; LIŠINOVIĆ, T.26522-26524; (REDACTED).

<sup>826</sup> ST266, T.26583-26585, 26589-26590, 26598.

<sup>827</sup> 1D819; 1D820.

<sup>828</sup> 1D817.

<sup>829</sup> Adj.F 609-611,640,643-644,647,649, and 652; 1D606, pp.9098.

<sup>830</sup> ST 266, T.26641.

<sup>831</sup> BJELOŠEVIĆ, T.20904-20906, 20964-20968.

building, the SDK building, banks, et cetera.<sup>832</sup> There were no Serbian paramilitaries in the area of Ankare who allegedly forced its residents to leave<sup>833</sup>

442. BJELOŠEVIĆ was not involved in the planning of the take-over, nor was he present in the town of Doboj during the operation. When the action was being carried out, he was up on the slopes of Mount Ozren. He remained there until the morning on 3 May, when he entered Doboj. He went to the police building and found that the offices had been forcibly entered, ransacked and safes forcibly opened. All police officers on duty in police building were arrested. BJELOŠEVIĆ does not know if and to what extent of the police forces participated in the operation.<sup>834</sup>

443. On the morning of 3 May 1992, BJELOŠEVIĆ tried unsuccessfully to convene a collegium of the top personnel at CSB Doboj.<sup>835</sup> That morning, the JNA sent a request to the Muslim formations that were deployed above the town of Doboj (Čaršija) to surrender their weapons by late afternoon to prevent any further fighting from taking place. BJELOŠEVIĆ was in the police building, when an armed conflict broke out before the deadline to surrender weapons had expired. The Muslim paramilitary formations did not want to discuss any surrender of the weapons and instead they chose to advance towards the town. It was quite late into the night when the fighting stopped and everything became calm. The operations continued the following day towards Putnikovo Brdo.<sup>836</sup>

444. From 3 May until July 1992, the Doboj CSB ceased to operate. It had no police department, crime police, personnel service, or legal affairs department. The territory of the Doboj municipality and the subordinate SJBs were no longer under the control of the Doboj CSB. Since mid April 1992, the CSB Doboj had lost control and communications with its SJBs in Derventa, Odžak, Modriča, Bosanski Šamac, Bosanski Brod, Maglaj, and

<sup>832</sup> BJELOŠEVIĆ, T.19601-19603, 20904-20906.

<sup>833</sup> Adj.F 1267; LIŠINOVIĆ, T.26513-26515.

<sup>834</sup> BJELOŠEVIĆ, T.20968-20973, LIŠINOVIĆ, T.26466, 26510-26511.

<sup>835</sup> BJELOŠEVIĆ, T.19607-19608, 21090-21092;P2332.

<sup>836</sup> BJELOŠEVIĆ, T.19603-19604, 20973-20976.



Tešanj.<sup>837</sup> In Teslić, pursuant to a decision of the Municipal Assembly of Teslić, the SJB directed all of its work CSB Banja Luka, despite the fact that the Law on Internal Affairs place the Teslić SJB under the Doboj CSB.<sup>838</sup> The Doboj municipality was divided into four areas. Doboj Usora was under the control of the Croatian Muslim forces, and some 17 villages had been ethnically cleansed. The Serbian population fled mainly towards Doboj and Banja Luka. Doboj Istok and Doboj Jug were under the control of the predominantly Muslim forces.<sup>839</sup>

445. All communications lines between Doboj CSB and the MUP-SRBH and the RSMUP were severed. Until July 1992, when the corridor was opened, the only way to reach Pale from Doboj was by helicopter.<sup>840</sup> In August 1992, there was still no dispatch traffic between the RSMUP and the CSB Doboj and dispatches had to be sent by fax.<sup>841</sup> The CSB Doboj only established its communication system with CSB Banja Luka and some of its SJBs in August and September,<sup>842</sup> while the Ministry could be reached indirectly by short wave communications only.<sup>843</sup> As late as 4 September 1992, the CSB Doboj Crime Prevention Department had no contacts with four SJBs.<sup>844</sup> PETROVIĆ, Doboj SJB chief stated that due to lack of communications the MUP actually came into existence and functioned as of August 1992.<sup>845</sup> From April until the end of summer, the SJB Teslić had no means of communications except for some UKT channels.<sup>846</sup> The communications problems continued throughout 1992 and the CSB Doboj reported that it still had no communication with SJB Derventa, Petrovo and Maglaj as late as October.<sup>847</sup>

446. The Doboj Crisis Staff became the highest authority in the territory and assumed control over all aspects of life, including police matters and the Doboj SJB.<sup>848</sup> On 4 May

<sup>837</sup> BJELOŠEVIĆ, T.19595-19597, 19823-19826, T.19844; LIŠINOVIĆ, T.26507.

<sup>838</sup> P1353.04; P839; 2D74; (REDACTED), BJELOŠEVIĆ, T.19596-19597; P163, p.7.

<sup>839</sup> 1D462, BJELOŠEVIĆ, T.19597-19598, 19601-19610, 20920-20924.

<sup>840</sup> BJELOŠEVIĆ, T.19597-19598, T.19651, 21074, PETROVIĆ, T.9865, 9922.

<sup>841</sup> BJELOŠEVIĆ, T.19719, 1D479.

<sup>842</sup> KEZUNOVIĆ, T.11566-11568, 11680; P1426.

<sup>843</sup> P1426, KEZUNOVIĆ, T.11657.

<sup>844</sup> 1D494, 1D732.

<sup>845</sup> PETROVIĆ, T.10022.

<sup>846</sup> (REDACTED), 1D272.

<sup>847</sup> 1D732.

<sup>848</sup> Muslim Crisis Staff in Tešanj, Adj.F, 1270

1992, the Crisis Staff decided that all police and security work should be placed under the jurisdiction of the Doboj SJB chief, Obren PETROVIĆ. The Crisis Staff authorised PETROVIĆ to organise and manage security operations in the area of Doboj. It was decided that the Doboj SJB would function with its own elements, and the remaining CSB personnel was re-directed to the SJB.<sup>849</sup>

447. In early May, the Crisis Staff introduced a curfew for the safety of the all citizens which only allowed free movement between 8.00 and 11.00 because of the risk of shelling.<sup>850</sup> On 28 May 1992, the Crisis Staff issued a Decision on the Rules Governing Law and Order with dealt with security related matters such as loitering, movement around town, and associated matters. Doboj town and the municipality were shelled almost daily from positions held by Bosnian Muslims and Bosnian Croats. As a result, there were 94 civilian casualties of all ages, including children, women, men, and people of different ethnicities. The Decision applied equally to citizens of all ethnic groups and it was designed to enable the police to deal with security matters.<sup>851</sup>

448. On 15 June 1992, the Crisis Staff of the Doboj municipality issued a decision signed by the Commander of the town defence, Stanković which reflected the changes it had ordered in early May (1D259). SJB chief PETROVIĆ was required to carry out all decisions and conclusions of the Crisis Staff relating to the SJB, within five days.<sup>852</sup> CSB chief BJELOŠEVIĆ was required to provide explanations for decisions made by the Ministry relating to the organisation and appointments at the Doboj CSB.<sup>853</sup> He had made appointments on the basis of the Decision issued by Minister Stanišić on 25 April 1992 which *inter alia* authorized the CSB chief to make appointments.<sup>854</sup> The SJB chief was required to provide the Crisis Staff with lists of personnel.<sup>855</sup> All groups charged with maintaining law and order were required to place themselves under the command of

<sup>849</sup> BJELOŠEVIĆ, T.19607-196010, 20783-20785, 21201-21215.

<sup>850</sup> BJELOŠEVIĆ, T.19692-19693.

<sup>851</sup> BJELOŠEVIĆ, T.19683-19683. 1D474, BJELOŠEVIĆ, T.19683-19685; 1D475, (T.19685-19686), PETROVIĆ, T.9935-9937.

<sup>852</sup> 1D259, para.1; PETROVIĆ, T.9930-9931; BJELOŠEVIĆ, T.19615.

<sup>853</sup> 1D259, para.2, 1D463, para.1.

<sup>854</sup> 1D73, BJELOŠEVIĆ, T.19615-19616.

<sup>855</sup> 1D259, para.3.

the chief of the SJB, as the only person authorised to organise and manage security-related issues in the municipality.<sup>856</sup>

449. All police matters were controlled by the Doboj SJB chief under the authority and control of the Crisis Staff. The Crisis Staff approved the list of assigned heads and inspectors within the police station, which it considered to be temporary.<sup>857</sup> Crisis Staff approval was necessary for appointments of lower-ranking staff at the Doboj SJB. This broke the decision-making chain in the MUP, which, under the law, required the SJB chief to send proposed appointments to the CSB who would in turn forward them to the Minister.<sup>858</sup> The Crisis Staff also meddled in appointment at the level of the CSB in the case of Milan Savić.<sup>859</sup> The SJB chief was duty-bound to inform the Crisis Staff about the latest developments and the situation in Doboj. As a result, Doboj CSB was effectively disbanded and devoid of any authority and the SJB was directly answerable to the Crisis Staff for all police activities.<sup>860</sup>

450. Finances for salaries and other matters from the RS government were first received in Doboj in early July or August 1992, after the Posavina corridor was opened.<sup>861</sup>

451. From 4 May until 30 June 1992, BJELOŠEVIĆ fulfilled a military assignment, as an intelligence analyst under the command of the 1KK. Between 13-24 June 1992, he commanded a unit in the battle field during the corridor operation. Practically the entire Doboj police force was subordinated to the army and participated in the action to open the Posavina corridor.<sup>862</sup> The corridor was opened on 28 June 1992. After his unit disbanded, BJELOŠEVIĆ was transferred to the forward command post of the 1KK where

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<sup>856</sup> 1D259, para.4.

<sup>857</sup> BJELOŠEVIĆ, T.19615.

<sup>858</sup> PETROVIĆ, T.9932.

<sup>859</sup> PETROVIĆ, T.9931-9932.

<sup>860</sup> 1D462. PETROVIĆ, T.9932-9933, BJELOŠEVIĆ, T.19601-19602; 19604-19607, 19615-19616.

<sup>861</sup> BJELOŠEVIĆ, T. 19598-15600.

<sup>862</sup> PETROVIĆ, T.9945-9946.

he again worked in the intelligence department.<sup>863</sup> He only returned to his duties as chief at the Doboj CSB after being hospitalized between 1-7 July 1992 for injuries that he suffered in Teslić.<sup>864</sup> BJELOŠEVIĆ did not inform Minister Stanišić about his engagement in the army in May and June 1992, until they met at the Collegium meeting on 11 July 1992. Communications were down and his assignment in the army was made in full compliance with the laws and regulations.<sup>865</sup>

452. From time to time, during his military duty during May and June 1992, BJELOŠEVIĆ came to his office at the Doboj CSB to familiarize himself with some security information that was collected by the service and to deal with urgent matters.<sup>866</sup> At times during this period, he issued orders on crime prevention<sup>867</sup> and on the request of the warden, an order on the prohibition and procedure regarding visits to Doboj prison for members of the MUP (P1305). On that occasion, four men with rifles were waiting for him at the centre. BJELOŠEVIĆ was asked what the document was all about and he had a pump action rifle pointed at his head. They called him a Serb Ustasha who was protecting Ustashas and Balijas. The order he had issued was taped to the bulletin board and stabbed with a knife.<sup>868</sup>

453. In November 1992, BJELOŠEVIĆ was again engaged in the army in a battalion command pursuant to military orders.<sup>869</sup>

#### **CSB BANJA LUKA**

454. CSB Banja Luka operated in exceptionally complex and tense political, economic, social and security conditions. Since the beginning of 1992, the security situation was running out of control.<sup>870</sup>

<sup>863</sup> 1D262; BJELOŠEVIĆ, 16639-16642, 16654, 19610-19613, 20898, P2344 (T. 21117-21221, 21196-21199, 21212-21215, 21229-21230, 21362-21328).

<sup>864</sup> BJELOŠEVIĆ, T.19657.

<sup>865</sup> BJELOŠEVIĆ, T.21201-21215.

<sup>866</sup> BJELOŠEVIĆ, T.19634, 19626, 21081-21083, P1305 (T.1971-1973).

<sup>867</sup> 1D465, (T.19633-19634), 1D466 (T.21134-21139), P1305 (T.19628-19629).

<sup>868</sup> BJELOŠEVIĆ, T.19628-19629, 21031-21037.

<sup>869</sup> BJELOŠEVIĆ, T.21196-21199.

<sup>870</sup> P621, p.5; P624, p.2; ŠAJINović, T.25130-25131.P1085, p.3; (REDACTED).

455. During 1992, there was a sharp increase in crime in the region covered by CSB Banja Luka as a result of armed conflict, shortage of money and goods, power cuts, non-functioning and inefficiency of state organs, paramilitary groups and refugees. Crime took on forms and proportions which could endanger the state as a whole, with serious and organised crime escalating. About 50,000 refugees came to Banja Luka in late 1991 and early 1992.<sup>871</sup>

456. On 4 April 1992, armed conflict broke out in the municipalities of Kupres, Donji Vakuf, Jajce, Mrkonjić Grad, Kneževo, Kotor Varoš, Ključ, Bihać, Petrovac, Krupa na Uni, Novi Grad, Prijedor, Sanski Most, Teslić, Glamoč and Grahovo. In the same period, sabotage, terrorist and reconnaissance groups and individuals infiltrated certain municipalities. Groups which defected from enemy formations remained in some municipalities and some of them aimed at seizing power illegally.<sup>872</sup>

457. During 1992, members of the service were often exposed to pressure from informal centres of power and blackmailed by paramilitary formations. There was a marked shortage of staff in all SJBs. Work continuity was lost. In certain municipalities there was a tendency to transform the SJBs into municipal secretariats and place them under the absolute control of municipal organs. A number of SJBs were functionally and operationally independent from the Centre, linking their activities to local politics and political leaders while neglecting their legal obligations.<sup>873</sup>

458. Military conscripts, frequently under the influence of alcohol, randomly roamed the streets, threatened people with firearms, opened fire, and put up resistance to those attempting to curb their behaviour. The police turned these conscripts over to the authorised military organs, which did not function and they would release the perpetrators of the most serious crimes. The police were not able to deal with individuals

<sup>871</sup> 2D36, p.5; P624, p.2-3; (REDACTED).

<sup>872</sup> 2D36, p.2; P624, p.4.

<sup>873</sup> 2D36, pp.3-4, 7, 14, P624, p.14.

or organised groups who had been trained to use weapons and had participated in combat operations.<sup>874</sup>

459. The communications system did not function adequately due to shortages of personnel, vehicles, fuel, electricity, spare parts, equipment in poor state of repair, outdated radio sets, the inability to carry out inspections, damage to communication lines, interruptions in telephone and telegraph links, war operations, and power shortages which created chaos in the communications system, especially in telegraphic communications. This resulted in significantly decreased number of dispatches.<sup>875</sup>

460. The CSB Banja Luka had problems establishing direct communications with SJBs that had existed prior to war<sup>876</sup> as well as integrating newly attached SJBs into its communication system.<sup>877</sup> SJBs subordinated to CSB Banja Luka – Prijedor,<sup>878</sup> Sanski Most,<sup>879</sup> Kotor Varoš,<sup>880</sup> Banja Luka<sup>881</sup> – reported disruptions in their communications systems and significant decreases in communication traffic because of wartime conditions. The main road, communications lines and electricity supply lines went through territory under Muslim and Croat control and they disrupted it, resulting in frequent power cut-offs.<sup>882</sup> Many of employees in the communications department had very little experience and training in this field.<sup>883</sup>

461. The Banja Luka CSB used telephone lines through public PTT. The secure phone line with the seat of the MUP was cut off immediately.<sup>884</sup> From April 1992 onwards, communications with the seat of the RSMUP were quite difficult. Physically, the Krajina

<sup>874</sup> 2D36, p.4-5; (REDACTED); SMAJLOVIĆ, T.26071-26072.

<sup>875</sup> P595, pp.11-12; RAKOVIĆ, T.6941-6942, 6967-6972, 7011-7014; P631, GAJIĆ, T.12903-12904, P624, p.12; P160, p.8.

<sup>876</sup> P1471; RAKOVIĆ, T.6954-6955, 6969; JANKOVIĆ, T.24728, 24876-24879.

<sup>877</sup> ST-126 KEZUNOVIĆ, T.11689.

<sup>878</sup> P657, pp.3-4, P684, p.8; P689, pp.14,16.

<sup>879</sup> P386, pp.10-11, P395, p.7 however, this information does not include a breakdown of the period before and after the start of the war and it does not indicate the state of communications with the RSMUP in 1992.

<sup>880</sup> P1486, p.3.

<sup>881</sup> 2D36, p.7.

<sup>882</sup> RAKOVIĆ, T.6969-6970; (REDACTED).

<sup>883</sup> RAKOVIĆ, T.6980.

<sup>884</sup> RAKOVIĆ, T.6955.

was cut off from the rest of BH until July 1992.<sup>885</sup> Communications with headquarters started to improve after the corridor opened in July, but there were no telephone communications with Banja Luka until autumn. P573, the RSMUP Performance Report, stated that telephone and telegraph links from Banja Luka to the seat of MUP had been shut down.<sup>886</sup> In May and June 1992, Banja Luka had no electricity for two months and not enough fuel for generators which caused a long-term communications break down. The breakdown in the communications system often occurred at the PTT.<sup>887</sup>

462. The total number of sent and received dispatches mentioned in the Report prepared by CSB Banja Luka for the period 1 January until 30 June 1992 does not present reliable figures for wartime traffic.<sup>888</sup> The CSB Banja Luka report covering July, August and September 1992 is a more reliable indication of the status of communications during wartime - 1996 non-coded and 152 coded dispatches received and 1385 non-coded and 43 coded sent.<sup>889</sup> P624, the CSB Banja Luka Performance Report for 4 April to 31 December indicated that "a total of 14,808 open dispatches and 1,173 codes were received and 13,080 open and 1,259 closed dispatches sent."<sup>890</sup> If these figures are compared with the peacetime report showing that approximately 200,000 dispatches were sent and received in the period of 9 months,<sup>891</sup> at the time when the CSB Banja Luka had less SJBs, it indicates the very poor state of the communications system in 1992, at only 10% of peacetime exchange of dispatches.

463. The Chief of Banja Luka was unable to travel to Trebinje in August 1992 to attend the RSMUP Collegium because of war time conditions.<sup>892</sup>

464. In 1992, Stanišić spent one day in Banja Luka, when he participated in Security Day celebrations on 13 May. He arrived by car in Banja Luka at 11:00 on 13 May to

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<sup>885</sup> TUTUŠ, T.7792-7793.

<sup>886</sup> P573, p.7.

<sup>887</sup> RAKOVIĆ, T.6873-6874, 6968-6969.

<sup>888</sup> P595, p.13; KEZUNOVIĆ T.11691, P595.

<sup>889</sup> KEZUNOVIĆ, T.11691-11693, P621, p.31, RAKOVIĆ T.6949-6950.

<sup>890</sup> P624, p.12.

<sup>891</sup> 2D52, p.11, KEZUNOVIĆ T.11693-11694, RAKOVIĆ T.6959.

<sup>892</sup> P163, p.3.

attend the Security Day celebrations and he left the same day at 17:00 by car. 13 May was Security Services Day in the SFRY and large scale festivities and gatherings, including cultural, artistic, and sporting events were traditionally held in every town across the country on that day. It was customary for the Republican Secretary of the Interior (Minister) to inspect members of the security services and to make a speech.<sup>893</sup>

465. At SJB Banja Luka, the police carried out investigations in relation to criminal matters and criminal complaints and criminal reports were filed against victims and perpetrators of all ethnicities in accordance with the law and regulations which governed police work.<sup>894</sup>

#### **CSB TREBINJE**

466. CSB Trebinje had fourteen subordinate SJBs.

467. In April 1992, Trebinje CSB had a complete lack of material and technical equipment, fuel shortages, and interruptions in communications and, until, July used the premises of Trebinje SJB. The SJBs in the region operated in war conditions where active and reserve police officers were actively engaged in combat operations. From April to June 1992, only between seven and ten officers worked in all tasks in the seat of the CSB Trebinje. It was only in July 1992 that departments were established in the CSB Trebinje with the minimum number of officers. From 10 April 1992 Ljubinje was shelled on a daily basis. Policemen from SJBs subordinated to CSB Trebinje were resubordinated to the army and fighting on the front lines.<sup>895</sup>

<sup>893</sup> P2310, pp.30-33; TUTUŠ, T.7643-7644, 7780-7781; ŠKIPINA, T.8462; (REDACTED).

<sup>894</sup> TUTUŠ, P1081 (T.7681-7684); P1082 (T.7684-7686); P1083 (T.7687-7688); P1084 (T.7688-7692); P1085 (T.7692-7693); P1086 (T.7693); P1087; P1088 (T.7694-7698); P1089 (T.7701-7702); P1090 (T.7702); 1D198 (T.7796-7802); 1D199 (T.7802-7805); 1D200 (T.7806-7807); 1D201 (T.7807-7808); 1D202 (T.7810-7811); 1D203 (T.7811-7813); 1D204 (T.7813-7814); 1D205 (T.7815-7816); 7816-7817; 1D207 (T.7820-7821); 1D208 (T.7822-7823); 1D209 (T.7824-7828); 1D210 (T.7828-7829); 1D211 (7829-7830); 1D215 (T.7831-7833); 1D233 (7848-7857); 1D234 (T.7858); 1D235 (T.7857-7864); 1D198 (T.7928-7932); 2D57 (T.7932-7938); 2D58 (T.7938-7939); 2D59 (T.7940-7942); 2D59 (T.7941-7942); 1D201 (T.7942-7948); 1D200 (T.7948-7950); 2D60 (T.7950-7952); 2D61 (T.7952-7958); P1089 (T.7958-7961); 2D63 (T.7961-7962, 7993-8004).

<sup>895</sup> P158, P169, p.2., KRULJ T.1995-1996.



468. Paramilitary and parapolice forces obstructed the police operations and frequently attacked policemen. Police work was also obstructed by members of the military who frequently acted as assailants and hooligans, especially when intoxicated and carrying arms.<sup>896</sup> Paramilitaries violated public law and order, established checkpoints, abused policemen, blocked and threatened to attack police stations, looted public and private property, took buildings for their personal use, violated curfews, and mistreated citizens.<sup>897</sup>

469. In the summer and autumn 1992, the CSB Trebinje reported that it was short staffed, the communication system was non-functioning, and that it was cut off from a part of its territory in Herzegovina.<sup>898</sup> The communications system was disrupted because all communications for the region of Herzegovina went through Mostar which was under the control of Croatian and Muslim forces. As a result, the Trebinje CSB was unable to process information from a large part of the territory they covered.<sup>899</sup> It was not possible to travel from Višegrad to Trebinje through the RS. One had to go through travel through Montenegro and Serbia by train and by bus to get to Trebinje. There were constant sabotage actions along that route.<sup>900</sup> There was no phone, no special police secure phones ("special phones"), or fax lines from April to September 1992. Reports were sent by courier but not on a daily basis because it was too expensive. Bileća, Gacko, and Ljubinje had communications problems.<sup>901</sup> Višegrad, Foča and Rudo were cut off and "left out in the cold".<sup>902</sup>

470. On 27 October 1992, Stanišić ordered the deployment of 50 members of the Special Detachment to the territory of the Rudo and Višegrad SJBs with sufficient combat equipment, weapons, and technical equipment to control roads, and people entering the RS, and to prevent crimes.<sup>903</sup>

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<sup>896</sup> P634, p.5, 9.

<sup>897</sup> P161, pp.5-9; P634, pp.7-9.

<sup>898</sup> P158, p.3; P634, p.17; P169, p. 2; MAČAR, T.22970, 22983.

<sup>899</sup> KEZUNOVIĆ, T.11655-11656.

<sup>900</sup> DRAŠKO, T.12347-12348.

<sup>901</sup> KRULJ, T.1979-1982; 1988-1992, 2101-2103; P157; P158, p.3; P160, p.11.

<sup>902</sup> ORAŠANIN, T.22095.

<sup>903</sup> 1D651; MAČAR, T. 23019-23043, 23415-23418.

471. In the area covered by CSB Trebinje circumstances made it difficult, if not impossible for proper crimes investigation and prosecution to take place in a timely manner. On 9 October 1992, the Trebinje CSB informed the Crime Prevention Department at the ministry that there were major problems in relation to crime investigation: personnel shortage, the use of personnel at the front line, the inability to conduct interviews related to crime investigation, the non-functioning military and civilian judicial bodies (P166).<sup>904</sup>

### **CSB SARAJEVO**

472. CSB Sarajevo had twenty subordinate SJBs and it covered a very large, war torn territory in 1992.<sup>905</sup> The Centre was not established in April or May 1992 and it could not communicate with its subordinate SJBs during that period. The CSB moved from Sarajevo to Vrace and then to Lukavica. In May 1992, the CSB only had 14 employees, with 4 members of the crime department.<sup>906</sup> It first began to get off the ground sometime in June. However it continued to experience serious problems: manning levels, crime, MUP in combat, communications, Serb population movement from Sarajevo, SJBs needing assistance and guidance in their work.<sup>907</sup>

473. The CSB Sarajevo suffered from a shortage of crime prevention inspectors, technicians, and technical equipment, which resulted in the inability to conduct on-site investigations. Its subordinate SJBs had a small number of operatives.<sup>908</sup> It was not until 27 July 1992 that Centre was able to hold its first meeting with the managerial staff of the crime prevention in its territory because of the war time conditions. Problems identified at this meeting included: lack of technical equipment, communications problems between the CSB and SJBs, shortage of personnel, criminal groups operating in the territory,

<sup>904</sup> DRAŠKO, T. 12353-12354, P.158, P166.

<sup>905</sup> 1D630, 1D613.

<sup>906</sup> 1D331; TUŠEVLJAK, T.22588-22590.

<sup>907</sup> TUŠEVLJAK, T.22554-22555, P160, p.7.

<sup>908</sup> P793, p.5.

paramilitaries, parapolice, etc. (1D328).<sup>909</sup> The training of forensic technicians could only be organised towards the end of 1992.<sup>910</sup>

474. In the spring, summer, and early autumn 1992, the territory of the CSB Sarajevo was under attack on a daily basis. During this period, approximately 80% of the policemen were involved in active combat operations. The front lines shifted on a daily basis and policemen got killed every day.<sup>911</sup> From early April 1992, the Green Berets and the Patriotic League carried out attacks and took over police stations in Sarajevo.<sup>912</sup> Negotiated truces were broken by Muslim paramilitaries who would open sniper fire at Serb territory, causing casualties among civilians.<sup>913</sup> As a result, it was extremely dangerous to get from CSB Sarajevo to Pale. There were Muslim snipers in Sarajevo, Ilidža, Grbavica, and at the front line on Mount Igman. Gola Brda was under the control of the BH army and from that position the Vrace-Lukavica road was targeted. Lukavica-Kula road came under constant fire from the area controlled by the BH army on Mojmiro hill. At Mount Trebević, the defence line ran across the road which meant that travelling down that road was always a matter of life and death.<sup>914</sup>

475. The Romanija-Birač (Sarajevo) CSB was cut off from its subordinate SJBs: Skelani, Bratunac, Zvornik, Milići, and Šekovići. The roads to these places were taken over by the BH TO. Skelani and Bratunac could only be reached by travelling through the territory of the Republic of Serbia. The other stations could be reached only using a detour via forest roads. Normal dispatch communications via the communications centre did not function. At the time, dispatches could only be delivered by someone who happened to be passing that way. There were no phone lines at Vrace School or at Lukavica when the Romanija-Birač (Sarajevo) CSB moved there in July 1992.<sup>915</sup>

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<sup>909</sup> TUŠEVLJAK, T.22290-22300.

<sup>910</sup> TUŠEVLJAK, T.22780-22782.

<sup>911</sup> TUŠEVLJAK T.22341.

<sup>912</sup> TUŠEVLJAK T.22204-22205, 22217.

<sup>913</sup> 1D68.

<sup>914</sup> TUŠEVLJAK, T.22559-22562. P160, p.10.

<sup>915</sup> TUŠEVLJAK, T. 22272-22273, T.22579-22580, 22581.

476. In May 1992, PEJIĆ was the only employee working at the communications department of the Sarajevo CSB.<sup>916</sup> The CSB could not contact many of the SJBs by phone or visit them even though they were rather near to the CSB seat, e.g. Vogošća, Ilidža, Nedžarići.<sup>917</sup> In April and May 1992, the communications departments faced days of delays in submitting dispatches. The communication system was at 10% of its normal capacities.<sup>918</sup> In July 1992, after it moved its seat to Lukavica, the CSB Sarajevo established irregular dispatch communications with the SJBs located in the vicinity. Communications would be cut due to frequent power outages and communications cable being cut.<sup>919</sup>

477. The CSB Sarajevo faced a wide array of problems associated with its inability to communicate with the SJBs in its territory. For example, with Zvornik SJB, phone communication functioned, provided that each side had electricity. Dispatch communication was not possible because the teletype node centre in Tuzla was under the control of the Muslim side. There was no UHF communication with Zvornik.<sup>920</sup> These problems affected other municipalities in eastern part of the RS: Milići, Vlasenica, Bratunac, Bijeljina, Brčko, Ugljevik, Lopare, which belonged to the Tuzla region prior to war. The communications with most of the SJBs from this part of the RS resumed in summer of 1992 using transitional solutions and substandard equipment<sup>921</sup> and it became functional only in late 1992, while regular communication with SJBs Milići and Vlasenica was not established until 1993.<sup>922</sup> For example, events which occurred in the vicinity of the Milići SJB in May 1992 could not be reported to the Sarajevo CSB until early August 1992.<sup>923</sup> (REDACTED).<sup>924</sup>

478. On 10 July 1992, the Sarajevo CSB requested information on communication equipment to which the Vogošća SJB responded on 14 September 1992. This

<sup>916</sup> 1D331; PEJIĆ, T.12166.

<sup>917</sup> BOROVČANIN T.6652, T.6654, T.6711, T.6829-6831, MARKOVIĆ, T.12653; TUŠEVLJAK, T.22241-22242

<sup>918</sup> PEJIĆ, T.12132-12133. P2311, pp.21-23.

<sup>919</sup> PEJIĆ, T.12174-12175.

<sup>920</sup> PEJIĆ, T.12151.

<sup>921</sup> KEZUNOVIĆ, T.11648-11650.

<sup>922</sup> PEJIĆ, T.12174-12175; (REDACTED); 1D727.

<sup>923</sup> P866 (T.12241-12244), P1073.

<sup>924</sup> (REDACTED).

information was required to ensure that communication equipment used uniform devices of the same type and one brand only.<sup>925</sup>

479. The CSB Sarajevo established non-encrypted communication with the SJBs that had existed before the war (Ilidža, Ilijaš, Vogošća) in late April or beginning of May, while encrypted communication was established only in June or July. Even when the equipment was functioning, communications could be established only when both the sender and the recipient had electricity.<sup>926</sup>

480. In response to the RSMUP's request for information, the CSB Sarajevo responded on 25 July 1992 that it could not provide full information due to weak communications with SJBs as a result of war operations.<sup>927</sup> Poor communications with the SJBs was one of the main reasons for relocation of the CSB Sarajevo from Lukavica.<sup>928</sup>

481. The CSB Sarajevo tried to overcome communications problems by suggesting mini-regionalisation in order to improve co-ordination between its SJBs.<sup>929</sup>

482. The communication situation in CSB Sarajevo improved at the end of summer of 1992.<sup>930</sup> However, on 31 August 1992, the CSB Sarajevo ordered its SJBs to transmit its order by relay due to impeded communications.<sup>931</sup> On 23 September 1992, the CSB Sarajevo had to issue an instruction how to relay information from one SJB to another due to inability for the CSB to contact all the SJBs.<sup>932</sup> In its quarterly report for the period of time from July until September 1992, the CSB Sarajevo reported that the communication with most SJBs is being established in one way or the other but lack of equipment and trained personnel was still a problem.<sup>933</sup>

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<sup>925</sup> PEJIĆ, T.12149, P1474.

<sup>926</sup> PEJIĆ, T.12119; T.12131-12132; see also 1D726.

<sup>927</sup> P589, p.1.

<sup>928</sup> KEZUNOVIĆ, T.11650-11651.

<sup>929</sup> 1D328, pp.1-2; TUŠEVLJAK, T.22292-22293.

<sup>930</sup> KEZUNOVIĆ, T.11651.

<sup>931</sup> 1D801.

<sup>932</sup> 1D586; TUŠEVLJAK, T.22338-22341.

<sup>933</sup> P793, BOROVČANIN, T.6713-6714, P630, p.7.

483. Communications problems at CSB Sarajevo between its SJBs and the ministry existed late into 1992.<sup>934</sup> On 8 August 1992, it reported that the CSB continued to organise and further develop a functional communications system between the SJBs, the CSB and the ministry. It noted: considerable problems in procuring material and technical equipment, power cuts which caused frequent disruptions, phone/fax lines between the SJBs-CSB-Ministry route were disrupted, no possibility to sent encrypted communications, non-functioning telex communications, and plans to develop an alternative short-wave system.<sup>935</sup> In November 1992, CSB Sarajevo inspectors held a meeting with all SJB Communications Chiefs and continued to establish communications with some SJBs.<sup>936</sup> In its Annual Report, CSB Sarajevo reported that it sent 608 reports and dispatches between April and December 1992.<sup>937</sup> A striking example of the communications problems can be seen in the dispatch sent from SJB Milići to CSB Sarajevo on 3 August 1992. CSB Sarajevo was only informed about a serious incident involving a clash with paramilitaries and the murder of number of people months after it occurred.<sup>938</sup>

484. The problems in the area covered by CSB Sarajevo were further compounded during the period July-September 1992 by paramilitary formations in the municipalities of Sokolac, Bratunac, Milići and Vogošća. Two armed attacks were carried out by a paramilitary group on the Sokolac SJB after a number of its members were arrested by the police. The group also attacked the house of the SJB chief by firing at it from a Zolja rocket launcher. In Bratunac, the Red Berets surrounded the SJB, prevented its work and threatened to set it on fire. Again this was in retaliation to the arrest of paramilitaries by the police. Milići SJB was surrounded and besieged for six hours, the police officers in the building were subjected to death threats, and automatic weapons were used to destroy two official vehicles and part of the SJB's equipment. In Vogošća senior employees of the Centre who were at the SJB were brutally insulted and threatened with arms by a

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<sup>934</sup> P647, p.17.

<sup>935</sup> P630, pp.3-4.

<sup>936</sup> 1D727.

<sup>937</sup> P740, p.14.

<sup>938</sup> P1073, P866

paramilitary unit. Their hotel rooms were stormed and they were threatened with death and mutilation.<sup>939</sup>

485. CSB Sarajevo received an order issued by Stanišić on 19 July 1992 to all CSBs which requested, *inter alia*, information on problems with paramilitaries, information about MUP in combat, crime prevention and investigation, prisoners, military prosecutors, and exchange of information between the MUP and the military (1D76). This order was passed down from CSB Sarajevo to its subordinate SJBs, who in turn provided information to CSB Sarajevo.<sup>940</sup>

486. TUŠEVLJAK testified that the main problem at CSB Sarajevo was the lack of inspectors and technicians to carry out crime prevention work. The crime police was not established. There were twenty SJBs under CSB Sarajevo and only certain SJBs had a very small number of operatives between April and August and the others had no crime prevention departments until late 1992.<sup>941</sup> Until July or August 1992, TUŠEVLJAK and two other inspectors were trying to do the work of one hundred persons.<sup>942</sup> It was impossible to go into the field. Evidence was not collected on site and there was no forensic documentation. Often, when the VRS was involved in body exchange, the police was not present or even aware of the exchanges. The greatest problem was that no member of the crime prevention police had ever before found himself in a war zone, attempting to perform crime investigation work. They lacked properly trained forensic technicians who could go on site and document the event using appropriate methods. The experienced crime investigation and forensic personnel had to establish procedures to be followed in the field. On 27 July 1992, the CSB Sarajevo held the first meeting it was capable of holding with the managerial staff of the crime prevention in the territory

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<sup>939</sup> P793, p.4.

<sup>940</sup> P1073;P866 (T.7525); 1D190 (T.7516); P994 (T.7509-7510); P992. P1071 (T.7494-7495); P996; P1074 (T.7511-7516); P1072 (T.7503-7504); 1D191 (T.7517-7520); P748; P740; P1050 (T.7497-7498); 7475-7476; 1D328.

<sup>941</sup> 1D630, 1D613. Crime inspectors: Ilidža 5, Novo Sarajevo 3, Hadžići 1 or none until the end of 1992, Zvornik unknown, Ilijaš 2, Vlasenica unknown, Han Pijesak 1, Sokolac 1, Pale 3, Šekovići 2 (T.22745-22748, 22765-22767).

<sup>942</sup> TUŠEVLJAK, T.22273-22276.

of the centre because of the war time conditions (1D328).<sup>943</sup> It was concluded inter alia to improve communications and operational information, and to have maximal engagement for documenting war crimes and submitting criminal reports. Towards the end of 1992, they organised training for forensic technicians in the RSMUP to improve the work of the crime prevention police.<sup>944</sup>

#### **CSB BIJE LJINA**

487. CSB Bijeljina had six subordinate SJBs.

488. Paramilitary groups arrived in Bijeljina from Serbia and started intimidating and terrorizing local Muslims and Serbs they considered "disloyal".<sup>945</sup> On 31 March 1992 fighting broke out in Bijeljina. Members of Arkan's paramilitary group arrived in the municipality and, in cooperation with a local paramilitary group under the command of Mirko Blagojević, took control of important town structures.<sup>946</sup> Muslim armed groups began attacks on the Bijeljina area on 1 April 1992.<sup>947</sup> By 4 April 1992 Serb forces had taken control of Bijeljina. Members of the White Eagles and the local TO were present in Bijeljina town.<sup>948</sup> (REDACTED).<sup>949</sup>

489. There was no Chief at CSB Bijeljina in July 1992, and as late as August 1992 the CSB Bijeljina was not functional.<sup>950</sup>

490. As described in full detail above, Stanišić took extensive and definitive measures to gain control of police institutions from the hands of paramilitaries, armed groups and individuals, and local authorities who supported them by sending trained, specialized, and equipped MUP personnel, who along with policemen from the SSUP, crushed these rebel formations in the area under the jurisdiction of the Bijeljina CSB.

<sup>943</sup> TUŠEVLJAK, T.22290-22300.

<sup>944</sup> TUŠEVLJAK, T.22780-22782; P793, p.5.

<sup>945</sup> Adj.Fact 1419.

<sup>946</sup> Adj. Fact 1420.

<sup>947</sup> 1D97, p.2.

<sup>948</sup> Adj. Fact 1422.

<sup>949</sup> (REDACTED).

<sup>950</sup> P160, p.12-13; P163, p.8.



491. In addition, there were no communication lines in place to allow CSB Bijeljina to communicate with the seat of the MUP. 1D324 is a dispatch from CSB Bijeljina Chief Ješurić dated 7 May 1992 which states: "(d)ue to a break in the telephone, telegraph and fax communications, during the period from the last report you did not receive reports although they were compiled by the Chief of the Bijeljina CSB". MAČAR stated that this document describes the situation in the territory covered by the centre, just as many others that came in from the field.<sup>951</sup> The CSB Bijeljina was cut off from the seat of the RSMUP for a long time mainly due to power outage.<sup>952</sup> Sometime in August 1992 two police officers were ambushed and killed on their way to Bijeljina to pick up mail.<sup>953</sup>

492. The SJB Brčko lacked communications equipment and it had no communications with the rest of the RSMUP until July 1992.<sup>954</sup>

493. While the Zvornik SJB mistakenly thought it was under the CSB Bijeljina,<sup>955</sup> it reported: "A communications system which could be used to communicate with the neighbouring municipal stations and reserve stations on the territory of the Municipality constitutes a particular problem. The phone lines have been cut off on almost the entire territory of the Municipality. As we do not own a repeater, radio communications can only be used on small distances, we only have one fixed station, two car stations and two Motorolas."<sup>956</sup>

494. Only at the beginning of December 1992, after the communication centre was established at the new seat of the RSMUP in Bijeljina, the communication system in entire RS area started to function relatively properly.<sup>957</sup> PEJIĆ testified that until the end

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<sup>951</sup> MAČAR T.22886.

<sup>952</sup> KEZUNOVIĆ, T.11646-11647; 1D324; 1D565, ANDAN, T.21537-21538.

<sup>953</sup> KEZUNOVIĆ, T.11652-11653; PLANOJEVIĆ, T.16581.

<sup>954</sup> IGNJIĆ, T.1922,1935; P153, p.3.

<sup>955</sup> P336.

<sup>956</sup> P346, p.6.

<sup>957</sup> KEZUNOVIĆ, T.11641, P2311, p.19.

of June and beginning of July everything in the communication system was improvisational.<sup>958</sup>

#### **H. DETENTION – ARRESTS – PRISONERS**

495. As noted above, in 1992, the RSMUP had no authority, jurisdiction, or role to play in relation to POWs, detained persons, or the exchange of POWs . These matters were exclusively within the remit of state authorities and institutions other than the Ministry of the Interior, as stated in the President's Guidelines, the Government Operative Programme, orders and instructions issued by these institutions, the competent ministries and other competent bodies.<sup>959</sup>

496. According to the Law, the MUP is required to arrest perpetrators, investigate crime including the interrogation of the suspect, and to file criminal report with the Prosecutors office. The MUP can detain a suspect up to 72 hours at its premises.<sup>960</sup> According to the law the MUP may not be involved in guarding of prisoners, or be involved in any prisoner exchanges.

#### **EXCHANGES**

497. On the basis of a decision of the National Security Council,<sup>961</sup> Guidelines issued by President Karadžić,<sup>962</sup> and the Government Programme,<sup>963</sup> the MOJ in cooperation with the Presidency and the Government, was in charge of the Central State Commission for exchanges of POW and other arrested people.

498. On 8 May 1992, the Government formed the Central Commission headed by Čolović from the MOJ, consisting of representatives from MOJ, MUP and MOD, as well as regional commissions.<sup>964</sup> The Commission administrative workers were from the

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<sup>958</sup> PEJIĆ, T.12172.

<sup>959</sup> TRBOJEVIĆ, T.4095; MANDIĆ, T.9481-9482, 9554; P2310, p.9; MAČAR, T.23534-23537.

<sup>960</sup> MANDIĆ T.9403, 9575-9576; P120 art.196; P530 art.49

<sup>961</sup> P207.

<sup>962</sup> P1977, para.13.

<sup>963</sup> 1D96, para.26.

<sup>964</sup> P1310.20; P179.18.

MOJ.<sup>965</sup> Commission members were responsible only to PM Djerić through the MOJ. The RSMUP representative was not duty-bound to report or provide any information to RSMUP about its work. However, through incidental contact with Stanišić, he knew that Stanišić always insisted on strict compliance with the Law and the Geneva conventions.<sup>966</sup> After Čolović resigned, the head of the Commission was appointed by the Government on proposal of MOJ.<sup>967</sup>

499. Čolović issued an order on 6 June 1992 regulating the work of local and regional commissions and other bodies, which was beyond his authority and competence. The order confused the rights and obligations of Ministries, Courts, and Prosecutor offices and provided *inter alia* instructions to the RSMUP, ordering them to report to local commissions, and effectively subordinating them to the MOJ and the presidents of Courts. Contrary to the provisions provided by law, his order prohibited the Courts and police to release any person from custody without approval of the exchange commission.<sup>968</sup>

500. Illustrative of confusion that existed at the time was the case of 400 people from Bratunac who were brought to Pale on 14 May 1992. The Central commission was involved in registering these people. PM Djerić and the Government secretary were involved.<sup>969</sup> On that occasion, the people from Bratunac were secured by military police and regular police did not enter the premises of the gym in Pale. A great number of the people from Bratunac wore partial military uniforms. They were fed fish in accordance with their religious beliefs. They were taken to Visoko the very next day. The treatment of these people was praised by the Chief of police at Visoko.<sup>970</sup> Stanišić was not present at Pale on that day but returned the day after.<sup>971</sup>

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<sup>965</sup> MARKOVIĆ, T.12651-12652.

<sup>966</sup> MARKOVIĆ, T.12689-12690, 12674-12675.

<sup>967</sup> P1318.25; P200; P427.12.

<sup>968</sup> P427.7

<sup>969</sup> P427.15; P427.25; P427.16; MANDIĆ, T.9477-9478

<sup>970</sup> P 179.17; MARKOVIĆ, T.12654-12659

<sup>971</sup> P2310 p.13-14; ŠKIPINA, T.8309.

501. Due to the confusion that existed on the matter, the government suggested the formation of a working group to address these issues. The working group never met because of personal issues and the fact that Minister of Defence felt it was within his jurisdiction to deal with prisoners and treatment of prisoners.<sup>972</sup> The MOJ submitted Commission reports to the Government.<sup>973</sup> The work of the Commission was inefficient and ineffective for many reasons: local Crisis Staffs controlled the local Exchange Commissions rather than the central authorities,<sup>974</sup> the VRS established its own commissions for exchanges<sup>975</sup> and central Commission under the MOJ was not informed about their work.<sup>976</sup>

502. An agreement on the implementation of IHL under the auspices of the ICRC was reached in May 1992<sup>977</sup> and ratified by the RS Government on 13 June 1992<sup>978</sup> The Central Commission cooperated and carried out exchanges with the Commission of BH.<sup>979</sup> In July, the parties agreed on the release of prisoners on an "all for all" principle under the auspices of UNPROFOR, and conducted all exchanges in its presence as mediator.<sup>980</sup>

### VRS POW CAMPS

503. Based on an order of the RS Presidency, on 13 June 1992, the Minister of Defence issued an Instruction on the Treatment of Arrested Persons.<sup>981</sup> These Instruction *inter alia* defined "arrested persons" (Article 2) and provided that VRS officers from "unit commander" and above were obliged to designate "collection centres" before start of the combat action. Military commanders were solely competent and responsible for the establishment and organisation of POW camps,<sup>982</sup> and the transport, status, and

<sup>972</sup> P427.11, P427.2 pp.11502-11506.

<sup>973</sup> P1318.23; P2308 p.25-26; P179.7; P239; P228; P247.

<sup>974</sup> MANDIĆ, T.9492-9493; 1D167; MARKOVIĆ, T.12714.

<sup>975</sup> P61.2; MARKOVIĆ, T.12705-12706.

<sup>976</sup> MARKOVIĆ, T.12649.

<sup>977</sup> 1D791; P427.23.

<sup>978</sup> P427.10.

<sup>979</sup> P1318.24; P1318.27.

<sup>980</sup> P1318.26; MANDIĆ, T.9607-9608; P 1318.35; MARKOVIĆ, T.12721-12722.

<sup>981</sup> P179.5; P2309 p.2-3,13; P427.18; MARKOVIĆ T.12708; P189, P427.27.

<sup>982</sup> P189 art.18.

registration of detainees in accordance with IHL.<sup>983</sup> All arrested persons were supposed to complete a card with personal details which would be sent to family and the Central agency and Commission for exchanges established under the auspices of the MOJ.

504. In mid June 1992, the VRS Main Staff ordered Corps Commanders to establish POW camps and instructed strict application of IHL rules.<sup>984</sup>

505. This was in full accordance with principles and rules of engagement that existed in JNA. The JNA 5<sup>th</sup> Corps had ordered establishment of POW camp at Manjača in September 1991,<sup>985</sup> and the Collection camp for POW's at former Stara Gradiška prison in January 1992.<sup>986</sup>

506. Army commanders established collection centres and camps which were exclusively under the full authority and control of the military,<sup>987</sup> including Manjača,<sup>988</sup> Batković,<sup>989</sup> and Sušica.<sup>990</sup> The military had effective control over the majority of prisons, camps and collection centres and military commanders were responsible for the status of detainees.<sup>991</sup> The army issued orders on ICRC visits to detainees<sup>992</sup> and on the registration of information on prisons and collection centres.<sup>993</sup>

#### MOJ PENITENTIARY AND CORRECTIONAL INSTITUTIONS

507. According to the Law, the MOJ was in charge of penitentiary and correctional institutions.<sup>994</sup> On 1 May 1992, the RS Presidency issued a Decision on the establishment

<sup>983</sup> MANDIĆ, T.9498-9499; P189 Art.4.

<sup>984</sup> P61.02.

<sup>985</sup> 1D415.

<sup>986</sup> 1D416.

<sup>987</sup> 1D389, P1800.

<sup>988</sup> LUKAJIC, T.5267-5268; 1D759; 1D758; P61.01; 1D761; 1D762; 1D763, P2024; P2025; P2032; P1727.17, P477; P479; P480; P482; P484; P485; P487; P492; P494;P497; P498; P501; P503; P504; P2025, P486, P497, P495.

<sup>989</sup> 1D766-1D768; 1D797-1D799; 1D770.

<sup>990</sup> P1592; P1593; (REDACTED), P2029; P1594; (REDACTED); P994; (REDACTED).

<sup>991</sup> MANDIĆ, T.9540,9603-9604, 9498-9499; P427.14; 1D769; 1D773; 1D417; P1281; 1D730.

<sup>992</sup> P1683; P491.

<sup>993</sup> 1D771.

<sup>994</sup> P2308 p.32.

of penitentiary and correctional institutions which provided that the MOJ would regulate them and organise departments for reprimand. The Justice Minister appointed the Chiefs of Institutions and the Institutions were guarded by their own guard service. In some cases, if necessary, the MUP could provide support.<sup>995</sup>

508. Some of the penitentiaries, prisons and correctional institutions such as KP Butmir-Kula, Doboj<sup>996</sup> and Foča existed before the war. The Minister of Justice appointed wardens of these institutions.<sup>997</sup> Others were established in 1992 such as Trebinje.<sup>998</sup>

509. Planjo's house was allocated to the MOJ for a prison by Vogošća municipality in July 1992.<sup>999</sup> Its premises were shared with an existing military prison.<sup>1000</sup> Vogošća prison (Bunker, Sonja's) was under the auspices of the Crisis Staff and run by Brano Vlačo who was appointed by the military authorities.<sup>1001</sup> However, the MOJ was *de facto* in charge of all these institutions.<sup>1002</sup>

510. The Vogošća Crisis Staff in fact acknowledged that the prison in Vogošća was illegal.<sup>1003</sup> Such unofficial prisons, collection centres existed elsewhere.<sup>1004</sup> For example, in Prijedor Crisis staff ordered SJB Chief Drljača to establish collection centre which was not within his competencies under the law.<sup>1005</sup>

#### RSMUP RESPONSE

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<sup>995</sup> 1D164; MARKOVIĆ, T.12697.

<sup>996</sup> P1304; P1310.

<sup>997</sup> P1318.32; P1308.

<sup>998</sup> 1D756.

<sup>999</sup> P1327.

<sup>1000</sup> MANDIĆ, T.9532-9533, 9536, 9745.

<sup>1001</sup> MANDIĆ, T.9535-9536.

<sup>1002</sup> P1318.30; P1318.31; P1318.33; P1872; P1308. P1475, MARKOVIĆ T.12673-12675

<sup>1003</sup> P427.3 pp.11550; 1D95; MANDIĆ T.9495;

<sup>1004</sup> 1D165. 1D816

<sup>1005</sup> 1D166, para.15.

511. The RSMUP instructed its members early on to act in strict compliance with IHL.<sup>1006</sup>

512. At the first RSMUP Collegium held in Belgrade on 11 July 1992 *inter alia* the problems regarding prisoners, collection centres, the poor conditions in such “non-defined camps” were reported in full detail by Chiefs of CSB.<sup>1007</sup> It was on that occasion that RSMUP became fully informed about the problem. Urgently, the minutes and the conclusions reached at the meeting were sent to all in RSMUP. CSB’s were ordered to report on these issues within fortnight.<sup>1008</sup>

513. Stanišić immediately reported on 17 July 1992 to highest authorities of RS: President of the Presidency i.e. Supreme Commander and PM and requested a meeting with MOJ and VRS to resolve this situation, so that the RSMUP could perform its duties in compliance with relevant Laws.<sup>1009</sup>

514. Two days later, Stanišić wrote a letter to PM Djerić, with a copy to the RS Presidency and the Federal MUP. Stanišić recalls his repeated requests to Djerić to denounce the activities of those who are committing crimes, including war crimes. He reminds Djerić of the provisions of IHL and its application, as well as Djerić’s failure to establish military courts which makes it impossible to process the perpetrators of such crimes who in overwhelming majority are members of military. Stanišić also informs Djerić that the RSMUP orders and instructions are in full compliance with IHL and all war crimes regardless of who the perpetrators are or their ethnicity were being documented by the police.<sup>1010</sup>

515. After information provided by the RSMUP reached the President and the Government, the President issued an order on the free movement of civilians in

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<sup>1006</sup> P568.

<sup>1007</sup> P160 p.8 Župljanin; p.10 Bjelošević; p.17 Kusmuk.

<sup>1008</sup> P160 p.3 Conclusions 13,14.

<sup>1009</sup> P427.8, pp.3, 6.

<sup>1010</sup> P190.

accordance with IHL.<sup>1011</sup> The extended Presidency session of the same date ordered the RSMUP to investigate the conduct of civilian authorities regarding POWs and to report back within 10 days.<sup>1012</sup> The Ministry for Health requested similar information for ICRC.<sup>1013</sup>

516. The RSMUP immediately took action.<sup>1014</sup> On 10 August 1992, Stanišić ordered that detention measures shall be applied exclusively within existing regulations, with basic hygiene and health requirements. The order emphasizes the personal responsibility of CSB chiefs for its implementation and the application of disciplinary measures for anyone who disobeys it. Security of detention centres, prisons and camps is the direct responsibility of the military if necessary reserve policemen may be engaged but placed at the army's disposal for these duties.<sup>1015</sup> Further on 17 August 1992, Stanišić reminded CSB Chiefs that all RSMUP members must act in accordance with Law and IHL. He requested that the RSMUP be informed immediately of the existence of any unofficial prisons, camps, detention centres and of any behaviour towards POWs or refugees violating legal provisions and international conventions. He instructed on collection of evidence and the filing of criminal reports against any such perpetrator.<sup>1016</sup>

517. The Government also undertook measures. The categorization of prisoners was proposed. RSMUP intervened, suggesting to the President and the PM, as the competent authorities, that civilians must have civilian status and their freedom of movement guaranteed, in accordance with IHL.<sup>1017</sup> The Government discussed the issue at its session the next day<sup>1018</sup> and formed two state commissions.<sup>1019</sup> The Commissions toured RS municipalities and reported to the Government on prisons and collection centres.<sup>1020</sup>

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<sup>1011</sup> P587; MARKOVIĆ, T.12708.

<sup>1012</sup> P427.18; P191; P1330.

<sup>1013</sup> 1D57.

<sup>1014</sup> P2308 p.27-28, 33-36; 1D563; 1D57.

<sup>1015</sup> 1D55; GAJIĆ, T.12872, 12875-12878.

<sup>1016</sup> 1D56; 1D77.

<sup>1017</sup> P192; MARKOVIĆ, T.12694-12696; KOVAČ, T.27053-27059.

<sup>1018</sup> P427.13 AD 12; P1318.5 p.8967-8969.

<sup>1019</sup> 1D254.

<sup>1020</sup> P248; P165; P194.



# **I. STANIŠIĆ MEASURES TO CLEAN-UP THE RSMUP**

## **PLACING MUP PERSONNEL AT THE DISPOSAL OF THE ARMY**

518. Another significant matter which Stanišić faced when the war began was to ensure that the MUP was a professional service whose members met the legal requirements to perform police work. Between May and December 1992, he took continuous steps and issued orders requiring that legal measures must be taken against all members of the RSMUP who had committed criminal acts before or since the beginning of the war, and that they must be dismissed from police duty and placed at the disposal of the army. In addition, he ordered that reserve policemen who did not fulfil the conditions prescribed by law must return their equipment to police stations and report immediately for military service.<sup>1021</sup>

519. In this regard, the problems faced by the RSMUP were the result of two factors. First, the war in Croatia in 1991 and the outbreak of war in BH in 1992 created conditions where individuals who should never have been allowed into the ranks of the police had become members of the active and reserve police forces. The large influx of refugees, an increased crime rate in war affected areas, and the destruction of personnel records made it difficult to regulate the proper admission of personnel into the police.<sup>1022</sup>

520. Second, in early April 1992, contrary to the law, the ranks of the MUP-SRBH had been increased with volunteers. On 8 April 1992, the MUP-SRBH issued a dispatch to its CSBs signed by Jašarević for the admission of volunteers into the police force (1D257). This dispatch not only violated the laws and regulations applicable to the TO, it also admitted individuals into the police who did not meet the requirements needed to be admitted into the ranks of the police. According to this dispatch, persons could become policemen without proper vetting: no background check, compulsory military training, or police education, etc.<sup>1023</sup>

<sup>1021</sup> P1013; 1D76; 1D58; 1D59; 1D176; P855; 1D48.

<sup>1022</sup> MAČAR, T.22954-22956.

<sup>1023</sup> BJELOŠEVIĆ, T.19448-19550, 20929-20931, 21001-21007; 1D460 (T.19551-19554).

521. The extent of the problem, and the need to purge the police ranks of unfit personnel, became evident to Stanišić at the first RSMUP Collegium held on 11 July 1992. As a result he issued orders to gain control over the ministry at all levels of the service, to prosecute those who had committed crimes, to rid the service of unqualified individuals, and to create a professional MUP that operated according to basic legal requirements.<sup>1024</sup>

522. The orders were issued in full compliance with the law and they had the following objectives and consequences. Active-duty policemen, while acting as authorised officials, were not military conscripts, unless subordinated. Under the Law on All People's Defence (L1), if the employment of a military aged police employee ended, the MUP was duty-bound to deliver his personnel file to the military authorities and this individual had to report for military service. Removal from the police did not affect any on-going disciplinary or criminal proceedings. From the moment the individual was dismissed from the police and placed at the disposal of the army, he was given a new status by the Ministry of Defence and he no longer had any connection with the MUP. He was not paid by the police and RSMUP had no influence over any criminal proceedings which may have been instituted against its former member.<sup>1025</sup>

523. These matters were again expressly addressed by Stanišić at the RSMUP Collegium held on 20 August 1992. He insisted on the need to implement immediately and without exception the orders to remove those individuals who, by their professional and moral qualities, were not worthy of belonging to the Service.<sup>1026</sup> He stated that internal affairs bodies have been infiltrated by individuals whose criminal and otherwise anti-social behaviour defile the reputation of the MUP as a whole, and they must immediately rid themselves of such individuals. He declared that only honest employees whose work is based in law can enjoy the confidence of the people and the authorities,

<sup>1024</sup> 1D76; 1D58; 1D59; 1D176; P855; 1D48; ŠKIPINA, T.8454-8455; BJELOŠEVIĆ, T.21004-21007.

<sup>1025</sup> 1D58: KRULJ, T.2120-2157; (REDACTED); BOROVČANIN, T.6761-6763, 6814-6816, 6841-8644; MAČAR, T.22954-22956, 23299-23300. 1D59: (REDACTED); TUTUŠ T.7867-7868; NJEGUŠ, T.11386, 11447-11449; KRULJ T.2120-2127, 2156-2161; MAČAR 22956-22958, 23307-23314. See, also BJELOŠEVIĆ, T.19932-19937, 21004-21007.

<sup>1026</sup> P163, p.3.

and not those individuals who have acted against the law and who will attempt to discredit the MUP.<sup>1027</sup> Another conclusion of this Collegium stated that proper review of the reserve police force must be carried out, and the excess personnel is to be placed at the disposal of the Army of the Serbian Republic.<sup>1028</sup>

524. Stanišić took a further step in this regard on 16 December 1992, when he decided that, immediately upon suspension, every MUP employee is to be placed at the disposal of the locally responsible command of the army, without awaiting the result of disciplinary proceedings (P855).<sup>1029</sup>

### **REDUCING THE POLICE FORCE**

525. In a further step to organise and rationalize the police and to ensure law enforcement in compliance with the law, Stanišić ordered that active-duty policemen in municipalities which were not directly affected by combat activities must be withdrawn from the frontline and the reserve police force members located at the front lines must be made available for wartime assignment of the army (1D49). In addition, he reduced the ratio of reserve policemen to active-duty policemen to 1:2, that is for each regular policeman there should be two reserve policemen.<sup>1030</sup>

526. Pursuant to Article 33(5) of the Law on Internal Affairs, the Ministry proposes the organisation and the total number of the reserve police force in the Republic as well as criteria for filling posts in it. The RSMUP had found itself in a dilemma: the army required a great number of policemen for subordination during engagement at the front lines, however this resulted in the police being unable to perform regular police work because of the high number of policemen involved in combat activities. Before the war, the ratio of reservists to active-duty policemen had been higher: 1:3 or 1:5. The solution proposed by Stanišić – reducing the number of reservists in the police, removing the remainder from the police roster to make them available for wartime assignment to the

<sup>1027</sup> P163, pp.13-14; NJEGUŠ, T.11391-11394, 1D59.

<sup>1028</sup> P163, p.20.

<sup>1029</sup> BJELOŠEVIĆ, T.19932-19937.

<sup>1030</sup> BOROVČANIN, T.6760.

army, and withdrawing active-duty police from the frontlines, except in areas directly affected by combat activities – provided the police with personnel to perform police work, without having their ranks constantly diminished as a result of resubordination to the army. This was a measured and adequate response by Stanišić in the circumstances. It was designed to enable the CSBs and SJBs to have personnel to perform their duties under the law: crime prevention and detection and maintaining law and order.<sup>1031</sup>

527. Reducing the size of the reserve police force and vetting its ranks in localities like Bijeljina proved to be particularly difficult and the implementation of the Stanišić order required well planned action. SJB Bijeljina, ANDAN reduced the “bloated” reserve police force of over 1000 men at Bijeljina, placing approximately two thirds of them at the disposal of the army while the personnel files of the remainder were vetted to ensure that they had the appropriate background and character to perform police work.<sup>1032</sup>

528. By the end of the year, the RSMUP had taken considerable measures of achieving the goal of profiling police personnel: out of total of 11,240, almost 6100 individuals were placed at the disposal of the army, 210 employees were dismissed from duty, 50 were suspended, and 29 criminal reports were brought against police employees.<sup>1033</sup>

#### **MEASURES TO ESTABLISH AUTHORITY OVER THE RSMUP**

529. In the latter part of July 1992, Stanišić took additional measures to establish authority over the MUP and the rule of law throughout the territory of the RS.

530. On 23 July 1992, he authorised ANDAN to inspect the CSBs, SJBs, and police stations and to monitor their work, offer expert assistance and suggest measures for the improvement of shortcomings observed.<sup>1034</sup>

<sup>1031</sup> KRULJ, T.2126-2128; BOROVČANIN, T.6758-6761; ŠKIPINA, T.8453-8454; BJELOŠEVIĆ, T.19836-19837; 1D46; 1D509; 1D585; 1D666; 1D802; P1094; P1023; P1024; P160, pp.7-8.

<sup>1032</sup> ANDAN, T.21454-21456, 21664-21666.

<sup>1033</sup> P615, Art 5; P625, pp.22-23.

<sup>1034</sup> 1D392; ANDAN T.21545; PLANOJEVIĆ T.16560-15562.

531. On 27 July 1992, Stanišić issued a comprehensive order to purge the ranks of the RSMUP of individuals who did not have the required background, character, and training to be police officers, to disassemble any special police units which had been created at the CSB level, to remove all groups and individuals that are not acting under the control of the army and to initiate criminal investigations against them under the Law on Criminal Procedure, to carry out all tasks mandated under the law: crime prevention and detection, public safety, protection of citizens and their property, etc., to report daily to the ministry on the implementation of the order and other matters. In addition, Stanišić announced the creation of the Special Purpose Police Detachment of the RSMUP and that it would perform its duties as prescribed in the Law on Internal Affairs and sub-legal provisions in the entire RS, wherever there are valid reasons for this, as the request of organs of the authorities of Serbian Republic and Chief of CSB (1D176).

532. The following Reports were prepared and sent to the ministry pursuant to 1D176:

- a. P730, Report on inspection at Romanija-Birač CSB, 3 August 1992. The report highlight *inter alia* the problem of police being resubordinated to the army in combat, the need to dismantle police units created at the CSB and SJB level, contrary to regulations and without the approval of the ministry, the problems with paramilitary formations and the danger they posed because of their criminal and renegade behaviour towards citizens of all nations and the police.<sup>1035</sup>
- b. P631, Report on inspection of the uniformed police at Banja Luka CSB (2-4 August 1992), 5 August 1992, submitted by GAJIĆ and Tomislav Mirosavić. Inspectors visited Prijedor SJB and learned for the first time of the existence of the detention centres at Omarska, Keraterm and Trnopolje and that the SJB had set aside 300 policemen to provide security. He stated that the military and not the police should have been guarding prisoners. The Report refers to the disbanding of special police units and placing reservists at the disposal of the army, the interference of local

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<sup>1035</sup> BOROVČANIN, T.6677-6688.

authorities with police work, and the refusal of SJB chiefs to follow orders and instructions from his superiors in the RSMUP.<sup>1036</sup>

- c. P1502, Report on inspection at Banja Luka CSB (7 and 9 August 1992), 10 August 1992. No special police units in the SJBs, light brigades had been formed and financed locally in some municipalities, Prijedor SJB Drljača wanted his police station to become a CSB and he showed disrespect towards the Banja Luka CSB, Muslims found refuge and safety and had free movement at Trnopolje, which was secured by the army and the Red Cross, Keratem was shut down and military prisoners were moved to Manjača, the Orders by Stanišić to purge the ranks of the MUP were being enforced, criminal and disciplinary proceedings were being implemented, the special police brigade will be disbanded and its members put at the disposal of the army.<sup>1037</sup>
- d. P632, Report on inspection performed at Romanija-Birač CSB, 10 August 1992. At Ilidža SJB, the quality of work had improved, paramilitary formations had left for the most part, the area was under constant enemy fire and affects problems associated with organisation, material, equipment, and other matters at the SJB; at Vogošća SJB, there was poor organisation and technical equipment, a group of military police, led by Boro Radić, continued to commit crimes and the SJB chief and commander are taking an unprofessional and irresponsible approach to the illegal activities of this group. Changes to improve the situation were recommended: replace the management at the SJB, send a member of the CSB to Vosgosca to monitor and resolve the problems, replace one-third of the policemen with individuals from outside the region; at Zvornik SJB, there were no evident problems and the Minister's order was being implemented.<sup>1038</sup>

<sup>1036</sup> P1010. GAJIĆ, T.12818-12823, 12828-12835, 12839-12840, 12872-12873, 12902, 12907-12910, ORAŠANIN, T.22125-22126.

<sup>1037</sup> GAJIĆ, T.12835-12840, 12844-12849, 12875-12878, 12911-12917.

<sup>1038</sup> BOROVCANIN, T.6709-6713.

- e. 1D649, Report on inspection at Trebinje CSB, 10 August 1992.<sup>1039</sup> The “special unit” in the area of the Trebinje SJB, established *ad hoc* in the territory of the Herzegovina SAO was disbanded. This resulted in a drop in crime rates and criminal reports being filed against four members of the Trebinje SJB;<sup>1040</sup> the “special units” of the Bileća SJB and Bileća SJB were disbanded. Active duty policemen returned to regular police duties and reserve police and others were dispatched to the VRS;<sup>1041</sup> eight members of the Gačko SJB went to the front in Trebinje without authorization, in protest against the conduct of supervisors and crime incidence in the area of the station and one active member left the station for good on account of the incidence of crime. None of the supervisors were present at the Gačko SJB. They were the ringleaders in criminal activities and that they disregarded civilian authorities. The inspectors recommended that the supervisors at the Gačko SJB be replaced and that perpetrators of crimes be prosecuted urgently.<sup>1042</sup>
- f. P1341, Report on inspection at Doboj CSB, dated 12 August 1992. Candidates were to be selected for police training and to begin work at the SJB level. Doboj SJB chief, PETROVIĆ was ordered to transfer surplus manpower to the army. The special units at Doboj SJB was no longer active and its members would be recommended for a police detachment training course within the MUP. Doboj CSB Chief, BJELOŠEVIĆ was informed that Teslić SJB falls under the organizational jurisdiction of his centre. BJELOŠEVIĆ suggested that a group of inspectors be sent to Teslić SJB to investigate criminal activities of certain policemen and to assess the real situation at this station.

533. On 6 August 1992, a briefing was held in the office of Čedo Kljajić at the RSMUP headquarters, which was attended by senior MUP officials, including Stanišić

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<sup>1039</sup> MACAR, T. 23016.

<sup>1040</sup> 1D649, para.1.

<sup>1041</sup> 1D649, paras.2-3.

<sup>1042</sup> 1D649, paras.3 and 10.

and inspectors who had carried out inspections in the CSBs. The purpose of the meeting was to take stock of the situation and to decide on the next steps that needed to be taken. Stanišić insisted on being given full and accurate information. For this reason, inspectors were re-dispatched to Banja Luka the following day (see, P1502, 10 August 1992) to supplement the report that had provided to the ministry a few days earlier (see, P631, 5 August 1992). The positions taken by the ministry included the disbanding of all special police units, the criminal investigation and prosecution of policemen who committed crimes, along with instituting disciplinary proceedings for their dismissal from the police.<sup>1043</sup>

534. At this briefing, Kljajić stated that disruptions in public order in Gačko were escalating and that the people in charge of the SJB were unable to restore peace and stability to the area. Proposals were made at that briefing to dispatch special units of the RSMUP to the area to help the SJB bring the situation back to normal and pick new personnel for that police station. In last August or early September 1992, the executive staff of the Gačko SJB were replaced.<sup>1044</sup>

535. At the RSMUP Collegium held on 20 August 1992, CSB Trebinje<sup>1045</sup> and CSB Sarajevo<sup>1046</sup> reported that Stanišić's Order (1D176) had been implemented and that paramilitary groups had been disarmed and placed under the command and control of the military. However, in the area of Bijeljina, Stanišić was told that the police was involved in large scale military operations in Ugljevik and Lopara municipalities. As a result, there was widespread looting by groups and individuals and the police was taking measures to document this criminal activity.<sup>1047</sup>

536. At this same Collegium, Stanišić returned to his Order (1D176) and he stated that all special units established at the CSB and SJB level and the establishment RSMUP

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<sup>1043</sup> P632, para.1 ; GAJIC, T.12845-12846, 12873-12874.

<sup>1044</sup> MACAR, T.23017-23018, 23413, 1D567 (T.21547-21548), 1D651 (T.23039-23033), 1D647, 1D650 (T.23019-23021, 23414-23145),

<sup>1045</sup> P163, p.4.

<sup>1046</sup> P163, p.8.

<sup>1047</sup> P163, p.9-10.



Special Detachment under the command of Milenko Karišik. This Detachment would have a unified command at the Ministry level with parts of it attached to individual CSBs. These detached units would mainly consist of police employees belonging to current SJB and CSB forces, and a command staff which would have to receive additional command-and-control training. The criteria for membership in the Detachment and control over its equipment would become stricter. Its future operations would be subject to in-depth assessments, collective approach, complete documentation of criminal activities, etc. All such activities, including those of the Detachment, must be lawful and in accordance with international law. All RSMUP members would bear full responsibility under the law for any other behaviour (genocide, creation of camps, etc.).<sup>1048</sup>

537. For example, in October 1992 a special police detachment was set up as at CSB Dobož under the unified command of Milenko Karišik would could authorise and order its deployment.<sup>1049</sup>

#### STRENGTHENING DISCIPLINARY PROCEDURES

538. Stanišić took measures to bolster the Rules on Disciplinary Responsibility in the light of the wartime situation by increasing the number of potential disciplinary offences and by streamlining the disciplinary procedures to ensure that disciplinary matters proceeded more expeditiously and efficiently than in peacetime.

539. The Ministry of Interior is part of the State Administration and its employees – active-duty policemen – are considered employees of State Administration.<sup>1050</sup>

- a. The discipline of employees of the RSMUP, i.e. active-duty policemen, was regulated by Law on State Administration, Articles 253-332 (L17) and the Law on Internal affairs (P530).<sup>1051</sup>
- b. An employee was subject to disciplinary procedure *only* in case of dereliction or neglect or duty as specified by law, other regulation<sup>1052</sup> or

<sup>1048</sup> P163, p.11-12, Conclusion 7, p.15.

<sup>1049</sup> BJELOŠEVIĆ, T.19840-19843, 21069-21070.

<sup>1050</sup> P530 Art.2.

<sup>1051</sup> The Law on State Administration was applicable based on Article 12 of the RS Constitutional (P181).

regulation on internal organisation of the organ of Administration.<sup>1053</sup>  
(emphasis added). (L17, Article 295(2))

- c. Responsibility for a criminal act or criminal responsibility did not preclude disciplinary responsibility, if that offence or criminal act also represents dereliction of duty. (L17, Article 295(3))

540. In peacetime, an active policeman could be only found disciplinarily liable for total of 37 serious offences<sup>1054</sup> and 8 minor offences.<sup>1055</sup>

541. Reprimand and public reprimand could be imposed for minor disciplinary offences while redeployment to another position from 3 to 12 months, a salary fine up to 15%, and termination of employment, could be imposed for serious disciplinary offences.<sup>1056</sup>

542. The measures for minor disciplinary offences are imposed by the Official who manages the State Administration organ. For serious disciplinary offences, a disciplinary commission was established to review the matter and impose disciplinary measures, except for measures of “redemption to another position” which was imposed by the Minister on proposal of the disciplinary commission. A disciplinary commissions were composed of a President and two members appointed by the Official who manages the State Administration organ.<sup>1057</sup>

543. Disciplinary prosecutors may be appointed to collect evidence with a view to putting forward a request for instituting disciplinary proceedings against a MUP employee before a disciplinary commission.<sup>1058</sup> For example, on 7 July 1992, the Chief of CSB Banja Luka appointed 6 disciplinary prosecutors and defined their duties.<sup>1059</sup>

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<sup>1052</sup> P530.

<sup>1053</sup> Rulebook on internal organization of MUPBH (P850) was applied throughout 1992 as the RSMUP Rulebook (P615) was adopted only in April 1993, 1D662 par 357.

<sup>1054</sup> L17, Art.296; P530, Art.114.

<sup>1055</sup> L17, Art.296; P530, Art.114; P850, Art.112; 1D662, para.372.

<sup>1056</sup> L17, Art.297.

<sup>1057</sup> L17 Art.298; P 850 Art.115; 1D662 para.373, P1287.

<sup>1058</sup> P530 Art.113.

<sup>1059</sup> P1286, D662 paras.374-375.

544. Requests for disciplinary proceedings are filed by the Official who manages the State Administration organ,<sup>1060</sup> the official designated by the Minister,<sup>1061</sup> the chiefs of Administrations, and the Chiefs of CSB.<sup>1062</sup> However, proposals to initiate the disciplinary proceedings or reports are the responsibility of SJB chiefs and chiefs of Administrations.<sup>1063</sup> The CSB chief shall determine, within seven days of being informed of the fact that an authorised official has used force or firearms, whether it was used lawfully and justifiably.<sup>1064</sup> The CSB Chief is normally made aware of such incidents through reports provided by his subordinate SJB chiefs.<sup>1065</sup>

545. When criminal or disciplinary proceedings are initiated, the employee is temporarily suspended.<sup>1066</sup>

546. The parties have the right to appeal a decision of the disciplinary commission with the Secondary Disciplinary commission at the seat of the Ministry, which consists of a President and four members who are appointed by the Government.<sup>1067</sup>

547. The decision of the Secondary Disciplinary commission is final.<sup>1068</sup>

548. The role of the Minister of the Interior is limited to the disciplinary procedure *vis-à-vis* employees of the Ministry at its seat. He may initiate disciplinary proceedings, appoint a disciplinary prosecutor and a first instance disciplinary commission, and impose disciplinary measures for minor offences. The Minister and the RSMUP are excluded from all aspects of disciplinary proceedings at CSB level and/or the appeals

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<sup>1060</sup> L17, Art.300.

<sup>1061</sup> P530, Art.115.

<sup>1062</sup> P850, Art.92-98 and 102,1D58, 1D662 para 369, 393 .

<sup>1063</sup> 1D662, para 355; P850 Art.94-98.

<sup>1064</sup> P530, Art.59.

<sup>1065</sup> 1D662 para 377, 1D469 (T.19657-19661), 1D524 (T.19896-19000), 1D525 (T.19000-19905), BJELOŠEVIĆ, T.20935-20937, 21249-21251.

<sup>1066</sup> P 530, Art.118;1D662, paras.380,381.

<sup>1067</sup> P 530, Art.117; L17 Art.308.

<sup>1068</sup> L17, Art.307.

proceedings and they do not take part in making final decisions.<sup>1069</sup> In other words, disciplinary proceedings took place outside the usual hierarchical structure of the MUP, under the auspices of independent bodies: disciplinary prosecutors, first instance disciplinary commissions and second instance commission appointed by the government whose decision was final.

549. The disciplinary prosecutors and/or disciplinary commission at the seat of the RSMUP were not appointed in 1992 because by late summer, when the new Rules of disciplinary procedure were introduced, the RSMUP had approximately 40 employees in total, including the support staff, such as drivers, secretaries and technical staff.<sup>1070</sup> It only reached 65 employees by October 1992.<sup>1071</sup>

550. Disciplinary responsibility is distinct from the criminal responsibility. If an alleged conduct which gives rise to disciplinary proceedings may also constitute a crime, then criminal prosecution of the act does not preclude the disciplinary responsibility.<sup>1072</sup> Furthermore, in such cases, or in case of any criminal offence, the criminal complaint against any member of the Ministry – an active-duty policeman as well as a reserve policeman – is filed with the competent prosecutorial authority.<sup>1073</sup>

551. As noted above, disciplinary proceedings and measures are applicable only to employees of the Ministry i.e. active policemen. A reserve policeman cannot be subjected to disciplinary proceedings of any kind. If a reserve policeman commits a disciplinary offence, the only measure that can be imposed is to remove him from the reserve police and return him to a military mobilization organ, as military conscript. An individual who is sent to the army is not pardoned or amnestied from any potential criminal liability for his conduct while he was a reserve policeman.<sup>1074</sup>

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<sup>1069</sup> 1D662, paras.377,379, 381.

<sup>1070</sup> NJEGUS, T.11427, 11457.1D324, P1419.

<sup>1071</sup> P1501.

<sup>1072</sup> L17, Art.295.

<sup>1073</sup> 1D58;1D59 ;1D662 paras.391,392,393,394.

<sup>1074</sup> NJEGUS, T.11458-11459, P1013.

552. This is why Stanišić issued several orders to remove reserve policemen from the ranks of the police who were unfit and unqualified to act as reservists and to place them at the disposal of the army.<sup>1075</sup>

553. In peacetime, disciplinary proceedings could require a significant amount of time to work their way through the procedural requirements and formalities of the system. From April to the summer of 1992, the disciplinary system within the RSMUP was functioning, albeit with lower than expected results in some SJBs.<sup>1076</sup>

554. Immediately after learning of this at the first RSMUP Collegium held on 11 July 1992, Stanišić took immediate action to ameliorate the situation.<sup>1077</sup> He sent dispatches and orders for legal measures to be taken against all MUP members for breaches of discipline and the commission of any crimes. In the case of the commission of a crime, legal measures should be implemented, and the individual was to be dismissed from the police and placed at the disposal of the army. He ordered a report on the implementation of their measures within 7 days.<sup>1078</sup>

555. The CSB Chiefs informed the subordinated SJBs and reported back to the Ministry.<sup>1079</sup>

556. After assessing the situation, Stanišić instructed the Administration for Legal Affairs<sup>1080</sup> to draft the Rules on the Disciplinary Responsibility of Ministry of the Interior Workers of the Serbian Republic under the Wartime Regime which were introduced at the end of August 1992.<sup>1081</sup>

<sup>1075</sup> P1013; 1D46; 1D48; 1D49; 1D58; 1D59; 1D176; 1D666; 1D662 paras.383,387,391,397,

<sup>1076</sup> 1D190 Vlasenica SJB filed 14 criminal complaints against reserve policeman, 1D649 report dated 10 August 1992 from inspectors from MUP who visited Trebinje CSB cites 4 criminal complaints filed against members of SJB Trebinje, P585, P631, 1D662 para 402, P1002;P1016; P1038; P1039; P1986; 1D668;1D562. 1D97 fn.on page three "about 70 employees were dismissed from Bjeljina SJB on the grounds of misuse, illegal operation and criminal offence".

<sup>1077</sup> P160, Conclusion 17, P427.8

<sup>1078</sup> 1D58; 1D59; P592; P1061; 1D662 paras.405-406

<sup>1079</sup> 2D25, 1D584 refers in preamble to dispatches sent on 25 and 28 July 1992 ;1D47

<sup>1080</sup> P1423.

<sup>1081</sup> 1D584, 1D583 the Rulebook has been dispatched on 28 August 1992; the actual text of Rulebook in evidence 1D54 is dated 19 September 1992.

557. These new Rules provided for a summary procedure for establishing the disciplinary responsibility of MUP workers. The function of the first instance disciplinary organ was assumed by the Administration chiefs at the ministry, police detachment commanders, and chiefs. The Minister would rule on appeals and his decision was final. The purpose of the Rules was to simplify procedure and to speed up and facilitate the issuing of disciplinary measures against MUP members who violated their duties.<sup>1082</sup>

558. The adoption and application of the new Rules on disciplinary responsibility is highly significant for the following reasons :

- 18 additional serious offences and 1 new minor offence were introduced;<sup>1083</sup>
- The serious offences included:
  - Failure to report, namely concealing serious violations of work duty on the part of another worker;
  - Abuse of official position or exceeding official authority;
  - Submission of false reports, concealing or destroying official permits, books or documents, forging official permits or the use of forged permits;
  - Committing a criminal offence for dishonourable reasons;
  - Expressing ethnic, racial or religious intolerance (...).

559. The new Rules drastically shortened and streamline the time required for the disciplinary process. The disciplinary prosecutors and disciplinary commissions were not envisaged. The power to impose disciplinary measures for minor offences was given to SJB chiefs. The power to impose measures for serious offences was given to CSB chiefs,

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<sup>1082</sup> KRULJ, T.2144; NJEGUŠ, T.11429-11430; TUTUŠ, T.7876. See, Gagula Case, P1039, 2D26, 1D237, 1D238 (T. 7877-7882).

<sup>1083</sup> 1D54, art.2

chiefs of administrations in MUP at its seat and the Commander of police brigade, while Minister is authorised to decide on appeals.<sup>1084</sup>

560. Furthermore, the right to initiate disciplinary proceedings was given to any employee of the RSMUP.<sup>1085</sup> The procedure for establishing disciplinary responsibility was declared as urgent<sup>1086</sup> and the time to file appeal on first instance decision was shortened from 15 days to 3 days only.<sup>1087</sup> Finally, the statute of limitations for conducting disciplinary proceedings was extended: from 3 to 6 months for minor offences and from 6 to 12 months for serious offences. If the violation of work duty included the elements of a crime, the statute of limitations would run out one year after the day that they learned about such a violation. These rules provided for much stricter rules concerning the disciplinary responsibility of the members of the MUP.<sup>1088</sup>

561. By introducing the new Rules, Stanišić enlarged the number of serious disciplinary offences by 50%, specified new serious offences, including ethnic intolerance, significantly simplified and shortened the time required for disciplinary measures to be imposed, enlarged to the absolute maximum the number of people who are entitled to initiate disciplinary proceedings (every employee). The Rules sanctioned the failure to report serious offence committed by other employees, and ultimately extended the statute of limitations so that no offence would be left unpunished.<sup>1089</sup>

562. At Collegium meetings in September, October, and November Stanišić insisted on the implementation of the new Rules and they were implemented.<sup>1090</sup> On appeal, the Stanišić followed the provisions of the new Rules strictly (and an overwhelming number of appeals were unsuccessful, and, all disciplinary measures, including termination of employment were confirmed).<sup>1091</sup> He even went one step further

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<sup>1084</sup> 1D54, Art.4, 15.

<sup>1085</sup> 1D54, Art.5.

<sup>1086</sup> 1D54, Art.12.

<sup>1087</sup> L17, Art.307; 1D54 Art.14.

<sup>1088</sup> 1D54 Art.17; KRULJ, T.2144-2147.

<sup>1089</sup> NJEGUŠ, T.11429-11430. 1D662, paras.432-435.

<sup>1090</sup> 1D584, P1269, 1D662 paras.408, 410-411, 1D191; 1D593; 1D592; 1D187; 1D184; 1D186.

<sup>1091</sup> P2443;1D530; 1D796; P1288.

to bolster the disciplinary regime by issuing the order by which all suspended employees were automatically sent to the Army pending their disciplinary proceedings.<sup>1092</sup>

563. In 1992, the disciplinary system within the RSMUP existed and it was bolstered and its procedures and provisions were made more stringent on the orders and direction issued by Stanišić. As a result of the war time conditions, he took immediate and decisive action to tighten disciplinary control over MUP employees and to ensure that they abided by the law when acting as members of the service.<sup>1093</sup> The changes instituted by Stanišić to the disciplinary system and its application were yet another example of the policies he pursued throughout 1992 to ensure that all MUP employees abided by the law, underwent appropriate security checks,<sup>1094</sup> that their work was scrutinized by the RSMUP with the view of filing criminal complaints,<sup>1095</sup> and that proper candidacy procedure were followed, free from interference or political considerations by local municipality organs.<sup>1096</sup>

#### **APPOINTMENTS, REMOVALS AND REPLACEMENTS**

564. Another significant aspect to the measures implemented by Stanišić in 1992 with the aim of improving the work of the ministry and to ensure that the police functioned legally to provide the best law enforcement possible was done through the changes he made to personnel at the seat of the RSMUP.<sup>1097</sup>

565. ŠKIPINA, the Undersecretary for NSB resigned at the beginning of July 1992 after being repeatedly attacked by the media in BH for being involved in different criminal activities. He knew these accusations to be false and he demanded that his eventual

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<sup>1092</sup> P855; BJELOSEVIC, T.19330-19331.

<sup>1093</sup> 1D662, para.436.

<sup>1094</sup> 1D671; 1D48; 1D513.

<sup>1095</sup> 1D644.

<sup>1096</sup> 1D512; 1D503; 1D522; 1D528.

<sup>1097</sup> NJEGUŠ, T.11475.



responsibility be established either immediately or later.<sup>1098</sup> He was replaced and the new Undersecretary in charge of NSB and his deputy were appointed on 6 August 1992.<sup>1099</sup>

566. After the first Collegium of the RSMUP held in Belgrade on 11 July 1992, the Minister had the opportunity for the first time to assess the situation in the field and the overall functioning of the RSMUP based on reports he received directly from the senior managers from the seat of the MUP and the CSB Chiefs.<sup>1100</sup>

567. As result, Chiefs of the most important Administrations in RSMUP were replaced. The Chief of Administration for Crime Prevention PLANOJEVIĆ was replaced in late July 1992 by MAČAR.<sup>1101</sup> The Chief of Police Administration Vlastimir Kusmuk was replaced by Tomislav KOVAČ on 6 August 1992.<sup>1102</sup>

568. The Undersecretary for Public Security Čedo Kljajić, who worked from Bjeljina beginning in July 1992, left the post in autumn, after the Commission formed on 20 August 1992 by Stanišić's order, filed its report on indicia of embezzlement of funds and other misappropriations in Bijeljina on 31 August 1992.<sup>1103</sup> As result of findings of this commission Inspector of RSMUP Police Administration Dragan ANDAN, despite being publicly praised by the Minister for his role in arrest of Yellow Wasps paramilitary group in Zvornik and subsequently ordered by the Minister to lead the special police unit to Foča to arrest paramilitary group over there,<sup>1104</sup> was suspended and a disciplinary procedure against him was initiated.<sup>1105</sup> Being aware of the Minister's attitude, and knowing about the allegations about the misappropriation of a BMW, Kljajić resigned and left BH before disciplinary or criminal proceedings were initiated against him.<sup>1106</sup>

<sup>1098</sup> ŠKIPINA, T.8384-8389; P1267; P1268; P2022.

<sup>1099</sup> P597.

<sup>1100</sup> P160,

<sup>1101</sup> PLANOJEVIĆ, T.16435-16436, MAČAR, T.23174-23177.

<sup>1102</sup> P2021, P599.

<sup>1103</sup> 1D348; MAČAR, T.23045-T.23047.

<sup>1104</sup> 1D557, p.8; ANDAN, T.21493-21497, 21701-21702; 1D647; 1D648; 1D566; 1D567.

<sup>1105</sup> P2348, P2349. ANDAN, T.21559-21561.

<sup>1106</sup> ANDAN, T.21723; DAVIDOVIĆ T.13573-T.13574.

569. When the RSMUP was created, the policy was to keep the existing cadres at their posts. At the CSB level, only two CSBs existed prior to 1 April 1992, Doboj and Banja Luka. Both Chiefs, appointed by Minister Delimustafić of MUP-SRBH, remained at their posts. Similarly, at the newly formed CSBs at Bjeljina and Trebinje, the SJB Chiefs, who had been appointed by MUP-SRBH, became the CSB Chiefs. As for Sarajevo CSB, Zoran Cvijetić, the Chief of Sokolac SJB,<sup>1107</sup> was promoted to Chief of a newly formed CSB. These appointments were in full accordance with the agreed policy on split of the MUP at the MUP-SRBH Collegium held on 1 April 1992.<sup>1108</sup>

570. During 1992 Chief of CSB Bjeljina was replaced five times. Predrag Ješurić was a lawyer, who had no prior experience in the police. He was appointed prior to 1 April 1992, by MUP-SRBH Minister Delimustafić.<sup>1109</sup> Once it was recognized that he could not perform his duties properly he was replaced by Dragan Devedlaka. However, Devedlaka left and went to Serbia very soon thereafter.<sup>1110</sup> Dragan ANDAN, who was an inspector of RSMUP Police Administration, held this position until early September 1992. Then, Blagoje Mihajlović took over for a very short period of time, until finally Petko Budiša took the post.<sup>1111</sup>

571. At CSB level, it was for the CSB Chiefs to propose candidates to the Minister for appointment of the chiefs and other managerial positions at the SJB level.<sup>1112</sup> At previously discussed, at the beginning, in a number of SJBs, the Chiefs were appointed by municipal organs, Crisis Staffs and similar local organs without a proper proposal and vetting by the Chief of CSB, or without the approval or sometimes even the knowledge of the Minister, and RSMUP. In Zvornik four different Chiefs of SJB were appointed and replaced by local municipal organs between 1 April 1992 and beginning of August when Lokančević was appointed in a proper procedure with the RSMUP approval and

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<sup>1107</sup> P2357.

<sup>1108</sup> P2320.

<sup>1109</sup> MAČAR, T.23119-23120.

<sup>1110</sup> ANDAN, T.21435; ŠKIPINA T.8366-8367; PLANOJEVIĆ T.16577.

<sup>1111</sup> ANDAN, T. 21829; OTP Chart page 6 P877.

<sup>1112</sup> 1D73,P2342

knowledge.<sup>1113</sup> In Prijedor, the Crisis Staff appointed Simo Drljača as Chief of SJB.<sup>1114</sup> The same occurred at the SJBs at Bosanski Šamac, Foča, Višegrad, Bratunac, and Skelani.<sup>1115</sup> In Sanski Most SJB, the appointed Chief, Majkić was replaced by Vručinić by a decision of the Crisis Staff.<sup>1116</sup> After July 1992 and normalization of work of all CSBs, the process of review of the appointments started.<sup>1117</sup>

572. At some SJBs, no appointments had been made or individuals with no experience in police held position which they were incapable to fulfil. For example, this was the case at SJB Brčko, when ANDAN arrived, after being sent by Stanišić to assistance in the organisation of the police station,<sup>1118</sup> and, at SJB Gačko, where RSMUP inspectors established that there were no managing personnel.<sup>1119</sup> Replacements and new appointments were regularly done after normalization of the work from August 1992 onwards. Such were the replacement of Chief of SJB Vogošća Maksimović who was dismissed from the police and criminal complaint filed against him.<sup>1120</sup> Replacements and new appointments were effected also in Vlasenica, Novo Sarajevo, Šamac, Zvornik, Bijeljina, Teslić, Gačko, Brčko, Šekovići.<sup>1121</sup>

573. However, in some localities, the Ministry could not replace or appoint new managerial personnel because of the political strength of local authorities at the SAOs or municipal Crisis Staffs. These local bodies were often more powerful and influential than the ministry and they made executive decisions on appointments, organisation, funding, and functioning of police stations and local security matters.<sup>1122</sup>

<sup>1113</sup> P341, PANIĆ, T.2998-T2999;(REDACTED); ORAŠANIN, T.21879 P881 p.10.

<sup>1114</sup> NIELSEN, T.5504-5505.

<sup>1115</sup> BJELOŠEVIĆ, T.19854, 19786-19787, 21113- 21114; (REDACTED); ORAŠANIN, T.21878-21881, 21894, 21899, 21961; 1D259; P633 p.2; P993; 1D649

<sup>1116</sup> 1D79; 1D80.

<sup>1117</sup> 1D503; BJELOŠEVIĆ, T.19797.

<sup>1118</sup> 1D547; ANDAN, T.21402-21425

<sup>1119</sup> 1D649.

<sup>1120</sup> 1D184; 1D185; 1D186; 1D187.

<sup>1121</sup> 1D605; 1D649; 1D323; P169; PANIĆ, T.2930-2931, MAČAR, T.23659-23570, NJEGUŠ, T.11451-11452, (REDACTED); PERIĆ, T.10599, P405,

<sup>1122</sup> P2046; NJEGUŠ, T.11451-11452, 11485-11486, 11488.

574. One such case was Malko Koroman, who was appointed Chief of the SJB Pale prior to 1 April 1992 by MUP-SRBH Minister Delimustafić. He had no prior experience in the police.<sup>1123</sup> On 1 April 1992, Stanišić appointed him Inspector at CSB Sarajevo.<sup>1124</sup> When Stanišić sent authorised official to Pale to perform the transfer of authority at the SJB, several hundred individuals gathered to demonstrate against Koroman's replacement as police chief. Many of the protesters were armed with long-barrel weapons and they drove the authorised officials out of town and they drafted a petition to President Karadžić for Koroman to remain in his position.<sup>1125</sup> Through this local support, he was able to defy and resist the decisions and authority of the Sarajevo CSB and the RSMUP. This situation persisted throughout 1992 and Koroman remained SJB Pale chief, despite decision to the contrary, until his local support waned and the ministry was able to replace him in February 1993.<sup>1126</sup>

575. The problems faced by the Minister were explained by witness MAČAR.<sup>1127</sup>

576. Yet another example is Simo Drljača in Prijedor. He was supported by the Crisis Staff in Prijedor, people in the region of Prijedor and the SDS; he had stronger political support than all the rest of the RSMUP together.<sup>1128</sup> In mid-November 1992, MAČAR went to Prijedor SJB along with other inspector from RSMUP headquarters in Bijeljina. Prior to going to Prijedor, they had visited the Doboj CSB and the Banja Luka CSB. Conditions were very harsh and difficult: they spent three days there and they slept in a demolished abandoned pensioner's centre. There were no windows, no heating, and they slept in temperatures of minus 17 or 18.<sup>1129</sup>

577. It was the first time MAČAR had met Drljača. MAČAR introduced himself as the coordinator from the Crime Police Administration and as Acting Chief. Drljača promptly

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<sup>1123</sup> MAČAR, T.23119-23120.

<sup>1124</sup> P1416.

<sup>1125</sup> ŠKIPINA, T.8352-8353; KOVAČ, T.27087-27088; MAČAR, T.22981-22982; T.23548; ANDAN, T.21520-21521, 21713; TUŠEVLJAK T.22307-22308.

<sup>1126</sup> P1457.

<sup>1127</sup> MAČAR, T.23328-23330.

<sup>1128</sup> KOVAČ T.27187-27188.

<sup>1129</sup> MAČAR T.22972.

told MAČAR and his colleagues that he did not consider the Banja Luka CSB or the Ministry to be his superiors. Drljača told them that his bosses from the Crisis Staff or the municipal authorities had not told him about this visit, and, as far as he was concerned, the meeting was over. The entire meeting with Drljača lasted approximately 15-20 minutes. MAČAR was offended and angry. He informed Drljača that he would report him to ministry. MAČAR and his colleagues drove back to Bijeljina. It took about ten hours to travel because of the wintry road conditions. The next day, MAČAR orally briefed the acting Minister, Tomislav KOVAČ and he prepared an official note for his superiors at the ministry in which he stated that Drljača had committed a disciplinary offence.<sup>1130</sup>

578. In case of Stevan Todorović the Crisis Staff of Bosanski Šamac closed the corridor in protest of his arrest and held the whole Republic of Srpska hostage until he was released.<sup>1131</sup> Chief of Doboj CSB had to ask for the Special police unit to help resolve the security situation in Šamac.<sup>1132</sup> The Inspectors from both the CSB and RSMUP had to go and straighten the situation in Bosanski Šamac SJB and help appoint a new Chief of the SJB.<sup>1133</sup>

579. Todorović was appointed by the Assembly on 28 March 1992.<sup>1134</sup> He could not be disciplined as he was not an employee of the RSMUP.<sup>1135</sup> When Chief of CSB, BJELOŠEVIĆ, intervened with President of the Crisis Staff Simić he was threatened.<sup>1136</sup> Todorović was appointed Chief of SJB Šamac by the RSMUP only on 3 June 1993, when then the Minister Adžić issued a decision backdating its validity to 28 March 1992.<sup>1137</sup>

580. For these reasons the RSMUP and Stanišić fought a bitter fight with municipal organs over their insistence on meddling with the personnel issues and appointments in the RSMUP. One of the topics discussed at the Collegium meeting held on 5 November

<sup>1130</sup> MAČAR, T.22972-22979, 23376-23382.

<sup>1131</sup> 1D515; 1D516; 1D517 (T.19865-19869); 1D514; MAČAR, T.22979-22981.

<sup>1132</sup> 1D520.

<sup>1133</sup> 1D605, pp3-7; KOVAČ, T.27220; BJELOŠEVIĆ, T.19869; P406; 1D518; 1D519; 1D520.

<sup>1134</sup> (REDACTED), LUKAČ, P2159, pp. 1611-1612.

<sup>1135</sup> P2086, 1D518.

<sup>1136</sup> BJELOŠEVIĆ, T.19786-19787.

<sup>1137</sup> P2438.

1992 was precisely this issue and the impact it had on the normal work of the RSMUP.<sup>1138</sup> Its conclusions had been sent to everyone in the RSMUP.<sup>1139</sup> On 20 November 1992, Stanišić sent a letter to all Presidents of Municipal Assemblies and Municipal Executive councils explaining to them the proper procedure for candidates to be appointed in the RSMUP.<sup>1140</sup>

581. However, changing the attitude of the municipal organs and politicians was not an easy task. In early 1993, when Chief of Doboj CSB tried to replace Obren PETROVIĆ as SJB Doboj Chief, he had to meet with the Municipal leadership on two occasions in January 1993, and ask for the support of the Army and the RSMUP Assistant Minister.<sup>1141</sup> Only then, the Decision by the Minister was issued. In the same dispatch the Minister instructed the CSB Chief to take action in accordance with Rules on Disciplinary Responsibility against PETROVIĆ.<sup>1142</sup> However, he could not follow this instruction through as PETROVIĆ resigned from his position, left the RSMUP, and with help of Municipal structures was appointed Director of Insurance company.<sup>1143</sup> Disciplinary proceedings could only be initiated against the personnel employed by the RSMUP.

582. It is evident that the RSMUP and Stanišić tried to the extent possible to improve the situation in the RSMUP regarding personnel, especially at managerial positions.<sup>1144</sup> Some RSMUP members were replaced and others were terminated through the disciplinary process, or criminal prosecution, or both. However, Stanišić did not receive the political support he needed to implement all the changes and improvements he wanted to make in the Ministry. Stanišić was dismissed by end of November 1992, and then again in 1994 after only couple of months.<sup>1145</sup>

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<sup>1138</sup> P1270.

<sup>1139</sup> 1D528.

<sup>1140</sup> 1D522.

<sup>1141</sup> P2339.

<sup>1142</sup> 1D258; PETROVIĆ, T.9912-9917.

<sup>1143</sup> BJELOŠEVIĆ, T.19922-19923.

<sup>1144</sup> KOVAC, T.27213-27214.

<sup>1145</sup> KOVAČ, T.27215-27219, P841.

**J. PROBLEMS AFFECTING THE WORK OF THE RSMUP****NON-FUNCTIONING JUDICIARY**

583. Up until the summer of 1992, and in some case much later, the prosecutors and courts were not properly functioning throughout the RS territory.<sup>1146</sup> It was not before June and July 1992 that the prosecutors and judges were officially and formally appointed. They started operating, to some extent, at least, from August that year on.<sup>1147</sup> A MOJ report on the work of the Ministry and judicial organs for period May to October 1992, states that judicial organs were not yet performing their functions with equal efficiency and usefulness (P1318.23). The Supreme Court and the Republican public prosecutor's office had not begun to work yet, the relevant personnel had not been elected or appointed, and the premises for these organs had not been found yet.<sup>1148</sup>

584. A number of prosecutors and judges testified about the impact the chaotic war situation had on their abilities to carry out their duties.<sup>1149</sup> It was very difficult to conduct even the most simple of activities, let alone the more complex ones.<sup>1150</sup> There was a dramatic increase in violent crime.<sup>1151</sup> There were periods of no electricity, communication lines were down most of the time. Movement of people was restricted.<sup>1152</sup> It was very difficult to get witness statements and solid evidence in terms of potential war crimes.<sup>1153</sup>

585. A number of witnesses also spoke about threats or intimidation they or their colleagues faced in the course of their duties in 1992.<sup>1154</sup> They describe instances of pressure and threats from armed formations, family members of soldiers, and the Crisis

<sup>1146</sup> MAČAR, T.22895-22896; GOJKOVIĆ, T.11797; GAČINOVIĆ, T.15071-15072;15095; KOVAČEVIĆ, T.14141-14142; T.14278; DRAŠKO, T.12291-12292,12328-12330; (REDACTED); SIMEUNOVIĆ, T.13392-13393.

<sup>1147</sup> MACAR, T.22895-22896; P264

<sup>1148</sup> GACINOVIĆ, T.15070-15071; T.15083; KOVACEVIĆ, T.14196

<sup>1149</sup> SIMEUNOVIĆ, T.13393- 13394; DRASKO, T.12347-12349; KOVACEVIĆ, T.14248-14249

<sup>1150</sup> GOJKOVIĆ, T.11804; see also P158, P166

<sup>1151</sup> (REDACTED); 1D233, para 2; DELIĆ, T.1539; SIMEUNOVIĆ, T.13373

<sup>1152</sup> DELIĆ, T.1533; T.1589; SIMEUNOVIĆ, T.13393

<sup>1153</sup> SIMEUNOVIĆ, T.13396; DELIĆ, T.1595

<sup>1154</sup> DRAŠKO, T.12350-12351; KOVAČEVIĆ, T.14249; (REDACTED).

Staffs.<sup>1155</sup> (REDACTED).<sup>1156</sup> He and his colleagues decided that one day, when the war would be over, all these cases would be re-opened and all the perpetrators of crimes would be brought to justice. The post-war practice shows that most of these cases have, indeed, been dealt with or are ongoing.<sup>1157</sup> Under the regulations in force at the time, there was no statute of limitations for war crimes and crimes against humanity.<sup>1158</sup>

586. In June 1992, the Law on Courts was amended. Certain offences which had been within the jurisdiction of the higher courts were assigned to lower courts.<sup>1159</sup> This amendment affected the work of the police: it required SJBs to investigate serious crimes rather than the CSBs which had done it before the change in the law. TUTUŠ stated that the SJBs did not have the trained personnel or forensic experts to investigate these serious crimes. It added to the workload of the SJB Banja Luka, whereas there was no increase of personnel. Several times he had suggested an expansion of the job specifics in the Department for the Prevention and Detection of Crime with no result.<sup>1160</sup>

587. The military system was also over burdened. During a period of Imminent Threat of War, as many as 80% of crimes would fall under the competence of the Military Courts.<sup>1161</sup>

588. The military courts for the RS were only established in August of 1992.<sup>1162</sup> The military prosecutors and judges only started handling cases in August and September 1992.<sup>1163</sup> There were no prosecutors in some areas covered by existing SJBs. Throughout this period, the SJBs had no choice but to simply register certain events until military prosecutors started operating and appropriate criminal reports could be filed.<sup>1164</sup>

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<sup>1155</sup> (REDACTED).

<sup>1156</sup> (REDACTED).

<sup>1157</sup> (REDACTED); DRAŠKO, T.12356.

<sup>1158</sup> GOJKOVIĆ, T.11796.

<sup>1159</sup> TUTUŠ, T.7902-7903; KOVAČEVIC, T.14247; P114.

<sup>1160</sup> P1090; TUTUŠ, T.7903-7904; KOVAČEVIC, T.14248; P160 p.9.

<sup>1161</sup> (REDACTED).

<sup>1162</sup> (REDACTED); P1284.06.

<sup>1163</sup> MAČAR, T.22913-22914; GOJKOVIĆ, T.11799; (REDACTED); JOVIČINAC, T.26732,26753.

<sup>1164</sup> MAČAR, T. 22914.



When military courts and military prosecutor's offices started functioning, the civilian authorities were duty-bound to transfer all cases to the military authorities.<sup>1165</sup>

589. At the MUP Collegium of 11 July 1992, Župljanin highlighted a number of problems concerning the courts: the judiciary was non-functioning, matters concerning jurisdiction were unclear, a number of cases have not been brought to a close, judges were afraid because of personal threats, and criminals were being released from custody.<sup>1166</sup>

590. To deal with these problems, the MOJ requested that civilian courts and civilian prosecutor's offices be allowed to deal with matters and criminal offences which, under the law, were within the exclusive purview of the military judicial and military prosecutor's offices.<sup>1167</sup> On 10 July and 5 August 1992, MANDIĆ, Minister of Justice, sent letters to the to the RS Presidency, urging the President to allow the regular courts and public Prosecutor's Offices to temporarily take over the competence of military courts and Military Prosecutor's Offices.<sup>1168</sup>

591. MANDIĆ was dissatisfied with the fact that the judiciary did not function. The civilian judiciary had been established but everything was under the authority of the military judiciary since the declaration of the Imminent Threat of War. All persons from 16 to 70 years of age were under the authority of the military judiciary. Crime was on the rise and the military judiciary was inefficient. This was like "fighting windmills".<sup>1169</sup>

592. Between June and August 1992, Mandić attempted several times without success to have jurisdiction transferred from military courts to civilian courts by appealing to the President, the Speaker, and Assembly. The military refused to relinquish jurisdiction.

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<sup>1165</sup> (REDACTED).

<sup>1166</sup> P160, p.9; (REDACTED)

<sup>1167</sup> P239 AD.24

<sup>1168</sup> P1328; MANDIĆ, T.9617; KOVAČEVIC, T.14194-14195

<sup>1169</sup> MANDIĆ, T.9619- T.9621; P400,p.91-92

General Gvero told the Assembly that a transfer of jurisdiction from the military courts to the civilian courts would be unconstitutional.<sup>1170</sup>

593. The MOJ reported that the untimely organisation of the military judiciary organs made it more difficult for the rule of law to be established and in since the announcement of the general mobilisation, military courts and prosecutor's offices are mainly responsible for criminal activities.<sup>1171</sup>

594. The military judiciary only started working in 1992 but from the point of view of manning and equipment, they were not able to work on such a large number of cases that now were in their jurisdiction.<sup>1172</sup>

#### **CRISIS STAFFS**

595. Crisis Staffs disrupted the hierarchical structure and functioning of RSMUP and undermined the ability of Ministry to direct, manage, and control subordinate organisational units of the MUP.<sup>1173</sup> In clear violation of the law, Crisis Staffs took over powers within the purview of MUP.<sup>1174</sup>

596. The scope of authority exercised by the local Crisis Staffs varied from municipality to municipality as did their respective circumstances on the ground and their ties and respect to the central republic organs.<sup>1175</sup> However, in most municipalities, Crisis Staffs considered themselves autonomous and self-sufficient. They acted independently and without consultation or communication with the central government and its ministries and institutions. Some Crisis Staffs usurped power from the central authorities, in clear non-compliance with laws and Instruction, and formed, ordered,

<sup>1170</sup> MANDIĆ, T.9617-9619, 9622-9623.

<sup>1171</sup> P1318.23; GOJKOVIĆ, T.11800-11801.

<sup>1172</sup> DRAŠKO, T.12354; 1D367; KOVAČEVIĆ, T.14197-14199; 1D43; DELIĆ, T.1629- 1630.

<sup>1173</sup> 1D662, paras.265-282.

<sup>1174</sup> DJERIĆ, T.2414-2416; MAČAR, T.22909-22911,23432-23433;1D622 para.263.

<sup>1175</sup> P323; P1616; DJOKANOVIĆ, T.3573-3574; 1D662, para.265.

commanded and controlled the SJBs, TO and other armed units.<sup>1176</sup> Crisis Staffs often funded, supported and controlled or cooperated with paramilitary units.<sup>1177</sup> As a result, Crisis Staffs and other local organs imposed certain conditions on SJBs and their chiefs.<sup>1178</sup> This ultimately led to the situation where SJBs became exclusively responsible to the Crisis Staffs.<sup>1179</sup> Some Crisis Staffs even invited looting by paramilitaries.<sup>1180</sup>

597. In Zvornik, the Crisis Staff went even a step further creating its own Provisional government as the ultimate authority over life in the municipality. Up until a War Commissioner was sent by the RS republican authorities in the second part of June 1992 there was no one above the local government in Zvornik.<sup>1181</sup> Brane Grujić, President of the Crisis Staff was the feared and uncontested “boss” in Zvornik who refused to relinquish power.<sup>1182</sup> Grujić and those close to him, defied republic leaders, including Karadžić and Mladić by undermining a meeting they had with local leaders in Zvornik.<sup>1183</sup> The local authorities appointed police chief and commanders who were not competent and followed the directions of the local government and TO commander.<sup>1184</sup>

598. Contrary to the Law on Internal Affairs, the majority of the Crisis Staffs or other local organs appointed on their own the SJB chiefs.<sup>1185</sup> The Zvornik Provisional Government even appointed a non-citizen from the Republic of Serbia as Zvornik SJB chief.<sup>1186</sup>

<sup>1176</sup> MANDIĆ, T.9588; DJERIĆ, T.2416-2417; P372; P388; P1620; P1871; P1898; P411.53; P432.11; P1064; P1065; P1644; P1871; P1067-P1070.

<sup>1177</sup> DJOKANOVIĆ, T.3605-3607; MAČAR T.22906-22907.

<sup>1178</sup> DJERIĆ, T.2423.

<sup>1179</sup> ŠKIPINA, T.8399-8400.

<sup>1180</sup> 1D498.

<sup>1181</sup> DJOKANOVIĆ, T.3604-3605, 3646-3647.

<sup>1182</sup> DJOKANOVIĆ, T.3576-3577; (REDACTED).

<sup>1183</sup> DJOKANOVIĆ, T.3610-3611.

<sup>1184</sup> 1D383; PANIĆ, T.2872-2875, 2984-2985; (REDACTED); ORAŠANIN, T.21878; DJOKANOVIĆ, T.3584-3585, 3611-3612; (REDACTED); P399.

<sup>1185</sup> 1D185, P359; DJERIĆ, T.2422; MAČAR, T.23193; ORAŠANIN, T.21878; BJELOŠEVIĆ, T.19786; P513; 1D619; P406.

<sup>1186</sup> ST 215, T.14903-14904.

599. In these circumstances, SJB chiefs were regularly reporting to Crisis Staffs,<sup>1187</sup> contrary to Articles 27, 31 and 32 of Law on Internal Affairs.<sup>1188</sup> In some cases, SJBs reported to both the Crisis Staff and their superior CSB, but in a considerable number of cases, they only reported to the Crisis Staff, contrary to the proper reporting chain under the law. In others, SJB chiefs were reporting to Crisis Staffs on the details of their consultations with their CSB chiefs.<sup>1189</sup> This occurred despite the fact that dispatches sent by the RSMUP, as early as April and throughout 1992, emphasised the reporting obligations of CSBs and SJBs within the MUP hierarchy.<sup>1190</sup>

600. In addition, SJBs implemented orders and conclusions issued by Crisis Staffs,<sup>1191</sup> many of which were in clear violation of the Law on Internal Affairs and where entirely outside the scope of responsibilities of RSMUP.<sup>1192</sup> What is even more significant is that in some cases, when implementing Crisis Staff decisions, SJB chiefs acted in clear violation of their duties and competencies as prescribed by law as well as orders issued by the RSMUP.<sup>1193</sup> In some cases, the Crisis Staffs and local authorities were effectively preventing SJBs from implementing instructions from the CSB level.<sup>1194</sup>

601. Some SJB chiefs considered the Crisis Staff to be the only authority above them. During an instructive visit in Prijedor in November 1992, by the Chief of Administration for detection and crime prevention and its inspectors, the chief of SJB, Drljača, said that he was not informed of the MUP visit by his bosses from Crisis Staff, and that they did not recognize the CSB or the RSMUP. He terminated the meeting and sent the Chief of Administration and inspectors away.<sup>1195</sup>

<sup>1187</sup> 1D670; 1D431 ;1D684;1D687;1D688; 1D722; P411.27; DJERIĆ T.2422-2423.

<sup>1188</sup> P350;BJELOŠEVIĆ, T.20938-20943, 21255-21260; MAČAR, T.23523-23525, 23544-23545; 1D662, para.147.

<sup>1189</sup> P47.

<sup>1190</sup> 1D72;P545;P173;P1472;1D91;1D53.

<sup>1191</sup> 1D661;1D677;1D679; P369; P370;P378; P411.52; P432.15; P574; P577; P612; P948;P1012; P1060; P1063; P1066; P1067; P1068; P1772; P2031.

<sup>1192</sup> 2D25 pp.2,3, 1D166; 2D25, 1D166.

<sup>1193</sup> P668;P690;P1910.

<sup>1194</sup> P750.

<sup>1195</sup> MAČAR, T.22978, 23260-23261; P663; P665.

602. Crisis staffs dismissed the SJB chiefs who were appointed by the RSMUP.<sup>1196</sup> Some Crisis Staffs went as far as to instruct or approve appointments within the lower echelons of SJBs/CSBs.<sup>1197</sup> Crisis staffs and similar local organs even established police stations.<sup>1198</sup>

603. The Teslić Crisis Staff decided to join the ARK and accordingly instructed the Teslić SJB to be subordinated to the Banja Luka CSB instead the Doboј CSB, contrary to the Law on Internal Affairs. This action changed the territorial organization of MUP and the competencies of respective CSBs.<sup>1199</sup>

604. By its decision, the Doboј Crisis Staff shifted responsibilities and duties of CSB to SJB on its own accord.<sup>1200</sup> The SJB chief was ordered to implement all orders and conclusions of Crisis Staff within 5 days. The CSB chief was required to explain and give reasons for all decisions of the Ministry concerning the organization of the CSB and appointments of workers in the CSB.<sup>1201</sup> The SJB chief was ordered to list all appointments and send them for approval of Crisis Staff. The Crisis Staff considered all SJB appointments temporary until end of hostilities and normalization of situation. Finally, the Crisis Staff ordered all "groups and individuals who are protecting peace and order" to place themselves under the command of SJB chief, as the sole person authorized to organize and manage the security in the Municipality. He was obliged to inform Crisis Staff of the security situation. In this way the Doboј Crisis Staff disrupted and reversed the relationship between the CSB and the SJB by temporarily disbanding the CSB and by making the SJB chief superior to the CSB chief.<sup>1202</sup>

605. Some Crisis Staff or similar organs created, commanded, and later disbanded their own special police units or combined police and the army units.<sup>1203</sup> This may have been

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<sup>1196</sup> P359; P371.

<sup>1197</sup> 1D463, 1D464.

<sup>1198</sup> P468, P822, DJERIĆ, T.2416.

<sup>1199</sup> 1353.04; P839; 2D74; (REDACTED); BJELOŠEVIĆ, T.19596-19597.

<sup>1200</sup> 1D259.

<sup>1201</sup> 1D463.

<sup>1202</sup> PETROVIĆ, T.9930-9933; BJELOŠEVIĆ, T.19601-19602; 19604-19607, 19615-19616.

<sup>1203</sup> 1D642; 1D678; P803; P857.

done based on an expansive interpretation of provisions of Law on All People's Defence which gave the power to National Defence Committees to form TO units which in some cases are to be used to protect law and order.<sup>1204</sup> However, calling them "police units" in no way made these formations a part of the RSMUP. These units were formed at the local level without any consultation, knowledge, or approval by the ministry or republican authorities.<sup>1205</sup> Indeed, Stanišić ordered that all these formation be disbanded.<sup>1206</sup>

606. Some Crisis Staffs simply used the resources of the Ministry of Interior of their own accord.<sup>1207</sup>

607. Some Crisis Staff also empowered SJBs to take measures and use their powers outside the scope of powers proscribed by Law on Internal Affairs.<sup>1208</sup>

608. There was also pressure being exerted by the Crisis Staffs which, to some extent, affected decisions of the chiefs of SJB.<sup>1209</sup> The Crisis Staff in Sanski Most is described as having absolute power.<sup>1210</sup>

609. Some Crisis Staff proscribed the laws and regulations,<sup>1211</sup> including penalties for non compliance with such regulations and requirement that the organs of the RSMUP implement them.<sup>1212</sup> This is contrary to the laws and the system that governed police duties and their chain of command.

610. By their orders, Crisis Staffs established collection centers, detention centres, camps and prisons in their territory.<sup>1213</sup> Pursuant to the order of the Prijedor Crisis Staff,

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<sup>1204</sup> 1D622, paras.256-261.

<sup>1205</sup> 1D662, para.288, DJERIĆ, T.2416-2417.

<sup>1206</sup> 1D176.

<sup>1207</sup> P411.17.

<sup>1208</sup> P324, 1D662 para.264.

<sup>1209</sup> DAVIDOVIĆ, T.8617-8618.

<sup>1210</sup> DAVIDOVIĆ, T.8618; P1284.01, p.3854.

<sup>1211</sup> 1D24; MAČAR, T.23265.

<sup>1212</sup> 1D260; 1D432; 1D679; 1D681; 1D682; 1D683; P361; MAČAR, T.23265-23267.

<sup>1213</sup> P411.22; P1499.

the SJB chief established the Omarska camp in contravention of his competence and authority under the Law on Internal Affairs and all other regulations. He also restricted all information about its existence.<sup>1214</sup>

611. Some Crisis Staffs assumed prerogatives within the purview of the Ministry of Justice and the Assembly by appointing prosecutors and issuing orders to court officials.<sup>1215</sup>

612. Crisis staffs disrupted the very structure of MUP and undermined the ability of ministry to command and control subordinate CSB's or SJB.<sup>1216</sup> The RSMUP started receiving information of such problems in July 1992, but the Ministry was not aware of the extent of problems until they actual managed to visit some of the SJBs.<sup>1217</sup>

613. The Ministry of Interior protested regularly at government sessions about the interference of Crisis Staffs in the work of Ministry.<sup>1218</sup> However, the Government was experiencing similar problems with local mandarins and insisted that strengthening of central organs was the number one priority for RS. The RSMUP discussed the problems created by Crisis Staffs at collegiums and issued instructions to the CSBs<sup>1219</sup> which were transmitted to their subordinate SJBs.<sup>1220</sup> However, by the end of the year, the Ministry was still unable to wrest power fully away from local authorities and to establish control over the police.<sup>1221</sup>

#### **COVER-UPS**

#### **TODOROVIĆ - BOSANSKI ŠAMAC**

614. Stevan Todorović was appointed Bosanski Šamac SJB chief by the Municipal Assembly on 28 March 1992, he became a member of the Crisis Staff in Bosanski Šamac

<sup>1214</sup> P1560; 1D166.

<sup>1215</sup> DJERIĆ, T.2419-2420.

<sup>1216</sup> 1D662, para 265-282

<sup>1217</sup> MAČAR, T.22912-22913.

<sup>1218</sup> MAČAR, T.23913.

<sup>1219</sup> ŠKIPINA, T.8401-8402, 1D662 para.283.

<sup>1220</sup> 2D25, 1D662 para.289.

<sup>1221</sup> 1D522.

between 15-17 April 1992.<sup>1222</sup> Todorović had no police training, qualifications, or experience. He had never applied for job as a policeman, nor did he have any particular interest in police matters.<sup>1223</sup> In April 1992, he was the general director, when the company went into bankruptcy.<sup>1224</sup> (REDACTED).<sup>1225</sup>

615. As SJB chief, Todorović was no longer a member of the army, in the 1<sup>st</sup> Detachment. However, when he appointed the commander of the SJB, Savo ^an~arevi},<sup>1226</sup> he took into account the suggestion of Lt.-Col. Nikoli}. (REDACTED).<sup>1227</sup>

616. (REDACTED).<sup>1228</sup>

617. (REDACTED).<sup>1229</sup>

618. (REDACTED).<sup>1230</sup>

619. In addition to committing crimes, Todorović was derelict in performing his duties. From the day he became SJB chief until mid-November 1992, he did not hold one Collegium meeting with his staff,<sup>1231</sup> none of the workers at the SJB were issued written decision on employment, no Administrative-Legal Department, no Crime Service were established or functioning, he approved the transport of war booty in an official police vehicle and the theft of vehicles, he permitted the detention of Muslims and Croats at the police station, and with the collaboration of the President of the Crisis Staff, Blagoje Simić, state security operatives from the Doboj CSB were not permitted to come to the municipality. Todorović neglected the operations of the Bosanski Šamac SJB at all

<sup>1222</sup> (REDACTED); LUKAČ, P2159, pp. 1611-1612.

<sup>1223</sup> (REDACTED).

<sup>1224</sup> (REDACTED); LUKAČ, P2159, pp. 1611-1612; SEKULIĆ, 1D605, pp. 5-7.

<sup>1225</sup> (REDACTED).

<sup>1226</sup> SEKULIĆ, 1D604, pp. 19-20.

<sup>1227</sup> (REDACTED).

<sup>1228</sup> (REDACTED).

<sup>1229</sup> (REDACTED).

<sup>1230</sup> (REDACTED).

<sup>1231</sup> SEKULIĆ, 1D605, pp. 51-53.



levels. He did not report to the Doboj CSB or RSMUP, he did not pass on instructions from the Doboj CSB and the RSMUP to subordinates. The President of the Crisis Staff, Blagoje Simić, the President of the Executive Board, Milan Simić, Lugar, and Crni issued order to the policemen at the police station.<sup>1232</sup>

620. (REDACTED).<sup>1233</sup>

621. Todorović covered-up crimes. On 7 May 1992, a large number of people were killed in Crkvina by “Lugar”, “Crni” and other paramilitaries.<sup>1234</sup> Todorović was informed by Savo Cancerevic about the killings by Lugar the day after it happened. The police was unable to conduct an on-site investigation, as planned, because Lugar had ordered that all traces of the event be removed during the night. Lugar, a member of the army – 17<sup>th</sup> Tactical Group – found some villagers who took the bodies away and washed the blood off them. A tractor from a local enterprise, the Ušće Bosne company, was used to dig a grave, where the bodies were placed. Todorović informed the Crisis Staff that Lugar was responsible. Todorović did not take any steps to conduct an on-site investigation in relation to this event.<sup>1235</sup>

622. The cover-up of the killings by Lugar, Crni and their men by Todorović and the Crisis Staff was manifest by the actions taken by Crisis Staff President, Blagoje Simić and the perpetrators of the crime to protect Todorović. When Todorović and Executive Board President, Milan Simić were arrested, detained, and interrogated by the military police of the Eastern Bosnia Corps on 13 November 1992, Blagoje Simić ordered that the Posavina Corridor be blocked until the two men were released.<sup>1236</sup> Lugar, Crni and their men participated in blocking off the corridor.<sup>1237</sup>

#### NIKOLIĆ - VLASENICA

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<sup>1232</sup> P406, pp. 2, 6-8.

<sup>1233</sup> (REDACTED).

<sup>1234</sup> See, P406, p. 2.

<sup>1235</sup> (REDACTED); OTP Adj.Facts, 637-638.

<sup>1236</sup> P406, p. 5.

<sup>1237</sup> (REDACTED).

623. (REDACTED).<sup>1238</sup>

624. (REDACTED).<sup>1239</sup>

625. (REDACTED).<sup>1240</sup>

626. (REDACTED).<sup>1241</sup>

627. (REDACTED).<sup>1242</sup>

628. (REDACTED).<sup>1243</sup>

#### **DRLJAČA – PRIJEDOR**

629. SJB Prijedor Chief, Simo Drljača participated in criminal activity and sought to hide his wrong-doings by misleading State officials when they sought to ascertain information on alleged crimes.

630. Drljača signed the order on the establishment of Omarska based on the decision of the Prijedor Crisis Staff. His order strictly prohibited disclosing any information whatsoever concerning the functioning of the Omarska. All official documents were kept at Omarska and could only be taken out or destroyed with Drljača's permission.<sup>1244</sup> Drljača and the Crisis Staff colluded with two Prijedor business men who financed a local paramilitary unit and paid for logistics at detention centres in Prijedor.<sup>1245</sup>

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<sup>1238</sup> (REDACTED).

<sup>1239</sup> (REDACTED)

<sup>1240</sup> (REDACTED).

<sup>1241</sup> (REDACTED).

<sup>1242</sup> (REDACTED).

<sup>1243</sup> (REDACTED).

<sup>1244</sup> P1560; 1D166; JESIĆ, T.16754-16755, 16757-16760.

<sup>1245</sup> (REDACTED).

631. Drljača attempted to conceal police involvement in detention facilities and to hide conditions at detention from a group of visiting delegates.<sup>1246</sup>

632. Drljača approved and condoned killings committed by police under his command.<sup>1247</sup>

633. He presented false information about Omarska, Keraterm, Trnopolje, Korićanske Stijene, and other events in and around Prijedor, to government representatives, including the top officials in the RSMUP, through the connivance of individuals like Vojin Bera.<sup>1248</sup>

634. Drljača was appointed by the Prijedor Crisis staff. He submitted regular reports to Crisis Staff and implemented its orders and instructions.<sup>1249</sup> He was the highest authority in the Prijedor region<sup>1250</sup>. He was not experienced policeman and he ran Prijedor SJB on his own.<sup>1251</sup> He did not recognize or respect the RSMUP and its hierarchy.<sup>1252</sup> Drljača had enormous political and local support.<sup>1253</sup> He was described as was the untouchable boss of Prijedor,<sup>1254</sup> a person who had more political support than whole RSMUP together.<sup>1255</sup>

635. His replacement as SJB Chief was only achieved after much time and effort.<sup>1256</sup>

### **PART 3: MR. STANIŠIĆ IS NOT GUILTY AS CHARGED**

636. The foregoing review of the evidence in this case demonstrates that Stanišić is not guilty of any of the charges contained in counts 1-10 of the Indictment and that he must

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<sup>1246</sup> (REDACTED).

<sup>1247</sup> (REDACTED).

<sup>1248</sup> 2D26; TUTUŠ, 7917-7919, 8005-8006; 1D57; 2D95; MARKOVIĆ, T. 12763-12770; P1635; P392; AVLIJAŠ, T.5621-15627, 15656-15666, P393; RADULOVIĆ, T.11122-11125.

<sup>1249</sup> P663; P788, 1D670, 1D722.

<sup>1250</sup> (REDACTED).

<sup>1251</sup> JANKOVIĆ, T.25080-25081.

<sup>1252</sup> GAJIĆ, T.12910; MAČAR, T.22977-22979.

<sup>1253</sup> KOVAČ, T.27073-27074; AVLIJAŠ, T.15665.

<sup>1254</sup> AVLIJAŠ, T.15666.

<sup>1255</sup> KOVAC, T.27187-27188.

<sup>1256</sup> JANKOVIĆ, T.25081; AVLIJAŠ, T.15666.

be acquitted on all counts. These charges allege powers, responsibility, knowledge, criminal intent, criminal conduct, including failure to act which are completely incorrect in law and entirely unsubstantiated by the evidence in this case. In particular, none of the allegations contained in paragraphs 1, 2, 4, 6-11, 13-17, 21-23 of the Indictment which the Prosecutor alleges links Stanišić to the alleged crimes has been proven beyond reasonable doubt. To the contrary, the evidence is that he never failed to fulfil his duties and responsibilities as the Minister of the Interior of the Republika Srpska in 1992 and that he always acted in full compliance with the law.

### STANIŠIĆ ACTS AND CONDUCT

637. As set out in detail in previous sections of this brief, the reality on the ground and the circumstances in which Stanišić found himself between April and December 1992 were the following. With the collapse of the MUP-SRBH and the outbreak of the war, the seat of the RSMUP was not housed in proper premises with offices, desks, chairs, secretaries, assistants, vehicles, telephones, fax machines, or secure means of communication, until the autumn of 1992, when the headquarters was established in Bijeljina, following moves from Vrace to Pale earlier in the year. RSMUP headquarters had a shortage of qualified and experienced staff, including operatives, inspectors, technicians, etc needed to run the Ministry. There was no budget or procurement system in place. RSMUP headquarters was isolated from its subordinate CSBs because of war time conditions which caused power cuts, disruptions in phone and communication lines, and which made travel to some regions impossible while others could only be reached through lengthy treks across dangerous war zones. Throughout this period, 50%-80% of MUP personnel – 100% at the beginning of the war – were subordinated to the military in combat operations.<sup>1257</sup> Local municipal governments and Crisis Staffs exercised command and control over SJBs and, in many instances, selected, appointed, ordered, and paid police personnel.

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<sup>1257</sup> P573, p.4, 7; P160, pp.4, 7, 9-11, 14; P427.8, pp.2, 4, 6; P1755, P163, pp.3-4, 7, 14, 18; P625, p.4, 8, P794, pp.11-12; 1D76, para.b.

638. As the head of the Ministry, Stanišić issued orders to authorised officials pursuant to Article 43 of the Law on Internal Affairs “for the purpose of performing activities and tasks related to national and public security”. In 1992, all his orders emphasized the necessity for strict legal compliance to the pre-existing duties and obligations which were incumbent upon all MUP members. They deal with the particular circumstances which existed within the RSMUP because of the war time situation in which the Ministry operated.<sup>1258</sup>

639. Stanišić issued orders within his purview to prevent and investigate crime against all citizens, regular crime and war crimes, regardless of the ethnicity of the perpetrator or the victim, to purge the ranks of the police of individuals who were not qualified and appropriate to perform police work, and to replace with them properly vetted professionals, and to disband all formations operating at CSBs and SJBs which had been established locally without the knowledge or approval of the ministry headquarters, contrary to the laws and regulations. He rationalized and reorganised the police ranks to reduce the huge number of policemen who were being resubordinated to the army to ensure that the organs of the interior had professional and qualified personnel to perform their primary and legal obligations as members of a law enforcement agency.

640. In areas where it was possible to travel, he sent inspectors into the field to evaluate the situation on the ground in the CSBs and SJBs, to recommend measures which should be taken to ensure the proper functioning of the Ministry, and to protect all citizens. When he learned that there were security problems, lawlessness, and violence being perpetrated against citizens of any ethnicities, he took clear and decisive steps to break-up, disarm, arrest, and investigate individuals, paramilitaries and other illegally armed groups and local authorities who at the outset of the war controlled and used the organs of the interior to commit crimes.

641. Stanišić was not able to hold a Collegium meeting with his CSB chiefs during the first 100 days of the war (i.e. until 11 July 1992) because it was impossible to get

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<sup>1258</sup> P2302, pp.22-24; MANDIĆ T.9462-9465; 1D662, para.175; BAJAGIĆ T.20119-20123.

everyone in the same location to meet and discuss the matters the police was facing since the war erupted in April. Between July and December 1992, despite communication and travel problems caused by the wartime circumstances, he convened five collegiums to find solutions to all the problems being experienced by the RSMUP, face-to-face with senior management from the RSMUP headquarters and the CSB chiefs.<sup>1259</sup>

642. Through his Orders, Dispatches, and Directions, at Collegium meetings, and in Reports submitted to the RS Presidency and the RS Government, Stanišić was uncompromising in his stance and his insistence on the MUP being a professional organisation free of interference and influence from politics, individuals, groups, factions and parties. He believed that all members of the MUP must perform the duties that fall within their remit in the most serious and responsible manner, for the purpose of providing preventative protection and security for all civilians and their property, crime detection, and other duties and tasks that fall within the range of the responsibilities of the police. He regularly told members of the MUP that when conducting their duties, police officers cannot take any sides, despite pressure they may face as a result of the war time circumstances. He insisted that their work be based on the law to avoid contributing to the instability of the situation in war torn areas, where the structures of civil society had been destroyed and violence and anarchy prevailed.<sup>1260</sup>

#### **STANIŠIĆ KNOWLEDGE AND STATE OF MIND**

643. The evidence unequivocally shows that Stanišić never manifested any criminal intent or conduct at any time while he fulfilled his duties and obligation as Minister of the Interior. To the contrary, from the moment he became Minister, based on the information available to him, and using all the means at his disposal, Stanišić continuously took reasonable and necessary measures to ensure that the RSMUP was an institution which functioned in accordance with the Constitution and all relevant laws and regulations and that all MUP members carry out regular police duties professionally: protection of the constitutional order, protection of citizens and their property, prevention of crime,

<sup>1259</sup> P160, pp.11-12.

<sup>1260</sup> P160, pp.14-15, P163, P427.8, p.4, 1D176, para.8, Conclusion 5, pp.14-15.

protection of law and order, as well as other tasks under the jurisdiction of Internal Affairs.<sup>1261</sup> He selected experienced and competent personnel to head the seven Administrations of the RSMUP and he demanded the highest standards of work and professionalism from them as well as all other employees of the RSMUP.

644. The evidence shows that Stanišić took swift and immediate action whenever he received information that a crime had been committed. However, the evidence shows that Stanisić was not properly or adequately informed about security problems, lawlessness and the commission of crimes. For example, between April and December 1992, RADULOVIĆ, a member of the National Security Service, submitted reports (Miloš Reports) to the State Security Service of the Republic of Serbia and to his immediate superior at the Banja Luka CSB, Vojin Bera.<sup>1262</sup> Both RADULOVIĆ and ŠKIPINA, the head of National Security Service at RSMUP headquarters during 1992, confirmed that they had no contact with each other, and no report prepared by RADULOVIĆ ever reached RSMUP headquarters.<sup>1263</sup> In 1999 or 2000, RADULOVIĆ met Stanišić in Belgrade and he found out that not one of the Miloš Reports was ever sent to Stanišić. RADULOVIĆ learned that most of his reports never left the desk of his immediate superior – Vojin Bera – or the desk of the latter's immediate superior – Nedjelko Kesić. It became clear to RADULOVIĆ that Bera and Kesić not only devalued the information he provided, they, along with Simo Drljača, tried to cover up crimes committed by Serbs and to keep security-related information under a veil of secrecy.<sup>1264</sup> During their meeting, it became evident to RADULOVIĆ that Stanišić was hearing about these things for the first time from him. Stanišić had not been informed in 1992 about events that occurred in Prijedor, Teslić, Doboj, Bosanski Brod, Omarska, Keraterm, and other places.<sup>1265</sup> As a result, RADULOVIĆ was convinced that top officials in the RSMUP did not receive timely or accurate information or reports from the lower level officials in National Security or Public Security.<sup>1266</sup>

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<sup>1261</sup> P794, p.3.

<sup>1262</sup> RADULOVIĆ T.10729, 10735-10736.

<sup>1263</sup> RADULOVIĆ T.11017-11018; ŠKIPINA T.8412-8415, 8470-8472.

<sup>1264</sup> RADULOVIĆ T.11014-11018, 11073-11074, 11199-11201, 2D90 (T.11126-11129), 11188-11189.

<sup>1265</sup> RADULOVIĆ, T.11205-11209.

<sup>1266</sup> RADULOVIĆ, T.11123-11124.

645. Stanišić's acts and conduct are reflected by his words.

646. Before the war, as Secretary of the Sarajevo SUP, Stanišić spoke publicly to all newly appointed policemen to act professionally and to abide by the laws and regulations while performing police work.<sup>1267</sup> He was opposed to the police being used as a political pawn and, on one occasion, he voiced his opposition to changes at the Vogošća SJB when he believed that Serb policemen were being replaced on the basis of their ethnicity and not for valid reasons related to police work or their performance as policemen.<sup>1268</sup>

647. Stanišić expressed these same views at the 11 February 1992 meeting in Banja Luka, when he condemned events at the Stari Grad SJB and the Sokolac SJB and insisted on the equal distribution of resources among all members of the police.<sup>1269</sup> A little over a month later, when accepting the nomination as RSMUP Minister of the Interior, Stanišić stated that he would not play politics with the ministry and that it would become a professional organisation:

I have said again and again, always quite bluntly, that this was purely a political term and that MUP was being made a currency in a political game. This kind of terminology is inappropriate for a MUP, for an organ of state Administration like the Ministry of the Internal Affairs, whose purpose is to realize executive power by strictly professional methods. I hope, let me establish this here, that the professional aspect has been marginalised by the political one. I hope that in the future, the Serbian MUP will become a professional organisation, an organ of state Administration which will actually protect property, life, body and other values which must be protected.<sup>1270</sup>

648. When Stanišić spoke at a police ceremony in Sokolac on 30 March 1992, he again expressed his hope that the political manipulation which the police had experienced because of certain elements in the MUP-SRBH was a thing of the past and that the RSMUP would conduct itself professionally in accordance with the law. He emphasized the position which would be enunciated at the MUP-SRBH Collegium two days later,

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<sup>1267</sup> (REDACTED)

<sup>1268</sup> (REDACTED).

<sup>1269</sup> 1D135, p.1;P2306,pp.31-34.

<sup>1270</sup> P198, pp.7-8.



concerning the legal basis and on-going diplomatic process under the auspices of the EU for the creation of three ethnically based police forces.<sup>1271</sup>

649. After the speech, Stanišić told MAČAR, who was present during the entire event, that the decision taken by the Assembly of the Serbian People to promulgate the Constitution and the Law on Internal Affairs (on 28 February 1992) was made in accordance with the Cutileiro Plan. Stanišić stated that MUP headquarters would be located in the premises of the MUP-SRBH and that further talks would be held to coordinate the work and activities of the Ministry across BH and to overcome obstructions in the work of the Ministry.<sup>1272</sup>

650. Stanišić abided by the law. Throughout his career he insisted on strict application of the law. He was perceived by his colleagues to be extremely strict in that sense and stubborn in its strict application. He was a true professional. He was not involved in politics and he opposed influence of politics in work of MUP.<sup>1273</sup>

651. Stanišić's acts, conduct, knowledge and state of mind were confirmed by Chamber witness KOVAČ.<sup>1274</sup>

### INSTIGATING

652. Counts 1-10 charge Stanišić with instigating pursuant to Article 7(1). The term "instigating" means "prompting another to commit an offence."<sup>1275</sup> A causal link between the instigation and the perpetration must be demonstrated; but it need not be shown that the crime would not have occurred without the accused's involvement.<sup>1276</sup> It must be proven that the conduct of the accused was a factor substantially contributing to the perpetrator's conduct and that the accused intended to provoke or induce the commission of the crime, or was aware of the substantial likelihood that a crime would be

<sup>1271</sup> 1D633 (Video, 0:16:53); MAČAR, T. 22840-22845.

<sup>1272</sup> MAČAR, T.22843-22845, 23139.

<sup>1273</sup> ANDAN, T.21578.

<sup>1274</sup> KOVAČ, T.27042, 27045-27046,27114,27211-27215.

<sup>1275</sup> *Limaj* TJ,para.514, *Krstić* TJ,para.601;*Blaškić* TJ,para.280; *Kordić* AJ,para.27.

<sup>1276</sup> *Brdjanin* TJ, para.269; *Blaškić* TJ para.280, *Kordić* AJ, para.27.

committed in the execution of that instigation.<sup>1277</sup> Instigation may be committed by omission, provided that the instigator is under a duty to prevent the crime from being brought about.<sup>1278</sup>

653. There is no evidence that Stanišić ever instigated anyone to commit a crime. To the contrary, through all his acts and words he took positive and concrete steps to calm the situation, to find a resolution to the problems in the RS, and to work to restore peace and order and protect all citizens irrespective of their ethnicity from the ravages and dangers of war.

654. There is no proof that Stanišić ever had any criminal intent.

655. Stanišić must be acquitted of all charges of instigating.

#### AIDING AND ABETTING

656. Stanišić is not liable for any of the crimes alleged in counts 1-10 as an aider and abettor pursuant to Article 7(1).

657. Aiding and abetting is a form of accomplice liability, defined as the act of rendering practical assistance, encouragement or moral support, which has a substantial effect on the perpetration of a certain crime.<sup>1279</sup> The assistance may occur before, during or after the principal crime has been perpetrated.<sup>1280</sup> The determination of whether conduct substantially assists the commission of a crime requires a fact-based inquiry.<sup>1281</sup>

658. The *mens rea* required is knowledge that, by his conduct, the aider and abettor is assisting or facilitating the commission of the offence.<sup>1282</sup> This awareness need not have

<sup>1277</sup> Kordić AJ, paras. 27, 32; Limaj TJ, para 214.

<sup>1278</sup> Orić TJ, para. 273

<sup>1279</sup> Krstić TJ, para. 601; Furundžija TJ, para. 249; Aleksovski AJ, para. 162, citing Furundžija TJ, para. 249. Blaškić AJ, para. 48; Kunarac TJ, para. 391; Limaj TJ, para. 517.

<sup>1280</sup> Brdjanin TJ, para. 271; Blaškić AJ, para. 48; Krnojelac TJ, para. 88.

<sup>1281</sup> Blagojević AJ, para. 134; Mrkšić AJ, para. 200.

<sup>1282</sup> Furundžija TJ, para. 249; Tadić AJ, para. 229; Blaškić AJ, para. 49; Vasiljević AJ, para. 102, Limaj TJ, para. 518.

been explicitly expressed, but may be inferred from all relevant circumstances.<sup>1283</sup> The aider and abettor need not share the *mens rea* of the perpetrator, but he must be aware of the essential elements of the crime ultimately committed by the perpetrator, and must be aware of the perpetrator's state of mind.<sup>1284</sup> For "special intent" crimes, like persecution, the aider and abettor must additionally be aware that the crime or underlying offence is being committed with discriminatory intent.<sup>1285</sup>

659. To hold an accused responsible for *ex post facto* aiding and abetting, the Prosecution must prove that a prior agreement existed between the principal and the person who subsequently aided and abetted the crime at the time of the planning, preparation, or execution of the crime.<sup>1286</sup>

660. The *Mrkšić* Trial Chamber stated that an accused may be liable of aiding and abetting by omission, when he is under a duty to prevent the commission of a crime but failed to act, provided his failure to act had a substantial effect on the commission of the crime and he had the requisite *mens rea*.<sup>1287</sup> The *Mrkšić* Appeals Chamber held that this form of liability necessarily and implicitly requires that the accused had the ability to act, i.e. that "there were means available to the accused to fulfil [his legal] duty."<sup>1288</sup> The *Brdjanin* Appeals Chamber distinguished between aiding and abetting by omission by tacit approval and encouragement and aiding and abetting by "omission proper".<sup>1289</sup> The Appeals Chamber has never set out the requirements for conviction for omission in detail, but it has referred to the standard set out in *Ntagerura* as the most comprehensive statement of the requirements for guilt by omission proper:

- a. the accused must have had a duty to act mandated by a rule of criminal law;
- b. the accused must have had the ability to act;

<sup>1283</sup> *Čelebići* TJ, para.328; *Tadić* TJ, para.676.

<sup>1284</sup> *Brdjanin* TJ, para.273; *Aleksovski* AJ, para.162.

<sup>1285</sup> *Simić* AJ, para.86; *Vasiljević* AJ, para.142; *Krnjelac* AJ, para.52; *Kvočka* TJ, para.262; *Blagojević* TJ, para.753; *Simić* TJ, para.164.

<sup>1286</sup> *Blagojević* TJ, para.731.

<sup>1287</sup> *Mrkšić* TJ, para.553.

<sup>1288</sup> *Mrksic* AJ, para 154, as cited in *Perisic* TJ, para 135.

<sup>1289</sup> *Brdjanin* AJ, paras.273-277.

- c. the accused failed to act intending the criminally sanctioned consequences or with awareness and consent that the consequences would occur; and
- d. the failure to act resulted in the commission of the crime.<sup>1290</sup>

Recently, the Appeals Chamber in *Orić* stated that, *at a minimum* the offender's conduct would have to meet the basic elements of aiding and abetting. His omission must be directed to assist, encourage or lend support to the perpetration of a crime and have a substantial effect upon the perpetration of the crime (*actus reus*). The aider and abettor must know that his omission assists in the commission of the crime of the principal perpetrator and must be aware of the essential elements of the crime which was ultimately committed by the principal (*mens rea*).<sup>1291</sup>

661. There is no evidence that Stanišić through his conduct ever aided and abetted any of the alleged crimes in counts 1-10 of the indictment. Nothing he did provided practical assistance, encouragement, or moral support which had a substantial effect on the perpetration of any alleged crime. To the contrary, the evidence in this case is that Stanišić's acts, conduct, and state of mind were those of the Minister of Interior who conducted himself responsibly, in full respect to the laws of the country. He never failed to act when obliged to in accordance with the law, or when he had the ability to act. In fact he did his utmost to prevent the occurrence of crimes within his ability and legal position.

662. There is no proof that Stanišić ever had any criminal intent.

663. Stanišić must be acquitted of all charges for aiding and abetting.

### **COMMITTING (JCE)**

664. Stanišić is not liable for having committed any of the crimes alleged in counts 1-10 as a co-perpetrator in a JCE pursuant to Article 7(1).

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<sup>1290</sup> *Brdjanin* AJ, paras.274-275,fn.557; *Ntagerura* TJ, para.659, *Ntagerura* AJ, para.333.

<sup>1291</sup> *Orić* AJ, para.43.

665. Both accused are charged under the first and third categories of JCE.<sup>1292</sup> The alleged common purpose of the JCE was to permanently remove Bosnian Muslims, Bosnian Croats and other non-Serbs from the territory of the planned Serbian state by means which included the commission of the crimes alleged in counts 1-10.<sup>1293</sup> It is alleged that the members of the JCE were the Bosnian Serb leadership, and leading members of the SDS, the JNA/VRS, the CSBs, the Crisis Staffs, and other civilian bodies, and that they used persons who were not members of the JCE as tools to carry out the JCE.<sup>1294</sup>

666. The Prosecution must prove that a plurality of persons shared the common criminal purpose; that the accused made at least a significant contribution to this common criminal purpose; and that the commonly intended crime (or foreseeable crimes under the third category) did in fact take place.<sup>1295</sup>

667. Furthermore, it must be proven that the accused possessed the requisite criminal intent and this criminal intent must be the only reasonable inference on the evidence. For the first category of JCE, it must be proven that the accused both intended the commission of the crime and intended to participate in a common plan aimed at its commission. For the third category of JCE, the accused can only be held responsible for a crime outside the common purpose if, under the circumstances of the case: (i) it was foreseeable that such a crime might be perpetrated by one or other members of the group and (ii) the accused willingly took that risk (*dolus eventualis*). The crime must be shown to have been foreseeable to the accused in particular.<sup>1296</sup> The Prosecution must prove that the accused had sufficient knowledge that the additional crimes were a natural and foreseeable consequence.<sup>1297</sup>

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<sup>1292</sup> Vasiljević AJ,para.100; Kvočka AJ,para 96; Tadić AJ,para.227; Krnojelac AJ,para.31; Stakić AJ,para.64, Mrkšić TJ,para.545.

<sup>1293</sup> Indictment, para 7.

<sup>1294</sup> Indictment, para 8-9.

<sup>1295</sup> Brdjanin AJ,para.427-430.

<sup>1296</sup> Brdjanin AJ,para.365,411,427-430.

<sup>1297</sup> Kvočka AJ,para.86.

- If there was a common criminal plan with the purpose of permanently removing non-Serbs from the territory of the RS by means which included the commission of the crimes alleged in counts 1-10, Stanišić was not a part of that common purpose or plan. The direct evidence in this case is that Stanišić's policy and all measures and steps discussed and executed from April to December 1992 were intended to introduce the rule of law, to maintain law and order for the benefit of all citizens, regardless of their ethnicity, and to arrest and criminally process the perpetrators of all crimes regardless of their ethnicity or position, all in accordance with the law.
- Stanišić was not a member of SDS or any other political party.
- There is no evidence that Stanišić ever engaged in any agreement or acted in concert with any person to further any common criminal purpose or plan.
- The Indictment alleges ways in which Stanišić supposedly participated in a JCE.<sup>1298</sup> None of those allegations was established beyond reasonable doubt.
  - The creation of RSMUP organs in the territory as well as its transition to wartime organisation was the obligation of the Ministry, as prescribed by law. There is no evidence of instructions on behalf of the RSMUP regarding forcible takeovers. If any significant contribution was provided by the police, then this was done without the knowledge, authorisation, participation, or acquiescence of the RSMUP at the seat, or Stanišić;
  - There is no evidence that Stanišić participated in the development of policies at the leadership level regarding takeovers of municipalities or the forcible removal of non-Serbs. The evidence in fact shows that Stanišić was in contact with the leadership level only when he complained about the resubordination of the police to the military, or he informed them about security problems and the commission of crimes, and the measures taken and proposed by the Ministry in response to these events.

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<sup>1298</sup> Indictment, 11 (a) - (h).

- There is no evidence that Stanišić communicated and co-ordinated with Karadžić and Krajišnik, or anyone else, in order to facilitate the implementation and objectives of any JCE.
- There is no evidence that Stanišić ever commanded members of RSMUP in coordination with Crisis Staffs, the VRS, or others in implementing any JCE.
- There is not a single order concerning disarmament originating from the RSMUP.
- Resubordination of the RSMUP to the VRS is the only possible relationship in accordance with the law. Coordination and Coordinated Action describe activities of units under the command and control of the military.
- Contrary to the allegations in the Indictment, there is no evidence that Stanišić, or the RSMUP at the seat, ever facilitated or approved of any camp or detention facility.
- Stanišić and the RSMUP in fact took all measures within their power under war time conditions to protect the population.
- There is no evidence Stanišić ever encouraged or facilitated any crime by failure to take adequate steps and thereby contributing to a culture of impunity. To the contrary, Stanišić ordered and authorised all possible measures to be taken to investigate crimes and collect evidence, using the means available in war time conditions, in accordance with the law. Today, the evidence collected in 1992 is still being used at trial against the perpetrators of crimes, including the crimes alleged in the Indictment.
- The evidence shows that Stanišić was never a part of any JCE. All his public pronouncements, discussions at meetings, orders and instructions were clearly aimed against the alleged objective of the JCE. These include, but are not limited to:

- During his speech at the Assembly, on his appointment as Minister, Stanišić emphasised the need for a professional police force to act according to the law, for the benefit of all citizens;
  - His speech at Sokolac on 30 March 1992, again emphasised professionalism, and the rule of law, for the benefit for all citizens of RS, without influence of politics;
  - At Collegiums, Stanišić emphasised the professional work of RSMUP, without the influence of politics or local individuals or organs, the documentation of crimes and processing of perpetrators in accordance with the law regardless of their ethnicity, and the reporting and discipline of RSMUP members;
  - He praised RSMUP officers who fought paramilitaries throughout the RS and he repeatedly demanded that RSMUP members perform their tasks fully and adequately, even at risk to their own lives;
  - He relentlessly took measures to maintain the proper functioning of the Ministry by sending inspectors to the field to instruct organisational units of the MUP, and to implement RSMUP policy;
  - He informed the highest authorities, such as the Supreme Commander and Prime Minister, about crimes, openly criticising failures;
  - He was adamant about minimizing the numbers of police resubordinated to the army in order for the police to be able to fulfil their duties in accordance with the law, and he insisted on the establishment of a functioning judiciary to bring perpetrators to justice;
  - He implemented measures and policies to strengthen the discipline of RSMUP.
- As a result of the positions he advocated, and the measures he implemented, Stanišić clashed with Plavšić, DJERIĆ, TRBOJEVIĆ and later with Karadžić and Krajišnik and others, and was dismissed as Minister not once, but twice. Stanišić



approached his Ministerial duties diligently and conscientiously, but a lack of political support resulted in his downfall.<sup>1299</sup>

668. Stanišić never participated, directly or indirectly, in any common criminal purpose of any kind. He was not aware of the existence of any sort of common criminal purpose of any kind.

669. There is no proof that Stanišić ever had any criminal intent.

670. Stanišić must be acquitted of all charges of committing the alleged crimes as a co-perpetrator in a JCE.

#### **SUPERIOR AUTHORITY**

671. The Prosecution charges Stanišić with superior responsibility pursuant to Article 7(3) of the Statute for failing to prevent or punish his alleged subordinates, the “members and agents of the RS MUP”, for the commission of crimes alleged in counts 1-10. Mr. Stanišić is not liable for any of the crimes alleged in counts 1-10 as a superior authority.

672. Under Article 7(3) three conditions must be met before a superior can be held responsible for the acts of his or her subordinates:

- a. The existence of a superior-subordinate relationship;
- b. The superior knew or had reason to know that the subordinate was about to commit such acts or had done so; and
- c. The superior failed to take the necessary and reasonable measures to prevent such acts or to punish the principal offenders thereof.<sup>1300</sup>

673. The existence of a superior-subordinate relationship requires a hierarchical relationship between the superior and subordinate. The relationship need not have been formalised and it is not necessarily determined by formal status alone.<sup>1301</sup> A hierarchical

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<sup>1299</sup> KOVAČ, T.27217

<sup>1300</sup> *Čelebići* AJ,paras.189-198,225-226,238-239,256, 263; *Aleksovski* AJ,para.72.

<sup>1301</sup> *Čelebići* AJ,paras.205-206.

relationship may exist by virtue of an accused's *de facto*, as well as *de jure*, position of superiority.<sup>1302</sup> The threshold to be reached in establishing a superior-subordinate relationship for the purpose of Article 7(3) is the effective control over a subordinate in the sense of material ability to prevent or punish criminal conduct.<sup>1303</sup>

674. The existence of *de jure* authority is not synonymous with effective control.<sup>1304</sup> In fact, *de jure* authority does not necessarily imply *de facto* authority, nor does it create a presumption of effective control.<sup>1305</sup> Instead, the inquiry should focus on the *de facto* relationship between the alleged superior and subordinate.<sup>1306</sup>

675. Effective control means the material ability to prevent offences or punish the principal offenders at the time of the commission of subordinates' crimes. Proof is required that the accused was not only able to issue orders but that the orders were actually followed. It must be proven that the accused had the power to prevent, punish, or initiate measures leading to proceedings against the alleged perpetrators where appropriate.<sup>1307</sup> Where a superior has effective control and fails to exercise that power he will be responsible for the crimes committed by his subordinates.<sup>1308</sup>

676. While each case must be examined on its facts,<sup>1309</sup> the jurisprudence of the Tribunal has provided several "indicia" to aid in analysing the existence or lack of effective control: the formality of the procedure used for appointment of a superior; the power not only to issue orders but that the orders are actually followed,<sup>1310</sup> the fact that subordinates show in the superior's presence greater discipline than when he is absent; the capacity to transmit reports to competent authorities for the taking of proper

<sup>1302</sup> Čelebići AJ, paras.192-194, 266.

<sup>1303</sup> Blaškić AJ, para.375. Čelebići AJ, para.256.

<sup>1304</sup> Orić AJ, para.91; Halilović AJ, para.85.

<sup>1305</sup> Halilović AJ, para.21; Orić AJ, paras.91-92. The Orić Appeals Judgement held that "the possession of *de jure* authority, without more, provides only some evidence of such effective control." Orić AJ, para.92. Proof of a *de jure* position is not itself sufficient because a *de jure* commander may not have the material ability to prevent or punish crimes of individuals who are legally – but not effectively – under his command.

<sup>1306</sup> Čelebići TJ, paras.370,376; Kordić TJ, para.418; Orić TJ, para.311; Aleksovski TJ, para.76.

<sup>1307</sup> Blaškić AJ, para.69, Aleksovski AJ, paras.73-76; Čelebići AJ, para.206.

<sup>1308</sup> Čelebići AJ, paras.196-198.

<sup>1309</sup> Orić TJ, para.312.

<sup>1310</sup> Halilović AJ, para.207.

measures; the authority or power to promote, demote, or remove particular subordinates; the capacity to sign orders, provided the signature on a document is not purely formal or aimed at implementing a decision made by others; or an accused's high public profile, manifested through public appearances and statements, or by participation in high-profile international negotiations.<sup>1311</sup> As indicated above, however, the indicators of effective control are more a matter of evidence than of substantive law.<sup>1312</sup>

677. Additionally, there are factors which, if established, would militate against a finding of effective control: disregard or non-compliance by the perpetrators with orders or instructions of the accused;<sup>1313</sup> absence of legal authority of the accused over the perpetrators; independent power to decide and to act on the part of the perpetrators who are alleged to have been subordinated to the accused;<sup>1314</sup> evidence that the alleged superior did not regard himself as being in charge of the alleged subordinates;<sup>1315</sup> absence of reporting to the accused on the part of the alleged subordinates.<sup>1316</sup>

678. The acts of the accused relied upon by the Prosecution to establish effective control must demonstrate an "unequivocal exercise of superior authority"<sup>1317</sup>, as opposed to simply an exercise of lesser forms of authority or influence vis-à-vis the alleged perpetrators.<sup>1318</sup> Merely having influence over the behaviour of others is not effective control and therefore does not satisfy the superior subordinate element of Article 7(3).<sup>1319</sup> Other trial chambers have similarly rejected "substantial influence,"<sup>1320</sup> "highly influential,"<sup>1321</sup> and "great influence"<sup>1322</sup> as being indicative of effective control. As

<sup>1311</sup> Orić TJ, para.312 (internal citations omitted); Delić TJ, para.62; Hadžihasanović TJ, para.83; Čelebići TJ, para.767. See also Strugar TJ, paras.404,411,413

<sup>1312</sup> Blaškić AJ, para.69

<sup>1313</sup> See, generally, Hadžihasanović AJ, paras.225 et seq. See also, Delić TJ, Dissenting Opinion of Judge Moloto, para.27

<sup>1314</sup> See, e.g., Orić TJ, para.706.

<sup>1315</sup> Hadžihasanović TJ, paras.795,844 et seq.

<sup>1316</sup> Hadžihasanović TJ, paras.795,844 et seq.

<sup>1317</sup> Čelebići TJ, para.669. See also Mandić AJ, para.108

<sup>1318</sup> See, Naletilić TJ, para.68; Kordić TJ, para.840; Čelebići AJ, para.266; Stakić TJ, para.459. See also, Brđanin TJ, para.276

<sup>1319</sup> Orić TJ, para.311

<sup>1320</sup> Čelebići AJ, para.266; Kordić TJ, para.413; Naletilić TJ, para.68; Stakić TJ, para.459; Kunarac TJ, para.863; Kordić TJ, para.424; Limaj AJ, para.273; Orić TJ, para.876; Blagojević TJ, para.791

<sup>1321</sup> Kordić TJ, para.413, citing Čelebići AJ, paras.267-268

<sup>1322</sup> Brđanin TJ, para.372

noted above, effective control is not a strict liability crime, and not every position of authority and influence necessarily leads to 7(3) liability.<sup>1323</sup> It is necessary to distinguish between situations where an accused had “true powers of discipline” versus “mere personal influence”.<sup>1324</sup> The power to convince or to otherwise impact another’s decision without the authority and capacity to issue binding instructions is not effective control.

679. Additionally, evidence that the accused was perceived or thought to have command authority does not lead to the conclusion that he in reality exercised effective control.<sup>1325</sup> Similarly, presence at high-level meetings<sup>1326</sup> and even statements made by the accused that he was in a position of control are not proof *per se* of actual authority over the alleged perpetrators.<sup>1327</sup>

680. In relation to the issue of knowledge, it must be demonstrated that the superior knew or had reason to know that his subordinate was about to commit or had committed a crime. It must be proved that:

- a. The superior had actual knowledge, established through either direct or circumstantial evidence, that his subordinates were committing or about to commit crimes within the jurisdiction of the Tribunal, or
- b. He had in his possession information which would at least put him on notice of the risk of such offences, such information alerting him to the need for additional investigation to determine whether such crimes were or were about to be committed by his subordinates.<sup>1328</sup>

The standard “had reason to know” means that “a superior will be criminally responsible through the principles of superior responsibility *only if specific information was in fact available to him* which would have put him on notice of offences committed or about to committed by subordinates.”<sup>1329</sup> A “(n)eglect of a duty to acquire such knowledge,

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<sup>1323</sup> Kvočka AJ, para. 144

<sup>1324</sup> Limaj AJ, para. 273

<sup>1325</sup> Čelebići TJ, paras. 800, 810. See also, e.g., Halilović TJ, paras. 342 *et seq.* and 743-752

<sup>1326</sup> Čelebići TJ, paras. 652, 658.

<sup>1327</sup> Blaškić AJ, fn. 1255

<sup>1328</sup> Čelebići AJ, paras. 223-226.

<sup>1329</sup> Blaškić AJ, para. 62; Čelebići AJ, para. 241; Krnojelac AJ, para. 151; Boškoski TJ, para. 414.

however, does not feature in the provision (Article 7(3)) as a separate offence, and a superior is not therefore liable under the provision for such failures but only for failing to take necessary and reasonable measures to prevent or to punish.”<sup>1330</sup> There is no presumption of actual knowledge merely because alleged offences may have been widespread, numerous, publicly notorious, or committed over wide areas or over prolonged periods.<sup>1331</sup>

681. For a non-military superior, under customary international law, the *mens rea* standard is “knew or consciously disregarded information clearly indicated or put on notice” that subordinates had committed or were about to commit offences. This formulation of *mens rea* is contained in Article 28(b)(i) of the Rome Statute 1998,<sup>1332</sup> and expresses the legal position, i.e. *opinio juris*.<sup>1333</sup> Furthermore, before the ICTR, the *Kayishema and Ruzindana Trial Judgement*,<sup>1334</sup> following the Rome Statute, applied the *mens rea* standard set out in Article 28(b)(i).

682. In relation to the issue of acquiescence, it must be shown that the superior failed to take the necessary and reasonable measures to prevent or punish the crimes of his subordinates. The measures required of the superior are limited to those which are feasible in all the circumstances and are “within his power”. He is not obliged to perform the impossible. However, the superior has a duty to exercise the powers he has within the confines of those limitations.<sup>1335</sup> What constitutes such measures is not a matter of substantive law but of evidence, whereas the effect of such measures can be defined by law.<sup>1336</sup>

683. In relation to responsibility under 7(3) the facts of this case are the following :

a. Existence of superior-subordinate relationship

<sup>1330</sup> *Blaškić* AJ, para.62; *Čelebići* AJ, para.226.

<sup>1331</sup> *Čelebići* TJ, para.383; affirmed by *Čelebići* AJ, para.223.

<sup>1332</sup> Rome Statute.

<sup>1333</sup> *Tadić* AJ, para.223.

<sup>1334</sup> *Kayishema* TJ, paras.227-228.

<sup>1335</sup> *Čelebići* AJ, para.226.

<sup>1336</sup> *Blaškić* AJ, para.72; *Čelebići* AJ, para.198.

- i. Although it can be argued that, with certain limitations provided for by the Law on Ministries, Law on State Administration and Law on Interior, a superior-subordinate relationship *de jure* existed, the *de facto* situation is quite different;
  - ii. *De facto* a clear distinction must be made between active-duty police members and reserve members. A reserve police member is in fact a military conscript on police war assignment. While active-duty police members can be disciplined by their superiors, reserve members can only be discharged from the police and returned to the army;
  - iii. A number of alleged subordinate active-duty policemen were never in fact members of the RSMUP. Some were even appointed by local municipal organs as SJB Chiefs or to other management positions, such as Todorović in Bosanski Šamac, the first three Chiefs in Zvornik, the Chiefs in Brčko, Vlasenica, Doboj and elsewhere. There were also members of Krajina police from Croatia present in the RS.<sup>1337</sup>
  - iv. Once an active-duty members or reserve members of the police are resubordinated to the army, they become military conscripts. They are subject to all military laws and regulations for any disciplinary or criminal offence committed throughout the time they are resubordinated.
  - v. Factors militating against a finding of effective control, as listed above in paragraph 675, are established by the evidence in this case.
- b. Knowledge
- i. When Stanišić learned of the commission of a crime, he took clear and decisive steps to investigate in accordance with the law.
  - ii. There is ample evidence about the lack of proper communication and reporting as well as the impossibility of physical access to the

<sup>1337</sup> 1D414; 1D415; BROWN, T.19029-19030.

majority of territories in RS (Krajina, Doboj, East Bosnia, Trebinje);

- iii. Even reports which were received did not include any information which could be interpreted as notice of crimes committed by members of RSMUP;

c. Reasonable measures for prevention and punishment

- i. The duties and obligations of each and every active member of the RSMUP are provided for by the law. There is no need or requirement for a superior to order or instruct them to perform their legal duties and responsibilities. When police officers enlist, they accept those obligations and give a solemn declaration.
- ii. From the very outset, Stanišić reminded all members of RSMUP that they must adhere strictly to the law and perform their duties in accordance with it.
- iii. Due to a lack of communications and physical access, by his order, Stanišić gave CSB chiefs the authority to appoint members of the RSMUP to meet the challenges of a war time situation, while making sure that for all managerial positions, the Ministry would make the final appointment;
- iv. In a number of orders, Stanišić insisted that reserve members of MUP who were, for whatever reason, unfit to perform as policemen should be discharged and put at the disposal of the army. For active-duty policemen, he insisted that they be punished for any and all disciplinary offences. Both reserve and active duty policing were to be criminally charged in the case of crimes.
- v. A number of Stanišić's orders specifically point to the personal responsibility of Chiefs of CSB and SJB for their implementation.
- vi. As far as Stanišić was aware, the disciplinary system was functioning, and he reminded the Chiefs of CSB to initiate disciplinary proceedings against their subordinates.

- vii. When put on notice of the overall inadequacy of the existing disciplinary system for war time, Stanišić issued Rules of Disciplinary Responsibility during War Time, by which he added disciplinary offences which were more appropriate to the situation and increased the number of offences, shortened the procedure and extended the statute of limitations, so no offence would be left unpunished. Towards the end of 1992, he even instructed that all employees of RSMUP who were suspended should be dismissed and put at the disposal of the army immediately, regardless of the outcome of disciplinary proceedings.
- viii. In the majority of the disciplinary cases in 1992 decided by Stanišić on appeal, the severest sanction was imposed.

684. Stanišić had no knowledge that any of the alleged crimes were about to be committed.

685. Stanišić issued orders for the implementation of all legal measures for crime prevention, crime detection, and discipline. He had no reason to believe that the competent authorities within the VRS and RSMUP with full and exclusive superior authority over their subordinates were not complying in full with their obligations to prevent and punish crime and to discipline their members.

686. Stanišić must be acquitted of the charge of failing to prevent or punish alleged perpetrators of crimes as a superior authority under Article 7(3).

## **REQUESTED RELIEF**

687. The full acquittal of Mr. Stanišić of all the charges contained in counts 1-10 of the indictment.

Word count: 79,737



## Mr. Mićo Stanišić's Final Written Submissions Pursuant to Rule 86

Respectfully submitted this 14 May 2012,

The image shows two handwritten signatures in dark ink. The signature on the left is 'Slobodan Zečević' and the signature on the right is 'Slobodan Cvijetić'. Both are written in a cursive, flowing style.

Slobodan Zečević,  
Counsel for Mr. Mićo Stanišić

Slobodan Cvijetić,  
Co-Counsel for Mr. Mićo Stanišić